

What's New

News Flash



August 2013

CBDT notifies revised Forms 15CA and 15CB to increase reporting requirements on payments to non-residents

Background

Under section 195(6) of the Income-tax Act (the Act), a person responsible for making a payment to a non-resident is required to furnish information in Form 15CA to the income-tax department. This form is required to be filed electronically with the tax authorities and a signed printout of it is then to be submitted to the authorised dealer, prior to remitting the payment. Also, a certificate from an accountant is required to be obtained in Form 15CB before filing of Form 15CA.

The CBDT has amended Rule 37BB¹ of the Income-tax Rules, 1962. The amended Rule 37BB will be effective from 1 October 2013.

Amendment in Rule 37BB

The CBDT has notified revised Forms 15CA and 15CB to be furnished under section 195(6) when making payments to non-residents. The new Form 15CA is divided into three parts and information is to be provided in one of the categories, as applicable:

Part A: For payments not exceeding INR 50,000 and the aggregate of such payments made during the financial year not exceeding INR 250,000;

Part B: For payments not chargeable to tax and falling under the list of specified payments (e.g. investment abroad in equity shares, loans to non-residents, personal gifts and donations, etc.). The list contains 39 specified payments;

Part C: Other payments not covered in Parts A & B. Part C can be filed only after obtaining any of the following certificates/orders:

- Certificate in Form 15CB from accountant; or
- Certificate from Tax Officer under section 197 of the Act; or
- Order from Tax Officer under section 195(2) or 195(3) of the Act.

Other important changes in Forms:

- A specific disclosure requirement for tax implications under the Act, irrespective of the tax treaty.

Information such as the amount of income, tax liability, basis of determining the same, etc. are to be furnished. A similar information requirement is prescribed in Form 15CB;

- A disclosure of whether a tax residency certificate of the recipient has been obtained;
- A separate disclosure for remittance of capital gains;
- Reporting for remittance towards imports now specifically covered in Part B of Form 15CA

The income-tax authority is now empowered to obtain Form 15CA, which is available from the authorised dealer for the purpose of any proceedings under the Act.

Way forward

In the recent past, the provisions of the Act, income-tax rules and forms (including income tax returns) have been amended in order to obtain more details regarding payments to non-residents. Also, the recent CBDT notification regarding furnishing of additional information, along with a tax residency certificate by non-resident taxpayers to claim treaty benefits, indicates that the income-tax department wants to track and examine taxability of payments to non-residents in detail. Adding to the above, pursuant to the amendment to Rule 37BB, payers have the onus to analyse tax implications on non-resident payments in greater detail and disclose more information to the tax authorities before making the payment.

1. Notification No. 58 dated August 5, 2013

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