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Notification on Tax Residency Certificate

The Central Board of Direct Taxes (CBDT) exercising powers conferred to it under Section 295 of the Income Tax Act, 1961 (IT Act) has issued Notification No. 57/2013 [(F.No.142/16/2013-TPL)/SO 2331(E)], dated 1 August, 2013 (“Notification”) amending Rule 21AB of the Income-tax Rules, 1962 (“IT Rules”) prescribing the additional information required to be furnished by non-resident tax payers along with the Tax Residency Certificate (“TRC”). The notification shall be deemed to have come in to force with effect from 1 April, 2013.

The key contents of the said notification are as summarized below. We hope you will find this Flash News informative and useful.

A. Background

As per Finance Act, 2012 a non-resident tax payer would not be entitled to claim tax treaty benefits until it furnished a TRC containing specific information as prescribed by the CBDT vide its Notification No 39 dated 17 September, 2012. This condition of obtaining TRC containing specified particulars from the government authorities of various countries caused hardship to the non-resident tax payers as the government of each country issued TRC as per its own specific format, which could not be changed to meet the needs of the Indian tax authorities. Also, obtaining TRC in the format prescribed by CBDT was time consuming and often led to delays in submission of TRC’s and claiming tax treaty benefits.

Accordingly in the Finance Act 2013 the provisions pertaining to obtaining of TRC containing the specified particulars was withdrawn.

B. Additional information to be provided along with the TRC

As per the Notification, the information which was previously required to be contained in the TRC, is now required to be furnished by the non-resident tax payer along with the TRC in Form 10F.

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The details required to be provided by the non-resident tax payers in Form 10F (not required to be provided if it already forms a part of the TRC) are as under:

- Tax payers status – individual, firm, company etc;
- Permanent Account Number, if allotted;
- Nationality in case of individual and in other cases country or specified territory of incorporation / registration;
- Tax payers tax identification number in its country / specified territory of residence. In case of there being no such number, unique number on the basis of which tax payer is identified by the government of the respective country / specifies territory of which tax payer claims to be resident;
- Period for which the residential status, as mentioned in the TRC, is applicable; and
- Address of the tax payer in the country or territory outside India during the period for which the certificate is applicable.

The non-resident tax payer is also required to keep and maintain documents which are necessary to substantiate the above information. The income-tax authorities may ask for the said documents from the tax payer in relation to a claim of benefit under the tax treaty.

Conclusion

The prescribed particulars which were erstwhile required to be contained in the TRC are now required to be furnished by the non-resident tax payer's along with the TRC. The Notification however requires non-resident tax payers to maintain additional documents to substantiate the information provided by them.

Disclaimer

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