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CBDT issues Circular relaxing residency conditions for individuals stranded in India due to COVID-19 lockdown

The CBDT has issued Circular 11 of 2020 on 8 May 2020, to provide relaxation to residency conditions for FY 2019-20 for individuals stranded in India due to COVID-19 lockdown

Background:

Section 6 of the Income Tax Act, 1961 (ITA) assists in determining the residential status of an individual (i.e. resident or non-resident or not ordinarily resident), depending on the period of stay in India during the respective Financial Year (FY) and / or preceding FY(s).

Many individuals had visited India during the FY 2019-20 and intended to leave India before the end of FY 2019-20. However, due to the declaration of lockdown and suspension of international flights owing to outbreak of COVID-19, they were required to prolong / extend their stay in India. This prolonged / extended period of stay in India may result in change of residential status for certain individuals.

The Central Board of Direct Taxes (CBDT) in order to avoid genuine hardship in case of such individuals has issued Circular 11 of 2020 dated 8 May 2020 (Circular).

Highlights of the Circular:

The CBDT has introduced the following relaxations (for determining the residential status of an individual for FY 2019-20) in respect of an individual who came to India before 22 March 2020 and was:

- unable to leave India on or before 31 March 2020. In such cases, the period of stay in India from 22 March 2020 to 31 March 2020 will not be taken into account for determining the residential status; or
- quarantined in India due to COVID-19 on or after 1 March 2020 and departed from India through an evacuation flight by 31 March 2020, or was unable to leave India by 31 March 2020. In such cases, the period of stay in India from the start of quarantine to the date of departure or 31 March 2020, as the case may be, will not be taken into account for determining the residential status; or
- departed from India on an evacuation flight by 31 March 2020. In such cases, the period of stay in India from 22 March 2020 to the date of departure will not be taken into account for determining residential status.

Comments:

- The Circular will give relief to taxpayers who have been stranded in India due to COVID-19 and whose residential status for FY 2019-20 could have been changed due to the nationwide lockdown.

- The CBDT by way of a Press Release dated 8 May 2020 has clarified that a similar circular for determining residential status of individuals for FY 2020-21 shall be issued after normalisation of the lockdown status.



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