

### **Deduction of Tax at Source – Section 192 -Income Tax Deduction From Salaries**

Annual CBDT Circular on TDS on Salaries :-

CBDT has issued a Circular on TDS from Salary under 192 for AY 2022-23 (FY 2021-22) vide Circular No. 04 /2022 dated 15.03.2022 detailing the procedure to be followed by an employer for deducting TDS from the salary income of employees paid during FY 2021-22 or assessment year (AY) 2022-23.

Refer to above circular for Detailed Instruction

### **Exclusion of certain cases from Faceless Penalty Scheme**

CBDT Order F.no. 187/4/2021-ITA-I, dated 10-03-2022

The Faceless Penalty Scheme was made applicable w.e.f. 12-01-2021 in similar manner like Faceless Assessment Scheme, 2020 and Faceless Appeal Scheme, 2020 vide notification S.O. 117(e), dated 12-1-2021. Subsequently, the CBDT vide Order F. No. 187/4/2021-ITA-1, dated 26-2-2021 & 20-1-2021, had notified that this scheme would not be applicable to the following cases:

- Penalty proceedings arising/pending in the Investigation Wing, the Directorate of I&CI, erstwhile DG (Risk-Assessment) or by any prescribed authority;
- Penalty proceedings arising out of any statute other than the Income-tax Act, 1961;
- All the penalties imposable by the officers of the level of Commissioner/Director/Commissioner (Appeals/Appeal Unit);
- Penalty proceedings in cases assigned to Central Charges;
- Penalty proceedings in cases assigned to International Tax Charges; and
- Penalty proceedings arising in TDS charges.

The board vide Order F.no. 187/4/2021-ITA-I, dated 10-03-2022, has notified another class of penalties as under that shall not be covered by the Faceless Penalty Scheme 2021.

It has been specified that penalty proceedings in cases where pendency could not be created on ITBA because of technical reasons or cases not having a PAN shall be out of the purview of the Faceless Penalty Scheme 2021.

### **Clarification regarding the Most-Favoured-Nation (MFN) Clause in The Protocol to India's DTAA's with certain countries**

Circular No. 3/2022 [F. No. 503/1/2021-FT&TR-I], Dated 3-2-2022

It is hereby clarified that the applicability of the MFN clause and benefit of the lower rate or restricted scope of source taxation rights in relation to certain items of income (such as dividends, interest income, royalties, Fees for Technical Services, etc.) provided in India's DTAA's with the third States will be available to the first (OECD) State only when all the following conditions are met:

- (i) The second treaty (with the third State) is entered into after the signature/Entry into Force (depending upon the language of the MFN clause) of the treaty between India and the first State;
- (ii) The second treaty is entered into between India and a State which is a member of the OECD at the time of signing the treaty with it;
- (iii) India limits its taxing rights in the second treaty in relation to rate or scope of taxation in respect of the relevant items of income; and
- (iv) A separate notification has been issued by India, importing the benefits of the second treaty into the treaty with the first State, as required by the provisions of sub-section (1) of Section 90 of the Income-tax Act, 1961.

If all the conditions enumerated in (i) to (iv) are satisfied, then the lower rate or restricted scope in the treaty with the third State is imported into the treaty with an OECD State having MFN clause from the date as per the provisions of the MFN clause in the DTAA, after following the due procedure under the Indian tax law.

It is also Clarified as under :-

Notwithstanding the clarification given in the above paragraphs, where in the case of a taxpayer there is any decision by any court on this issue favourable to such taxpayer this Circular will not affect the implementation of the court order in such case