

July 19, 2007

To,

All Category - I Authorised Dealer banks and Authorised banks

Madam / Sir,

Remittances to non-residents - Deduction of tax at source

Attention of Authorised Dealer Category - I (AD Category - I) banks and authorised banks is invited to A. P. (DIR Series) Circular No.56 dated November 26, 2002 enclosing a copy of Central Board of Direct Taxes (CBDT) Circular No.10/2002 dated October 9, 2002 (F.No.500/152/96-FTD) regarding revision in the format of the undertaking and the certificate to be submitted by the remitter at the time of making remittances to non-residents.

2. We have been receiving queries from authorised dealers whether such undertaking and certificate should be obtained in all cases of remittances in foreign currency to non-residents including remittances for trade payments. On the basis of the communication received from CBDT, Department of Revenue, Ministry of Finance, Government of India, it is clarified that under Section 195 of the Income Tax Act read with Rule 29B of the IT Rules, any person responsible for making payment to a non-resident or to a foreign company, any interest or any other sum chargeable under the IT Act, shall at the time of payment or credit of the amount deduct Income Tax thereon at the rate in force. Section 195 of the IT Act is not limited to interest income and it takes into account business income also. Further, points 7 and 8 of the Chartered Accountant's certificate deals with remittances for supply of articles or things (plant, machinery, equipment, etc.) or computer software and business income, respectively.

3. Accordingly, a remitter of foreign exchange is required to submit to the authorised dealer, an undertaking and Chartered Accountant's certificate in the format prescribed by CBDT vide circular No. 10/2002 dated October 9, 2002 at the time of making the remittance in foreign exchange to non-residents including remittances which are in the nature of trade transactions such as import payments.

4. AD Category - I banks and authorised banks may bring the contents of this circular to the notice of their customers and constituents concerned.

5. The directions contained in this circular have been issued under Section 10 (4) and Section 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law..

Yours faithfully,

(Salim Gangadharan)
Chief General Manager