



Circular No.123-2017-BC-AUDIT-04

Date: 20-03-2017

**TEMPORARY UTILITY**

**INTERIM PROTECTION ON PERQUISITE VALUE OF LOANS GRANTED TO STAFF MEMBERS AT CONCESSIONAL RATE OF INTEREST**

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Attention of the Branches/Offices is drawn to Circular No. 077-2017-BC-AUDIT-01 dated 21-02-2017 on tax deducted at source under Income Tax Act, 1961.

**1. PERQUISITES ON INTEREST FREE OR CONCESSIONAL LOANS (Para 2.4)**

Presently, Rule 3 (7) (i) of the Income Tax Rules 1962 stipulates for valuation of perquisites on interest free or concessional loans taking into account interest rate charged by State Bank of India to the general public as on 1<sup>st</sup> April of relevant financial year.

Hon'ble High Court of Madras had granted interim stay on applicability of amendment in Section 17(2) of the I.T. Act. By the final judgment and order dated 20.04.2016, the Hon'ble High Court of Madras vacated the interim stay in WP No.10053 of 2008.

Hon'ble Supreme Court of India vide its order dated 27.02.2017 in SLP (Civil) No.4327/2017 has decided that "the interim protection granted by the High Court will continue until further orders".

Giving credence to aforesaid order, our Legal Department has opined that Bank may consider to give guidelines to staff members and suggested to obtain a suitable undertaking. Accordingly, Bank has decided to issue interim guideline to the branches/Offices not to deduct TDS on perquisites on interest free or concessional loans.

However, Branches/Administrative Offices to note that they should be able to recover TDS on the perks, in case Hon'ble Supreme Court decides against the employees. Hence Branches/Administrative Offices are advised to:

- a) Staff members who are willing to avail the above benefit, to submit duly signed UNDERTAKING as –“**Annexure I**” for each Financial Year.
- b) Keep computation of notional perquisite value of loans (as mentioned in para 2.2, page 11 of BC Circular No.077-2017) granted to staff members at concessional rate of interest on record for future use and include the same in Form 12BA (“Annexure C” of BC Cir. 077-2017).
- c) While issuing Form 12BA to include a Note that


“TDS is not deducted on perquisite value of loans granted to staff members at concessional rate of interest, on the basis of order of Hon'ble Supreme Court of India dated 27.02.2017 in SLP (Civil) No.4327/2017”.

- d) In respect of perquisite value of loans granted to staff members at concessional rate of interest, the TDS amount should be calculated and kept on record, for probable future use.

**2. CLARIFICATION ON CLAIMING DEDUCTION U/S 80C (LIFE INSURANCE PREMIUM) & 80D (MEDICAL INSURANCE PREMIUM):**

It is clarified that the above premium will be allowed as deduction u/s 80C and/ or 80D **exclusive of Service Tax.**

Clarifications required, if any, on this circular may be sought from **AUDIT & TAX CELL** – Corporate Office, Bangalore through respective RO, as per extant guidelines.



**(G MOHAN RAO)**  
**GENERAL MANAGER**

KAJLI:YRSWI:YRUDE  
**Check Word**

**Annexure-I**  
**UNDERTAKING LETTER**

From, Name of Employee: Emp. No.: Branch/Office/Dept. Designation:	To,
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Dear Sir/Madam,

1. I understand that:
  - i) As per the provisions of the Income Tax Act, 1961, Bank is required to deduct tax on various perquisites given to its employees which includes the loan granted by the Bank on concessional rate of interest.
  - ii) All India Bank Officers' Confederation (AIBOC) had challenged the relevant provisions of the Income Tax Act 1961 by filing SLP 4327/2017 before the Hon'ble Supreme Court of India and the Hon'ble Supreme Court had granted interim order.
  - iii) The interim order dated 27-02-2017 of the Hon'ble Supreme Court is provisional and interim in nature and shall be subject to the final judgment and decision of the Supreme Court, any benefits owing to the order would also be withdrawn.
2. I acknowledge that the Bank has not deducted TDS on the loan granted by the Bank on concessional rate of interest only on the basis of my request. I undertake that:-
  - i) Notwithstanding anything contained contrary to these presents and/or in any other communications, the Bank may start deducting TDS from my salary on account of the loan granted by the Bank on concessional rate of interest, even without any further notice.
  - ii) All the taxes, interests and penalties etc. that may be imposed by the Income Tax authorities for non-payment of the tax/non-deduction of TDS on account of the loan granted by the Bank on concessional rate of interest will be borne and paid by me.
  - iii) All the amounts including tax, interests penalties etc. that may be imposed by the income tax authorities, court and/or other authorities on the Bank for not deducting TDS upon the loan granted by the Bank on concessional rate of interest will be reimbursed by me, immediately upon a demand by the Bank, without any objection, protest or demur.
3. I hereby authorize the Bank to deduct the tax, interests and/or penalties that may be payable by me and /or imposed on the Bank by the Income Tax and / or other authorities on account of the loan granted by the Bank on concessional rate of interest, from my salary account without any further notice to me.

Dated this the \_\_\_\_\_ th day of 2017.

Thanking you,

Yours faithfully,

Signature of the Employee