

TAX CLEARANCE CERTIFICATE REQUIREMENT FOR INDIANS (*NOT FOR EVERY INDIAN CITIZEN)

Attention Readers

From the past few days there are a lot of news articles that have been published in relation to Tax Clearance Certificate Requirement for Indians Travelling Abroad, which are confusing the actual tax guidelines creating a chaos among various assessees.

To begin with, it is pertinent to note that nothing new has been proposed by the Hon'ble FM of India in this regard.

In fact, they have just proposed to insert the reference of liabilities under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 .

Furthermore, the said requirement is only when the Assessing Officer after recording reasons, deems it necessary for the assessee to obtain the said TCC, that too, with the prior approval of Principal Chief Commissioner or Chief Commissioner of Income Tax.

LETS HAVE A LOOK OVER THE CORRECT VIEW OF PROPOSAL UNDER UNION BUDGET RELEASED ON 23RD JULY, 2024.

INTRODUCTION

The Government of India has introduced the reference of Black Money Act, 2015 as new regulations for coverage of liabilities under Income Tax Act, 1961 requiring all Indian citizens who meet certain criteria to obtain a Tax Clearance Certificate (TCC) before leaving the country. This measure aims to ensure compliance with tax obligations and prevent tax evasion.

Union Budget - Amendment to include – “the reference of Black Money Act, 2015” for the purposes of obtaining a tax clearance certificate.

BEFORE UNION BUDGET

The existing provisions of sub-section (1A) of section 230 of Act specify that, inter-alia, no person —

(i) who is domiciled in India at the time of his departure; and
(ii) in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain a certificate under this section, shall leave India, unless he obtains a certificate from the income-tax authorities stating that he has **no liabilities under Income-tax Act, 1961, or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Expenditure-tax Act, 1987 (35 of 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.

The proviso to the said sub-section further mandates that no income-tax authority shall make it necessary for any person who is domiciled in India to obtain the said certificate unless he records the reasons therefor and obtains the prior approval of the Principal Chief Commissioner or Chief Commissioner of Income-tax.

Reason for amendment

In this regard, it was observed that most of the **liabilities arising under the Acts administered by the Central Board of Direct Taxes (CBDT) have been covered** in the sub-section (1A) of section 230 of the Act, for the purpose of obtaining a tax clearance certificate, **except the liabilities arising under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015).**

Proposed Amendment

In view of the same, it is proposed to insert the reference of liabilities under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 in the sub-section (1A) of the section 230 of the Act, for the purposes of obtaining a tax clearance certificate.

Effective from The proposed amendment will be applicable from 1st day of October, 2024.

FAQS

1. Who needs to get this tax clearance certificate?

Only those assesseees to whom the show cause notice has been issued by the Assessing Officer, asking why he/she is not required to obtain the TCC.

2. Who is not required to obtain TCC?

Not every Indian Citizen is required to obtain TCC until or unless they have received show cause notice from Assessing Officer as mentioned above in FAQ 1.

3. Purpose of obtaining TCC by the assessee?

In the cases where **the Chief Commissioner of Income-tax, is satisfied** that the departure of the assesseees from India who are involved in Serious Financial Irregularities or Higher Outstanding Direct Tax Arrears, which will prejudicially affect the interest of revenue, may authorise the Assessing Officer to require that such persons obtain a tax clearance certificate.

Methodology and steps involved

- Applicable to those assesseees who have **liabilities* arising under the Acts such as**
 - Black Money and Imposition of Tax Act, 2015
 - Income Tax Act, 1961
 - Wealth Tax Act, 1957
 - Gift Tax Act, 1958
 - Expenditure Tax Act, 1987

* Liabilities due to Serious Financial Irregularities or Higher Outstanding Direct Tax Arrears over and above Rs. 10 lakhs.

- **Safeguard for assessee:** Assessing Officer is required to obtain prior Approval of Principal Chief Commissioner or Chief Commissioner of Income-tax before issuing Notice u/s 230 of the Act to assessee.
- **Show Cause Notice-** After getting approval, the AO/ITO will issue Notice u/s 230 of the Act to the assessee requiring them to obtain TCC
- Once the assessee falls in this category of obtaining TCC, only then it is mandatory for the assessee to obtain TCC from his Assessing Officer for Foreign Travel.
- **Possible way outs for obtaining TCC:-**
 - Apply for Stay of Demand
 - Obtain Bank Guarantee
 - Deposit disputed liability

ashwani & associates

chartered accountants

Disclaimer-

The views expressed are matters of opinion based on our understanding of the related laws, rules, notifications, circulars, etc.

Contact us- Ludhiana: 226-A Tagore Nagar, Ludhiana- 141001
Email: ashwani@ashwaniassociates.in Web : www.ashwaniassociates.in
Delhi | Ludhiana | Chandigarh | Mumbai | Dubai

WWW.ASHWANIASSOCIATES.IN