



Income tax demand pending more than Rs. 10 lakhs - You may be asked not to leave India without ITCC

Vide press release dated: 20-08-2024, the Central Government has clarified that a domiciled Indian may be required to obtain an Income-tax clearance certificate in the following two circumstances:

- (1) where a person is involved in serious financial irregularities or
- (2) where a tax demand of more than Rs. 10 lakh is pending which is not stayed by any authority.

Vide the press release, the government has clarified that the amendment made by the Finance (No.2) Act, 2024, has only included the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. It is being erroneously reported that all Indian citizens must obtain an Income Tax Clearance Certificate (ITCC) before leaving the country. This position is factually incorrect.

CBDT issues clarification in respect of Income-tax clearance certificate (ITCC)

Section 230 (1A) of the Income-tax Act, 1961(the 'Act') relates to obtaining of a tax clearance certificate, in certain circumstances, by persons domiciled in India. The said provision, as it stands, came on the statute through the Finance Act, 2003 w.e.f. 1.6.2003. The Finance (No.2) Act, 2024 has made only an amendment in Section 230(1A) of the Act, vide which, reference of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (the 'Black Money Act') has been inserted in the said Section. This insertion has been made to also cover the liabilities under the Black Money Act in the same manner as the liabilities under the Income-tax Act,1961, and other Acts dealing with direct taxes for Section 230(1A) of the Income-tax Act,1961.

There appears to be misinformation about the said amendment emanating from an incorrect interpretation of the amendment. It is being erroneously reported that all Indian citizens must obtain an income-tax clearance certificate (ITCC) before leaving the country. This position is factually incorrect. As per section 230 of the Act, every person is not required to obtain a tax clearance certificate. Only certain persons, in respect of whom circumstances exist which make it necessary to

obtain a tax clearance certificate, are required to obtain it. This position has been in the statute since 2003 and remains unchanged even with the amendments vide Finance (No. 2) Act, 2024. In this context, the CBDT, vide its Instruction No. 1/2004, dated 05.02.2004, has specified that the tax clearance certificate under Section 230(1A) of the Act, may be required to be obtained by persons domiciled in India only in the following circumstances:

- (a) where the person is involved in serious financial irregularities and his presence is necessary in the investigation of cases under the Income-tax Act or the Wealth-tax Act and a tax demand will likely be raised against him, or
- (b) where the person has direct tax arrears exceeding Rs. 10 lakh outstanding against him which have not been stayed by any authority.

Further, a person can be asked to obtain a tax clearance certificate only after recording the reasons for the same and after getting approval from the Principal Chief Commissioner of income tax or Chief Commissioner of Income tax. In view thereof, it is reiterated that the ITCC under Section 230(1A) of the Act, is needed by residents domiciled in India, only in rare cases, such as (a) where a person is involved in serious financial irregularities or (b) where a tax demand of more than Rs. 10 lakh is pending which is not stayed by any authority.