



Tax alert: CBDT issues clarification on Income-tax Clearance Certificate

22 August 2024

The Central Board of Direct Taxes, vide a Press Release dated 20 August 2024, has issued a clarification in respect of obtaining of Income-tax Clearance Certificate by persons domiciled in India, pursuant to amendment vide Finance (No. 2) Act, 2024 to section 230(1A) of the Income-tax Act, 1961.

Background:

- Section 230(1A) of the Income-tax Act, 1961 (ITA) relates to obtaining of Income-tax clearance certificate (ITCC), in certain circumstances, by persons domiciled in India. The provision was introduced through the Finance Act (FA) 2003 with effect from 1 June 2003.
- As per section 230(1A) of the ITA, persons domiciled in India at the time of leaving India are required to furnish certain information viz, permanent account number, purpose of visit outside India and estimated period of stay outside India.

Further, proviso to section 230(1A) of the ITA provides that no person who is domiciled in India, shall leave India, unless he obtains a certificate from the income-tax authorities stating that he has no liabilities under ITA, or the Wealth-tax Act, 1957, or the Gift-tax Act, 1958, or the Expenditure-tax Act, 1987, or he makes satisfactory arrangements for the payment of all or any of such taxes which are or may become payable by that person. Such certificate is required to be obtained where circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain the same.

- FA (No.2) 2024 made amendment in proviso to section 230(1A) of the ITA by inserting reference to liabilities under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015(Black Money Act). CBDT vide a Press Release dated 20 August 2024 has now issued a clarification in respect of the same.

Clarification:

The CBDT has clarified the following:

- The insertion has been made to cover the liabilities under the Black Money Act in the same manner as the liabilities under the ITA and other Acts dealing with direct taxes for the purpose of section 230(1A) of the ITA.
- *“There appears to be a misinformation about the said amendment emanating from incorrect interpretation of the amendment. It is being erroneously reported that all Indian citizens must obtain income-tax clearance certificate (ITCC) before leaving the country. **This position is factually incorrect.**”*
- As per section 230 of the ITA, every person is not required to obtain an ITCC. Only certain persons, in respect of whom circumstances exist which make it necessary to obtain an ITCC, are required to obtain the said

certificate. This position has been in the statute since 2003 and remains unchanged even with the amendments vide FA (No.2) 2024.

- In regard to the above, the CBDT vide Instruction No. 1/2004, dated 5 February 2004, had specified that the ITCC under section 230(1A) of the ITA, may be required to be obtained by persons domiciled in India only in the following circumstances:
 - (i) where the person is involved in serious financial irregularities and his presence is necessary in investigation of cases under the ITA or the Wealth-tax Act and it is likely that a tax demand will be raised against him, or
 - (ii) where the person has direct tax arrears exceeding INR 1 million outstanding against him which have not been stayed by any authority.

Further, a person can be asked to obtain a ITCC only after recording the reasons for the same and after taking approval from the Principal Chief Commissioner of Income-tax or Chief Commissioner of Income-tax.

Comments:

The press release has reiterated that ITCC under section 230(1A) of the ITA is needed by residents domiciled in India, only in rare cases, such as (a) where a person is involved in serious financial irregularities or (b) where a tax demand of more than INR 1 million is pending which is not stayed by any authority.

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