

Applicability of Safe Harbour Rules 10TD Extended till AY 2022-23

The Central Board of Direct Taxes Vide Notification no 66/2022 dated 17.06.2022, in exercise of the powers conferred by section 295 read with section 92CB (2) of the Income-tax Act, gives Income-tax (18th Amendment) Rules, 2022.

These rules deemed to be came into force with effect from 01.04.2022. It amends Rule 10 (3B) of Income Tax Rules. It has extended the validity of safe harbour provisions for transfer pricing issues of Rule 10TD till Assessment Year 2022-23.

Rule 10TD prescribes a list of eligible international transactions where the transfer price declared by the assessee shall be required to be accepted by the Income-tax Authorities.

Rule 10TD(1) and Rule 10TD(2A) prescribe a list of eligible international transactions where income-tax authorities shall accept the transfer price declared by the taxpayer at arm's length. Rule 10 (3A) provides for time limit for applicability of above both rules. It provided that provision shall apply for three AYs 2017-18 to 2019-20. Subsequently , CBDT inserted a new sub-rule (3B) to the Rule 10TD to extend the applicability to AY 2020-21 and Assessment Year 2021-22.

CBDT now further amends and extends the applicability to AY 2022-23.

CBDT Notifies Compliance Check Functionality for Section 206AB & 206CCA

Section 206AB and 206CCA of the Income-tax Act, which is effective from 01.07.2021 and amended by finance act 2022, imposed higher TDS/TCS rate on the "Specified Person".

The act defines the "Specified Person" for the purpose of this section means a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired, and whose total tax deducted at source and tax collected at source is rupees fifty thousand or more in his case.

In order to facilitate Tax Deductors and Collectors in identification of Specified Persons ,the CBDT has issued Order via F.No. 225/67/2021/ITAT dated 21.06.2021 , directing specified authority for furnishing information to the Tax Deductor/Tax Collector, having registered in the reporting portal of the Project Insight through valid TAN, to identify the 'Specified Persons' for the purposes of section 206AB and 206CCA of the Act through the functionality "Compliance Check for Section 206AB & 206CCA.

This functionality is made available through (<https://report.insight.gov.in>) of Income-tax Department. May refer to CBDT Circular No. 11 of 2021 dated 21.06.2021 and CBDT Circular No. 10 of 2022 dated 17.05.2022 regarding use of functionality under section 206AB and 206CCA of the Income-tax Act

The features of procedure laid down for sharing of information with tax deductors /collectors are as under ;-

- ✓ Registration:
- ✓ Accessing the Compliance Check functionality
- ✓ Using "PAN Search" mode
- ✓ Using "Bulk Search" mode

Tax Deductors & Collectors can refer to Quick Reference Guide on Compliance Check for Section 206AB & 206CCA and Frequently Asked Questions (FAQ) available under a Resources" section of Reporting Portal. They can also navigate to the "Help" section of Reporting Portal for submitting query or to get a call back from Customer Care Team of Income-tax Department. Customer Care Team of Income-tax Department can also be reached by calling on its Toll Free number 1800 103 4215 for any assistance.

Notification No. 01 of 2021 dated 22rd June 2021 is modified to the extent of what is contained in this notification

Readers may refer to complete text of Notification.

Amends Rule for claiming Exemption by a Specified Fund under section 10(4D)

The CBDT , vide notification no -64 dated 16.06.2022 , in exercise of power conferred under section 10(4D) proviso to Item III of sub- clause (i) of clause C of explanation, gives Income Tax (17th Amendment) Rules , 2022.

It amends Rule 21AI, Rule 21AJ, Rule 21AJA, Rule 21AJAA and inserted Rule 21AIA in the Income-tax Rules, 1962 in order to claim exemption by a 'specified fund' under section 10(4D) of the Income-tax Act, 1961.

It also amended and substituted the existing Form No. 10-IG for reporting the exempt income under section 10(4D) by a 'specified fund'.

Readers may refer to complete text of Notification.

TDS on Lease Rentals to aircraft-leasing units located in IFSC under section 194-I

The Central Government , vide notification no 65 dated 16.06.2022, in exercise of the powers conferred by section 197 (1F) read with section 80LA (2) (c) of the Act, specifies that no deduction of tax shall be made under section 194-I of the Income-tax Act on payment in the nature of lease rent or supplemental lease rent, as the case may be, made by a person ('lessee') to a person being a Unit located in International Financial Services Center ('lessor') for lease of an aircraft.

It provides for relaxation from TDS under section 194-I of the Income Tax Act, in respect of lease rentals paid to aircraft-leasing units located in IFSC claiming exemption under section 80LA of the Act. It will come into force with effect from 1st July, 2022.

This relaxation from TDS under section 194-I is subject to the following condition

- ✓ The lessor shall furnish a statement-cum-declaration in Form No. 1 for each previous year to the lessee giving details of previous years relevant to the 10 consecutive assessment years for which the lessor opts for claiming deduction section 80LA(1A).
- ✓ The lessee shall not deduct tax on payment made or credited after the date of receipt of statement-cum-declaration in Form No. 1 from the lessor and furnish the particulars of all the payments made to the lessor on which tax has not been deducted in view of furnishing of Form no. 1 in the statement of deduction of tax so furnished under section 200(3) of the Act.

It provides definition of 'aircraft', 'International Financial Services Centre' and 'Unit'. It prescribes Form No. 1 to be furnished by a unit engaged in the business of leasing of aircraft located in International Financial Services Centre to the Lessee

This relaxation in TDS shall be available during the said previous years relevant to the ten consecutive assessment years as declared by the lessor in Form No. 1 for which deduction under section 80LA is being opted. The lessee shall be liable to deduct tax on payment of lease rent for any other year not covered in Form No. 1.

Readers may refer to complete text of Notification

Notified Cost Inflation Index Under Section 48, Explanation (v) – Financial Year 2022-23

CBDT notifies the Cost Inflation Index (CII) for the Financial Year 2022-23 vide Notification No. 62/2022 dated 14th June, 2022. The Cost Inflation Index for the FY 2022-23 relevant to AY 2023-24 is 331 for the purpose of computing capital gains.

Revises Guidelines for Complete Scrutiny of Returns for FY 2022-23 in Search and Seizure cases

The CBDT vide notification F.No.225/81/2022/ITA-II dated 03.06.2022 gives Guidelines for compulsory selection of returns for Complete Scrutiny during the Financial Year 2022-23

CBDT earlier issued its guideline dated 11.05.2022 or compulsory scrutiny of income-tax returns for complete scrutiny in the cases pertaining to search and seizure/requisition during the financial year 2022-23.

CBDT now vide notification dated 03.06.2022 revises its earlier guidelines dated 11.05.2022. It amends para 2 of the earlier guidelines as under

The Board has now substituted the procedure for selection of cases pertaining to search and seizure for complete scrutiny assessment. The substituted guidelines have segregated the search and seizure/requisition cases prior to 01.04.2021 and on or after 01.04.2021.

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No.	compulsory selection	
2	Cases pertaining to search and seizure/requisition	
2.1	<p>Search & seizure/requisition prior to 01.04.2021: Assessments in search and seizure cases to be made under section(s) 153A, 153C read with section 143(3) of the Act and also for return filed for assessment year relevant to previous year in which the search was conducted under section 132 or requisition was made under section 132A of the Act.</p>	<p>The cases shall be selected for compulsory scrutiny with prior administrative approval of Pr. CIT/Pr.DIT/CIT/DIT concerned, who shall ensure that such cases are transferred to Central Charges u/s 127 of the Act within 15 days of service of notice u/s 143(2)/142(1) of the Act by the Assessing Officer concerned.</p> <p>Where such cases are not centralized and Return of Income is filed in response to notice u/s 153C, the Assessing Officer concerned shall serve notice u/s 143(2) of the Act.</p>
		<p>Where such cases are not centralized and no Return of Income is filed in response to notice u/s 153C, the Assessing Officer concerned shall serve notice u/s 142(1) of the Act calling for information.</p>
2.2	<p>Search & seizure/requisition on or after 01.04.2021: Assessments in cases arising from search & seizure actions/requisitions u/s 132/ 132A conducted on or after 01.04.2021, for returns pertaining to A.Y. 2021-22.</p>	<p>The cases shall be selected for scrutiny with prior administrative approval of Pr. CIT/Pr.DIT/CIT/DIT concerned, who shall ensure that such cases are transferred to Central Charges u/s 127 of the Act within 15 days of service of notice u/s 143(2)/142(1) of the Act</p>

		by the Assessing Officer concerned.
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Guidelines for TDS on Perquisites under section 194R

The CBDT vide Circular no -12 dated 16.06.2022 gives detailed guidelines for removing difficulties for deduction of tax (TDS) as per the provision of section 194R of the Income-tax Act. This Circular contains guidelines to remove difficulties with respect to Section 194R, which comes into effect from 1st July, 2022. Section 194R mandates deduction of tax or TDS @ 10% on benefit and/or perquisite provided to a resident.

CBDT, with the prior approval of the Central Government and in exercise of the Power conferred under section 194R (2) of the Act, hereby issues the following detailed guidelines in the form of FAQs.

- ✓ Is it necessary that the person providing benefit or perquisite needs to check if the amount is taxable under clause (iv) of section 28 of the Act, before deducting tax under section 194R of the Act?
- ✓ Is it necessary that the benefit or perquisite must be in kind for section 194R of the Act to operate?
- ✓ Is there any requirement to deduct tax under section 194R of the Act, when the benefit or perquisite is in the form of capital asset?
- ✓ Whether sales discount, cash discount and rebates are benefit or prerequisite?
- ✓ How is the valuation of benefit/perquisite required to be carried out?
- ✓ Many a times, a social media influencer is given a product of a manufacturing company so that he can use that product and make audio/video to speak about that product in social media. Is this product given to such influencer a benefit or prerequisite?
- ✓ Whether reimbursement of out of pocket expense incurred by service provider in the course of rendering service is benefit/perquisite?
- ✓ If there is a dealer conference to educate the dealers about the products of the company - Is it benefit/perquisite?
- ✓ Section 194R provides that if the benefit/perquisite is in kind or partly in kind (and cash is not sufficient to meet TDS) then the person responsible for providing such benefit or perquisite is required to ensure that tax required to be deducted has been paid in respect of the benefit or perquisite, before releasing the benefit or perquisite. How can such person be satisfied that tax has been deposited?
- ✓ Section 194R would come into effect from the 1st July 2022. Second proviso to sub-section (1) of section 194R of the Act provides that the provision of this section does not apply where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to a resident during the financial year does not exceed twenty thousand rupees. It is not clear how this limit of twenty thousand is to be computed for the Financial Year 2022-23?

Readers may refer to complete text of Circular.