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A STUDY ON OPTIONAL TAX REGIME FOR INDIVIDUAL AND HINDU UNDIVIDED FAMILY TAXPAYERS UNDER SECTION 115BAC OF THE INCOME TAX ACT, 1961

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ABSTRACT

In this paper, a humble attempt has been made to analyze whether introduction of the new tax regime by the Government of India simplifies the provisions and compliances of income tax laws for individuals and HUFs and whether it is more beneficial (tax saving) than the existing tax structure. In comparison to the existing tax regime, the new tax regime has low income tax slab rates. But the various exemptions and deductions available under the existing income tax regime have been disallowed under the new income tax regime. The current study reveals that the new tax regime introduced through Section 115BAC has provided an option for individual and HUF taxpayers for a simpler and compliance friendly tax structure in comparison to the existing tax structure, however, due to certain conditions stated therein, the new tax regime might not be beneficial for taxpayers claiming deductions and exemptions from their income.

KEYWORDS

section 115BAC, optional tax regime, income tax, Individual and HUF taxpayers.

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INTRODUCTION

Through the Finance Act, 2020, the Government of India has introduced a new and optional tax regime for Individual and Hindu Undivided Family (HUF) tax payers under the Income Tax Law. The introduction of the same under a newly inserted section 115BAC of the Income Tax Act, 1961 has been justified by the Government as a major step towards simplification of tax laws in India. Since the Individuals and HUFs constitute the largest base of income tax payers in India, the new tax regime is expected to influence the tax planning and compliances of income tax laws of a huge number of tax payers. It is expected to provide significant relief to the individual and HUF taxpayers and simplify the tax structure under the Income Tax Law.

In this paper, a humble attempt has been made to study the new and optional tax regime under Section 115BAC of the Income Tax Act, 1961. A comparison of the new and optional tax regime vis-à-vis the existing tax regime has been made such that the pros and cons of opting the new tax regime is observed. Further, an attempt has been made to study whether the new tax regime is more beneficial than the existing tax structure.

STATEMENT OF THE PROBLEM

Till the Financial Year 2019-20, the taxpayers were required to compute their taxes on total income as per the rates specified in the Finance Act of every year and they did not have any option with respect to the same. The introduction of an optional tax regime under Income Tax Law from Financial Year 2020-21 for the Individual and HUF taxpayers in addition to an existing tax structure has provided them an option to choose the appropriate tax structure such that their income tax to be paid is minimum. The individual and HUF taxpayers is expected to have a detailed understanding of the new tax regime such that they can avail its full advantage of the optional tax regime as well as comply with income tax laws more efficiently. Further, calculation of total tax amount under both the regimes might need to be done, in order to identify the tax regime beneficial to the taxpayer. Again, how does the new and optional tax regime simplify the tax structure resulting in easy compliance and procedure, needs to be studied. Hence, an attempt has been made to study the same and address the research problem.

OBJECTIVES OF THE STUDY

1. To study the significance of the optional tax regime in simplification of tax structure under Income Tax Law.
2. To study the pros and cons of opting for the optional tax regime for the individual and HUF taxpayers.

RESEARCH QUESTION

Following research question has been set for the study.

1. Has the new and optional tax regime simplified the tax structure for individual and HUF taxpayers?
2. Has the new and optional tax regime provided the individual and HUF taxpayers with a better alternative for compliance of tax laws?

METHODOLOGY OF THE STUDY

The current study is descriptive in nature and is based on secondary sources of information. The Finance Act, 2020 as well as the Income Tax Act, 1961 form the major source of secondary information for the study. Section 115BAC of the Income Tax Act, 1961 introducing the new and optional tax regime has been studied and observed. An attempt has been made to interpret the several provisions laid down under section 115BAC of the Income Tax Act, 1961, such the effect of such provisions in tax liability and compliance of income tax laws is understood. A comparative analysis of the new and optional tax regime vis-à-vis the existing tax regime has been done. The important observations and findings with respect to the present study have been carefully disseminated in the sections below such that the objectives set for the study are fulfilled.

ISSUES OBSERVED BY THE GOVERNMENT IN THE EXISTING TAX STRUCTURE UNDER INCOME TAX LAW

In the Asia Pacific Tax Complexity Survey conducted by Deloitte (2017), it has been reported that tax laws in India are second most complex in the Asia-Pacific region. Further, the fact that only 4.18 % of the total population in India filed their income tax return in 2018-19 emphasizes on the need to simplify the tax laws for easy compliance and expanding the tax base. A majority of the tax payers in India are dependent on a tax professional for tax planning and other tax related compliances. With respect to tax payers at lower or middle income level, managing a tax professional is often very difficult.

While presenting the Budget for the year 2020-21, Union Finance Minister, Nirmala Sitharaman (2020) said that "Currently the Income Tax Act is riddled with various exemptions and deductions which make compliance by the taxpayer and administration of the Income Tax Act by the tax authorities a burdensome process,". Inability to comply with provisions of tax laws has been a major issue for a large number of tax payers. She raised the issue of small individual taxpayers being dependent on tax professionals in order to comply with tax laws. Highlighting on several issues with respect to difficulties in compliance of tax laws for small tax payers she emphasized on the need for reduction of provisions for simplification and easy compliance of the same.

INTRODUCTION OF A NEW AND OPTIONAL TAX REGIME WITH REDUCED PROVISIONS UNDER INCOME TAX LAW

Through the Finance Act, 2020, the Government of India inserted of a new Section 115BAC in the Income Tax Act, 1961, for introducing a new tax regime with reduced provisions and compliances. The Government has been justified introduction of the same as a major step towards simplification of tax laws in India. The provisions of the new section 115BAC shall be applicable with effect from 1st April, 2021 i.e. from the assessment year 2021-22. The new tax regime shall be applicable to individual and HUF taxpayers. Through the new tax regime, the Government proposes a simplified tax structure with reduced tax rates for the Individual and HUF tax payers. However, opting for the same will require them forgo certain deductions and exemptions. SBI Research's Ecowrap (2020) has estimated that less than 10% of the total taxpayers are expected to migrate in new tax regime as they are the only ones who will be benefited.

IMPORTANT PROVISIONS WITH RESPECT TO OPTIONAL TAX REGIME UNDER SECTION 115BAC OF THE INCOME TAX ACT, 1961

1. The provisions of this section shall be applicable to only individual and HUF category of persons.
2. The new tax regime is in addition to the existing tax regime, hence provide an option to taxpayers to choose a tax regime suitable or beneficial to them.
3. The new tax regime has six different slab rates ranging from 5% to 30% as shown in the **Table 1**.

TABLE 1: DIFFERENT SLAB RATES UNDER NEW TAX REGIME

Sl. No.	Total Income	Rate of Tax
1.	Upto ₹ 2,50,000	Nil
2.	From ₹ 2,50,001 to ₹ 5,00,000	5%
3.	From ₹ 5,00,001 to ₹ 7,50,000	10%
4.	From ₹ 7,50,001 to ₹ 10,00,000	15%
5.	From ₹ 10,00,001 to ₹ 12,50,000	20%
6.	From ₹ 12,50,001 to ₹ 15,00,000	25%
7.	Above ₹ 15,00,000	30%

4. Under the new tax regime, the total income of the individual or Hindu undivided family shall be computed without availing the exemptions or deductions specified in **Table 2.**

TABLE 2: DEDUCTIONS/EXEMPTIONS DISALLOWED UNDER NEW TAX REGIME

Sl. No.	Deductions/Exemptions
1	Exemption u/s 10(5) towards Leave travel concession
2	Exemption u/s 10(13A) towards **House rent allowance**
3	Deductions u/s 10(14) other than certain specified deductions
4	Allowances to MPs/MLAs u/s 10(17)
5	**Allowance for including income of minor child u/s 10(32)**
6	**Deduction u/s 10AA for SEZ unit**
7	**Standard deduction, Entertainment allowance and Professional tax u/s 16**
8	**Interest on housing loan for self-occupied and vacant property u/s 24(b)**
9	**Depreciation under section 32(1)(iia)**
10	**Deduction u/s 32AD (Investment in new plant or machinery in notified backward areas in certain States)**
11	**Deduction u/s 33AB (Tea development account, coffee development account and rubber development account)**
12	**Deduction u/s 33ABA (Site Restoration Fund)**
13	**Deduction for expenditure on scientific research u/s 35(1)(ii) or 35(1)(iia) or 35(1)(iii) or 35(2AA)**
14	**Deduction in respect of expenditure on specified business u/s 35AD**
15	**Deduction for** expenditure on agricultural extension project u/s 35CCC
16	**Deduction from family pension under section 57(iia)**
17	**Deduction under Chapter VIA other than deduction in respect of employers contribution to notified pension scheme u/s 80CCD or**
18	**Deduction** in respect of employment of new employees u/s 80JJAA

5. However, the Central Board of Direct Taxes (2020) has specified certain exemptions with respect to tour, travel and conveyance expenses incurred officially vide Notification No.38/2020 dated 26th June, 2020, which a taxpayer opting for the new tax regime can claim from his income.
6. Any loss under the head "Income from house property" cannot be set off with any other head of income.
7. An individual or HUF having business income cannot claim set-off of the brought forward business loss or unabsorbed depreciation. The deductions not available under the new regime to the extent they relate to deductions or exemptions have been withdrawn.
8. All Individuals and HUFs without any business income shall have the option to choose the appropriate tax regime each year. The option needs to be exercised at the time of filing of return of income for every year.
9. In case of tax payers with business income, once the option for new tax regime is exercised for a previous year, the same shall be valid for that previous year and all subsequent years. And then it can be withdrawn only once for a previous year other than the year in which it was exercised. Thereafter, the tax payer with business income shall never be eligible to exercise option under this section, except where such person ceases to have any business income.
10. The provisions of the section also clearly states that to be eligible for exercising the optional tax regime, tax payer has to mandatorily furnish the return of income on or before the due date for filing the same.

COMPARISON OF THE NEW AND OPTIONAL TAX REGIME VIS-À-VIS THE EXISTING TAX REGIME

In this section, a comparison of the newly introduced optional tax regime has been made with the existing tax regime. Tax payers opting for the new tax regime have been provided a new income tax slab rate for computation of tax liability on their total income. A comparative summary of income tax slab rates under the new and existing income tax regime has been shown in **Table 3**.

TABLE 3: A COMPARATIVE SUMMARY OF INCOME TAX SLAB RATES UNDER THE NEW AND EXISTING INCOME TAX REGIME

Sl. No.	Total Income	Rate of Tax	
		New Tax Regime	Existing Tax Regime
1	Upto Rs 2,50,000	Nil	Nil
2	From Rs 2,50,001 to Rs 5,00,000	5 percent	5 percent
3	From Rs 5,00,001 to Rs 7,50,000	10 percent	20 percent
4	From Rs 7,50,001 to Rs 10,00,000	15 percent	20 percent
5	From Rs 10,00,001 to Rs 12,50,000	20 percent	30 percent
6	From Rs 12,50,001 to Rs 15,00,000	25 percent	30 percent
7	Above Rs 15,00,000	30 percent	30 percent

The Table 3 reveals that a different set of income tax slab rates has been provided under the new tax regime. However, the basic exemption limit upto a total income of Rs. 2,50,000/- and the tax rate of 5% for the income slab of Rs. 2,50,001/- to Rs. 5,00,000/- is same in both the tax regimes. The new tax regime has seven income slabs with different tax rates in comparison to four income slabs under the existing tax structure. The highest income slab under the existing tax structure is 10 lacs and above in comparison to 15 lacs under the new tax regime. And the maximum tax rate in both the cases is 30%. The tax structure in both the cases is progressive in nature.

The Table 2 reveals that that a number of important tax saving options of the tax payers have been disallowed under the new tax regime. A salaried individual opting for the new tax regime will have to forego exemptions from allowances such as HRA, Leave Travel Concession, Entertainment Allowance, etc. The standard deduction of Rs. 50,000/- has to be forgone. The deduction from house property income with respect to interest on housing loan u/s 24(b) reduced the taxable income of those availing housing loan significantly. Further, disallowance of the deductions under Chapter VIA with respect to various tax saving investments usually availed all individuals and HUFs has also been observed.

PROS AND CONS OF THE NEW TAX REGIME

The various pros and cons of the new tax regime vis-à-vis the existing tax regime have been highlighted below:

Pros

a) **Reduction in tax rates:** It has been observed that under the new tax regime, taxpayers are offered concessional tax rates in comparison to tax rates in the old tax regime.

b) **Lesser provisions for easy compliance:** Many of the exemptions and deductions has been disallowed under the new tax regime making it simpler with reduced provisions. Hence, compliance with income tax law has become easier under the new tax regime.

c) **Increased liquidity:** Lowered tax rates and no scope for tax-saving investments under the new tax regime would lead to increased liquidity in the hands of tax payers.

d) **Scope for customizing investments:** Under the existing tax regime, taxpayers are required to make investments in certain notified tax-saving options such that they can avail deductions from total income, thus restricting their choices for investment. However, the new tax regime does not provide any scope for tax-saving investments and the taxpayers are now free to invest their savings in plans and schemes of their choices.

e) **Reduced dependence on tax professionals:** The new tax regime has been designed to assist the small taxpayers in easy compliance of income tax laws. Due to significant reduction in provisions under the new tax regime, taxpayers can comply with the income tax laws without the support and assistance of tax professionals.

Cons

a) **Disallowance of deductions and exemptions:** Several deductions and exemptions which taxpayers can claim from their total income under the existing tax regime has been discontinued under the new tax regime. Salaried individuals who have been availing a number of important deductions and exemptions will have to forego the same if they opt for the new tax regime.

b) **Non-availability of carry forward and set off of losses:** Along with deductions and exemptions being disallowed under the new tax regime, carry forward and set off of losses are also disallowed. Set off of losses from house property cannot be claimed under the new tax regime as well as carry forward of losses from business.

c) **Increased complexity:** The desire to identify a better alternative out of the two options, might require an in-depth analysis and calculation of taxes under both the tax regimes, thus increasing the complexity of tax structure due to introduction of the optional tax regime.

d) **Restrictions in exercising the option for taxpayers having business income:** Individual and HUF taxpayers having business income has been restricted from exercising the option for an appropriate tax regime every year. In case of tax payers with business income, once the option for new tax regime is exercised for a previous year, the same shall be valid for that previous year and all subsequent years. And then it can be withdrawn only once for a previous year other than the year in which it was exercised. Thereafter, the tax payer with business income shall never be eligible to exercise option under this section, except where such person ceases to have any business income.

e) **Requirement for Tax Planning:** Identification of an appropriate tax regime for a tax payer might require computation of tax liability under both the regimes and even require proper tax planning. The purpose of introduction of the new tax regime being simplification of income tax law and its easy compliance, needs to be reviewed further.

f) **Increased complexities in TDS compliances for employer:** The employer might have a two different category of employees of which one opting for the new tax regime and the other opting for the existing tax regime. Under such circumstances, compliance with TDS provisions on the part of the employer is expected to become more complicated than ever.

From the above discussion, it could be interpreted that the new tax regime introduced through Section 115BAC has provided an option for individual and HUF taxpayers for a simpler and compliance friendly tax structure in comparison to the existing tax structure, however, due to certain conditions stated therein, the new tax regime might not be beneficial for taxpayers claiming deductions and exemptions from their income. The new tax regime has advantages but the conditions stated therein with respect to its application is likely to create a dilemma for the tax payers whether to opt for the same or not.

SUMMARY AND CONCLUSION

The insertion of new Section 115BAC into the Income Tax Act, 1961, through the Finance Act, 2020 has resulted into provision for a new tax regime in addition to the existing tax regime. The new tax regime has been kept optional and the taxpayer can choose either of the two tax regimes. The new tax regime has been restricted to individual and HUF category of taxpayers. The Government of India has justified the introduction of the new tax regime as a major step towards simplification of income tax law in India and plans to further review and rationalize the tax structure making it easier to comply with. It offers concessional tax rates in comparison to the existing tax regime, but requires the taxpayer to forego a majority of the deductions and exemptions which are otherwise claimed by the taxpayers under the existing tax regime. A taxpayer without any business income can exercise the option of choosing an appropriate tax regime every year at the time of filing of return of income. In order to ascertain the tax regime beneficial for a taxpayer might require him to do the computation of tax liability under both the tax regimes every year.

LIMITATIONS OF THE STUDY

1) The study has been done on the basis of secondary sources of information. Due to Covid-19 pandemic, collection of primary data from the taxpayers has been assumed to be difficult to gather in the most appropriate manner.

2) Although the study provided an ample scope for showing computation of total tax liability under both the income tax regimes for different values of hypothetical income earned by the taxpayer, the same has not been done to restrict the study from being lengthy.

SCOPE FOR FURTHER STUDIES

1) The new and optional tax regime has become effective 1st April, 2020. Several issues and challenges with respect to its adoption by taxpayers, administration of the same in the part of the tax authorities, administration of TDS provisions by the employer etc. might arise in the future. As such, it provides scope for further studies with respect to the same.

2) In the future, similar study can be done with the help of primary data collected from the taxpayers once their return filing process for a year is completed.

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