

CBDT proposes amendment of Income-tax Rules 1962 by inserting new rule 29BA and Form 15E

Section 195 of the Act relates to levy of tax deduction at source (TDS) on any sum chargeable to tax and which is paid to a non-resident, not being a company, or to a foreign company. Prior to the amendment, sub-section (2) of the said section provided that where the person responsible for paying such sum chargeable under the Act to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Assessing Officer (AO) to determine, by general or special order, the appropriate of such sum so chargeable and upon such determination, tax shall be deducted only on that proportion of the sum which is so chargeable.

However, no format was prescribed for making the application under sub-section (2) of section 195. Therefore, the deductor has to write an application on plain paper and physically submit it to the Assessing Officer.

The AO then issues a certificate determining by general or special order, the appropriate proportion of such sum so chargeable to tax at source under section (1) of section 195 of the Act, and there are also no standard operating procedures in respect of processing and disposal of the application under the said sub-section. This increases uncertainty and causes inconvenience to deductors.

Further, sub-section (7) of section 195 also provided that the Government may specify a class of persons or cases, where the deductor who is responsible for paying to a non-resident not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application to the Assessing Officer to determine by general or special order, the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under sub-section (1) on that proportion of the sum which is so chargeable.

However, no format was prescribed for making such application and neither is any standard operating procedures specified in respect of processing and disposal of the application. There

was a demand from various stakeholders to streamline the process of passing of such orders under section 195(2) of the Act.

In order to streamline the process for making an application by the deductor and to reduce the human interface, section 195 of the Act was amended through Finance (No.2), Act 2019. The new amended section 195 now empowers the Board to prescribe the form and manner of filing of application under sub-section (2) to determine the appropriate proportion of such sum so chargeable and upon determination tax to be deducted as per sub-section (l) of section 195 on that proportion only.

Further sub-section (7) of section 195 was amended to provide that the Government may specify a class of persons or cases, where the deductor who is responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application to the Assessing Officer in such form and manner and Assessing officer to determine in such manner as may be prescribed the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under sub-section (l).

As a result of the amendments carried out in sub-section (2) and sub-section (7) of section 195 of the Act, vide Finance (No.2) Act, 2019, consequential amendments have to be carried out in Income-tax Rules, 1962 (the Rules) and Forms to give effect to the amendments.

In view of the above, a new Form 15E is proposed to be introduced in the Rules to operationalize the provisions of the section 195(2) of the Act. It has been decided to seek the stakeholder's comments in relation to proposed Form 15E to be introduced in the Rules by the CBDT. The proposed form 15 E is enclosed for your reference.

In this regard, the esteemed members are requested to share the inputs /suggestions on the proposed form by 12 January 2020 at research@phdcci.in so that the same can be compiled and submitted to the concerned department.

Please contact for any query related to this mail to Ms Shikha Bhatt, Executive Officer, at shikha.bhatt@phdcci.in with a cc to Dr S P Sharma, Chief Economist at spsharma@phdcci.in and Ms Surbhi Sharma, Associate Economist at surbhi@phdcci.in, PHD Chamber of Commerce & Industry.

Warm Regards,



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