

**Note regarding revised procedure for furnishing information in respect of remittances to be made to non-residents, with effect from 1.7.2009**

As per section 195, tax is required to be deducted at source from payment to non-residents, if the same is chargeable to income-tax under the Income-Tax Act, 1961 (the Act). In this connection, it may be stated that as per the Instruction issued by the Reserve Bank of India (RBI), except in the case of certain personal remittances which have been specifically exempted, no remittance could be made to a non-resident, unless a No Objection Certificate (NOC) has been obtained from the Income-Tax Department. The aforesaid Instruction was modified to allow such remittances without NOC from the IT Department, if the person making the remittance furnishes an undertaking to the Assessing Officer (AO) accompanied by a certificate from a chartered accountant (CA) in a specified format. The certificate and undertaking are to be furnished (in duplicate) to the RBI / authorized dealers, who in turn are required to forward a copy to the AO, 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.

As there was substantial increase in foreign remittances, sub-section (6) was inserted in section 195, vide the Finance Act, 2008. As per section 195(6), the person responsible for making any payment to a non-resident, shall furnish information relating to such payment in such form and manner, as may be prescribed by the CBDT.

The Finance Act, 2008, also allowed the CBDT to prescribe rules for electronic filing of the aforesaid undertaking. The format of the undertaking (Form 15CA) which is to be filed electronically and the format of the certificate of the CA (Form 15CB) have been notified, vide rule 37BB of the Income-Tax Rules, 1962.

In the light of the aforesaid changes, Circular No.04 / 2009, dated 29.6.2009, laying down the revised procedure for furnishing the information in relation to remittances to be made to non-residents, has been issued [181 Taxman (St.) 205, Part 3]. As per the aforesaid Circular, the revised procedure which is effective from 1.7.2009, has been laid down in para (3) thereof.

Copies of the aforesaid Circular of the CBDT and Annexure-A thereto, are also attached herewith.

It is, therefore, advised that the aforesaid revised procedure for furnishing the information in respect of the remittances to be made to non-residents, with effect from 1.7.2009, may be strictly followed.

Place : Pune

Date : 28.8.2009

(S.K.Tyagi)