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## IT UPDATES

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# 2024



## **1. Cost of Inflation Index for FY 2023-24**

The Central Board of Direct Taxes has released the Cost of Inflation Index for FY 2023-24 vide Notification No S.O. 1692(E) dated 10th April 2023 as **"348"**.

Hence any Long Term Capital asset which is eligible in Indexation when sold in the FY 2023-24 will be indexed with 348 to arrive at the Indexed Cost of the Asset.

## **2. Procedure, format and standards for filling an application in Form No. 15C or Form No. 15D for grant of certificate for no-deduction of income-tax under sub-section (3) of section 195 of the Income Tax Act, 1961 through TRACES**

Tax withholding in India for Foreign Companies and Foreign Nationals are governed by the provisions of section 195 of the Income Tax Act, 1961. Most entities use the benefit of Double Taxation Avoidance Agreements (DTAA) to seek some relief when it comes to withholding of taxes. Even after such benefits many transactions fall under the ambit of taxation are subject to tax withholding.

However, Section 195(3) of the Income-tax Act, 1961 provides for grant of certificate to a person entitled to receive interest or other sum on which income tax is to be deducted under section 195(1) of the Income-tax Act, 1961 without deduction of tax at source. For the purpose, an application has to be made by the person to the Assessing Officer (hereinafter referred to as "AO") in the prescribed form.

Rule 29B of the Income-tax Rules, 1962 prescribes the rules for making application for certificate authorising receipt of interest and other sums without deduction of tax in such cases. Rule 29B(3) of the Income-tax Rules, 1962 provides that the application shall be made by a banking company or insurer in Form No. 15C and by any other person who carries on business or profession in India through a branch in Form 15D.

There is an earlier directive of CBDT which says that 195(3) applies only where there is a doubt on income chargeable to tax (i.e.) not all payments would be income covered under 195. Only those income which are chargeable to tax will come under 195. For those payments the forms under 15C or 15D can be applied online.

The CBDT, Directorate of Income-Tax (Systems) vide Notification No. 01/2023 vide F. No. Pr. DGIT(S)CPC(TDS)/NOTIFICATION/2022-23 dated March 29, 2023 notified the procedure, format and standards for filling an application in Form No. 15C or Form No. 15D for grant of certificate for no-deduction of income-tax **"online through TRACES."**

The forms No. 15C and 15D shall be filed electronically at TRACES website under digital signature or through electronic verification code by the applicant who holds a PAN in India. Applicants accessing TRACES website from outside of India shall login at TRACES website and submit application in Form No. 15C or Form No. 15D along with supporting documents using Digital Signature only.

The procedure, format and standards for the purpose of electronic filing of Form No. 15C and Form No. 15D and generation of certificate through TRACES are explained in detail in the Notification.

Hence for entities who need a NIL deduction certificate can now apply the forms online and ensure there is NIL or reduced Tax Deduction through this online process.

## **3. Clarification regarding deduction of TDS under section 192 read with sub-section (1A) of section 115BAC of the Income-tax Act, 1961.**

The Finance Act, 2023 has introduced a new tax regime with effect from the assessment year beginning on or after 1st April 2024. This regime applies to individuals, Hindu undivided families, associations of persons (other than cooperative societies), bodies of individuals (incorporated or unincorporated), and artificial juridical persons. Under this regime, the total income of the person will be taxed at the rates provided in sub-section (1A) of Section 115BAC, subject to certain conditions, including the non-availment of specified exemptions and deductions.

The **new tax regime is the default regime** applicable to all the persons mentioned above. However, a person (not having income from business or profession) may opt out of this tax regime by exercising the option provided under sub-section (6) of Section 115BAC of the Act.

Representations have been received regarding the TDS on salary income of a person under Section 192 of the Act, as the employer (deductor) would not be aware of the employee's intention to opt out of the taxation under sub-section (1A) of Section 115BAC of the Act.

To avoid any genuine hardship in such cases, the Board has directed that the employer shall seek information from each of its employees regarding their intended tax regime. The employees are required to intimate their intended tax regime to their employers for each year. Upon receipt of this information, the employer shall compute the employee's total income and deduct TDS according to the option exercised.

If the employee does not make any intimation, it shall be presumed that the employee continues to be in the default tax regime and **has not exercised the option to opt out of the new tax regime**. In such a case, the employer shall deduct TDS on the employee's income under Section 192 of the Act, according to the rates provided under sub-section (1A) of Section 115BAC of the Act.

It is important to note that the intimation of intended tax regime by the employee would not amount to exercising the option in terms of sub-section (6) of Section 115BAC of the Act. The person shall be required to do so separately as per the provisions of the sub-section.

In conclusion, the CBDT Income Tax Circular 4/2023 provides clarity on the deduction of TDS under Section 192 and 115BAC of the Income-tax Act, 1961 and aims to resolve the concerns regarding TDS on salary income.