

TCC requirement for Indian-domiciled Individuals

There is one post in circulation causing unrest among the individuals domiciled in India that they will be in need to clear all their tax dues and obtain a tax clearance certificate (TCC) before leaving the country u/s 230 of the IT Act w.e.f. Oct 1, 2024.

We would like to clarify that amendment made by the Finance Act, 2024 has added the reference to the Black Money Act, 2015 to this section only. As per section 230 of the Income-tax Act, 1961, every person is not required to obtain a tax clearance certificate. Only in the case of certain persons, in respect of whom circumstances exist which make it necessary to obtain a tax clearance certificate will be required to obtain such certificate and this provision was already in existence. This requirement was in existence from last 20 years.

Who needs to get this tax clearance certificate? (Instruction No. 1/2004, dated 5-2-2004 issued by CBDT)

- **Involvement in Serious Financial Irregularities:** If a person is suspected of serious financial misconduct and their presence is crucial for investigations under the Income-tax Act or the Wealth-tax Act, and if it's likely that a tax demand will be raised against them, they need to obtain a tax clearance certificate.
- **Outstanding Direct Tax Arrears:** If a person has direct tax arrears exceeding Rs 10 lakh that have not been stayed by any authority, they must obtain a tax certificate.

As per the section 230 of the IT Act, before a person is asked to obtain a tax clearance certificate, the reasons for this requirement must be documented. Approval must also be obtained from the Principal Chief Commissioner of Income-tax or the Chief Commissioner of Income-tax.

The certificate itself is issued by the income-tax authority, stating that the person has no outstanding liabilities under the Income-tax Act, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, or the Expenditure-tax Act, 1987.

Given that the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, is also administered by the CBDT, the recently passed Finance (No. 2) Act, 2024, includes the Black Money Act in the list of Acts under which liabilities must be cleared to obtain a tax clearance certificate.