

-COPY OF-
INCOME TAX CIRCULAR No. 4/2009
Dated: June 29, 2009

Subject: - Remittances to non-residents under section 195 of the Income-tax Act matters connected thereto- reg.

Section 195 of the Income-tax Act, 1961 mandates deduction of income tax from payments made or credit given to non-residents at the rates in force. The Reserve Bank of India has also mandated that except in the case of certain personal remittances which have been specifically exempted, no remittance shall be made to a non-resident unless a no objection certificate has been obtained from the Income Tax Department. This was modified to allow such remittances without insisting on a no objection certificate from the Income Tax Department, if the person making the remittance furnishes an undertaking (addressed to the Assessing Officer) accompanied by a certificate from an Accountant in a specified format. The certificate and undertaking are to be submitted (in duplicate) to the Reserve Bank of India / authorised dealers who in turn are required to forward a copy to the Assessing Officer concerned. The purpose of the undertaking and the certificate is to collect taxes at the stage when the remittance is made as it may not be possible to recover the tax at a later stage from non-residents.

2. There has been a substantial increase in foreign remittances, making the manual handling and tracking of certificates difficult. To monitor and track transactions in a timely manner, section 195 was amended vide Finance Act, 2008 to allow CBDT to prescribe rules for electronic filing of the undertaking. The format of the undertaking (Form 15CA) which is to be filed electronically and the format of the certificate of the Accountant (Form 15CB) have been notified vide Rule 37BB of the Income-tax Rules, 1962.

3. The revised procedure for furnishing information regarding remittances being made to non-residents w.e.f. 1 July, 2009 is as follows:-

(i) The person making the payment (remitter) will obtain a certificate from an accountant (other than employee) in Form 15CB.

(ii) The remitter will then access the website to electronically upload the remittance details to the Department in Form 15CA (undertaking). The information to be furnished in Form 15CA is to be filled using the information contained in Form 15CB (certificate).

* An 'accountant' means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949), and includes, in relation to any State, any person who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), is entitled to be appointed to act as an auditor of companies registered in that State.

(iii) The remitter will then take a print out of this filled up Form 15CA (which will bear an acknowledgement number generated by the system) and sign it. Form 15CA (undertaking) can be signed by the person authorised to sign the return of income of the remitter or a person so authorised by him in writing.

(iv) The duly signed Form 15CA (undertaking) and Form 15CB (certificate), will be submitted in duplicate to the Reserve Bank of India / authorized dealer. The Reserve Bank of India / authorized dealer will in turn forward a copy of the certificate and undertaking to the Assessing Officer concerned.

(v) A remitter who has obtained a certificate from the Assessing Officer in relation to the rate at which or the amount on which the tax is to be deducted is not required to obtain a certificate from the Accountant in Form 15CB. However, he is required to furnish information in Form 15CA (undertaking) and submit it along with a copy of the certificate from the Assessing Officer as per the procedure mentioned from Sl.No.(i) to (iv) above.

(vi) A flow chart regarding filing of Form 15CA and Form 15CB is enclosed at Annexure-A.

4. The Directorate General of Income-tax (Systems) (www.incometaxindia.gov.in) shall specify the procedures, formats and standards for running of the scheme as well as instructions for filling up Forms 15CA and 15CB. These forms shall be available for upload and printout at www.tin-nsdl.com

5. The Reserve Bank of India is being requested to circulate the revised procedure among all authorised dealers.

F.No. 142/19/ 2007

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Annexure – A

Flow chart of filing undertaking form u/s 195 of I T Act 1961

