

DRAFT NOTIFICATION u/s 197

Process of issue of certificate for no deduction, lower deduction and collection of tax

Section 197 of the Income tax Act, 1961 lays down the procedure of issuance of certificate for no deduction of tax or deduction/collection of tax at lower rate.

In order to rationalise and make the entire process electronic, in tandem with the objectives of the existing Government, the current Form No.13 and rules 28, 28AA, 28AB, 37G and 37H of the Income tax Rules are proposed to be amended vide draft notification F.No.370142/10/2018-TPL dated 17th August, 2018 issued by CBDT¹.

Enclosures: Draft notification F.No.370142/10/2018-TPL dated 17th August, 2018

¹ Central Board of Direct Taxes

F.No.370142/10/2018-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)

New Delhi, dated the 17th August, 2018

Subject: Draft notification proposing an amendment of the Income-tax Rules, 1962 for making the process of issue of certificate for no deduction, lower deduction and collection of tax electronic – reg.

Section 197 of the Income-tax Act, 1961 ('the Act') contains provisions enabling the Assessing Officer ('AO') to give the assessee a certificate for deduction of income-tax at any lower rates or no deduction of income-tax, if he is satisfied, upon an application made by the assessee in this behalf, that the total income of the recipient justifies no deduction or deduction at lower rates. Similarly, sub-sections section 206C of the Act contain provisions enabling the AO to give a certificate for collection at lower rate if he is satisfied and upon an application made by the assessee in this behalf. Further, rules 28, 28AA & 28AB, 37G & 37H and Form No. 13 have been inserted in the Income-tax Rules, 1962 ('the Rules') to specify the form and manner in which the application for grant of the certificate for lower rate of deduction or collection or no deduction may be made.

2. It is felt that the existing Form No. 13 and relevant rules are required to be rationalised. Hence, in order to rationalise and make the process of issuance of certificate for no deduction of tax or deduction/collection of tax at lower rate electronic, the existing Form No.13 and relevant rules are required to be amended. Accordingly, certain amendments in Form No. 13, and rules 28, 28AA, 28AB, 37G and 37H of the Income-tax Rules, 1962 are proposed.

3. The draft proposal is as under: –

“In the Income-tax Rules, 1962,-

(I) for rule 28, the following rule shall be substituted, namely: –

‘Application for certificates for deduction of tax at lower rates.

28. (1) An application by a person for a certificate under sub-section (1) of section 197 shall be made in Form No. 13 electronically, —

(i) under digital signature; or

(ii) through electronic verification code.

(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall specify procedures, formats and standards for ensuring secure capture and transmission of data and uploading of documents. The Principal Director General of

Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the furnishing of Form No.13.’;

(II) in rule 28AA, —

‘(a) in sub-rule (2), in clause (ii), for the words “income, as the case may be, of the last three”, the words “or estimated income, as the case may be, of last four” shall be substituted;

(b) in sub-rule (2), in clause (iv), after the word “payment”, the words “, tax deducted at source and tax collected at source” shall be inserted”;

(c) in sub-rule (2), clause (v) and clause (vi) shall be omitted;

(d) in sub-rule (4), after the word “deduction”, the words “or lower deduction” shall be inserted;

(e) for sub-rule (6), the following shall be substituted:

‘(6) The certificate for deduction of tax at lower rate may be issued to the person who made an application for issue of such certificate, authorising him to receive income or sum after deduction of tax at lower rate, where the number of persons responsible for deducting the tax is likely to exceed hundred and the details of such persons are not available at the time of making application with the person making such application.

(7) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall specify procedures, formats and standards for issuance of certificate under sub-rule (5) and sub-rule (6). The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the issuance of said certificate.’;

(III) in rule 28AB, —

‘(a) in sub-rule (2), in clause (i), after the word “made;” the word “and” shall be inserted;

(b) in sub-rule (2), in clause (ii), for the words “income-tax; and” the word “income-tax.” shall be substituted;

(c) in sub-rule (2), clause (iii) shall be omitted.’;

(IV) for rule 37G, the following rule shall be substituted, namely: —

‘Application for certificate for collection of tax at lower rates under sub-section (9) of section 206C.

37G. (1) An application by the buyer or licensee or lessee for a certificate under sub-section (9) of section 206C shall be made in Form No. 13 electronically, -

(i) under digital signature; or

(ii) through electronic verification code.

(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall specify procedures, formats and standards for ensuring secure capture and transmission of data and uploading of documents. The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for

evolving and implementing appropriate security, archival and retrieval policies in relation to the furnishing of Form No.13’;

(V) in rule 37H, —

‘(a) for sub-rule (1), following rule shall be substituted, namely:-

‘(1) Where the Assessing Officer, on an application made by a person under sub-rule (1) of rule 37G is satisfied that existing and estimated tax liability of a person justifies the collection of tax at lower rate, the Assessing Officer shall issue a certificate in accordance with the provisions of sub-section (9) of section 206C for collection of tax at such lower rate;

(1A) The existing and estimated liability referred to in sub-rule (1) shall be determined by the Assessing Officer after taking into consideration the following:-

- (i) tax payable on estimated income of the previous year relevant to the assessment year;
- (ii) tax payable on the assessed or returned or estimated income, as the case may be, of the last four previous years;
- (iii) existing liability under the Income-tax Act, 1961 and Wealth-tax Act, 1957;
- (iv) advance tax payment, tax deducted at source and tax collected at source for the relevant assessment year relevant to the previous year till the date of making application under sub-rule (1) of rule 37G.’;

(b) after sub-rule (5), the following rule shall be inserted, namely, :-

‘(6) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall specify procedures, formats and standards for issuance of certificate under sub-rule (5). The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the issuance of said certificate.’;

(VI) in Appendix II, for Form No.13, the following shall be substituted, namely:—

FORM NO. 13

[See rules 28 and 37G]

Application by a person for a certificate under section 197
and/or 206C(9) of the Income-tax Act, 1961, for no
deduction of tax or deduction/
collection of tax at a lower rate

To

The Assessing Officer,

1. I, _____ of _____ do, hereby, request that a certificate may be issued to the person responsible for paying me the incomes/sum, authorising him, not to deduct/deduct income-tax at lower rate, at the time of payment of such income/sum to me. The details are specified in Annexure-I.

and/or

I, _____ of _____ do, hereby, request that a certificate may be issued to me for receiving the incomes/sum:-
(i) after deduction of income-tax at lower rate as I do not have the details of the person making payments and their number is likely to exceed _____.
(ii) without deduction of income-tax as this application is made for the person/entity specified in rule 28AB.
The details are specified in Annexure-II.

and/or

I, _____ of _____ do, hereby, request that a certificate may be issued to the seller/lessee or licensee, authorizing him to collect income-tax at lower rate at the time of debit of such amount to my account or receipt thereof from me, as the case may be. The details are specified in Annexure-III.

| | | | | | | |
|---|-----------------------|--|--|--|---|---|
| 2. The particulars of my income and other relevant details are as under : | | | | | | |
| (i) Status (State whether individual, Hindu undivided family, firm, body of individuals, etc.) | | | | | | |
| (ii) Residential status (Whether resident / resident but not ordinarily resident / non-resident during the year which is sought) | | | | | | |
| (iii) Permanent Account No. | | | | | | |
| (iv) E-mail ID | | | | | | |
| (v) Mobile Number | | | | | | |
| (vi) Details of existing liability under Income-tax Act, 1961 and Wealth-tax Act, 1957: | | | | | | |
| | Assessment Year | Liability under the Income-tax Act, 1961 | | | | Amount payable under the Wealth-tax Act, 1957 |
| | | Amount payable in respect of advance-tax | Amount payable for self assessment tax | Amount for which notice of demand under section 156 has been served but not paid | Amount payable as deductor or collector which had become due but not paid | |
| | (1) | (2) | (3) | (4) | (5) | (6) |
| | | | | | | |
| (vii) Previous year to which the payments/receipts relate | | | | | | |
| (viii) Estimated total income of the previous year referred to in (vii) (Please upload computation of estimated total income of the previous year) | | | | | | |
| (ix) Total tax including interest payable for the total income referred to in (viii) | | | | | | |
| (x) Details of income claimed to be exempt and not included in the total income in (viii) (Please upload a note giving reason for claiming such exemption) | | | | | | |
| (xi) Details of payment of advance-tax and tax deducted/collected, if any, for the previous year referred to in (vii) till date | | | | | | |
| | Nature of prepaid tax | Amount of Total Tax Paid | | | | |
| | Advance Tax | | | | | |
| | TDS | | | | | |
| | TCS | | | | | |
| (xii) whether exemption under section 10, section 11 or section 12 is claimed (Yes/No) (If Yes, please upload registration/exemption certificate, if any, issued by the Income-tax Authority) | | | | | | |
| (xiii) Where return of income for any of the four previous year preceding to the previous year referred to in (vii) has not been filed, please upload a computation of estimated total income of the previous year for which return of income has not been filed. | | | | | | |
| (xiv) Where return of income for any of the four previous year has been filed in paper form, please upload the copy of such | | | | | | |

returns.

I, _____ do hereby declare that to the best of my knowledge and belief what is stated above is correct, complete and truly stated, I declare that the incomes/sum referred to in this form are not includible in the total income of any other person under sections 60 to 64 of the Income-tax Act, 1961. I further declare that what is stated in this application is correct. I further declare that I am making application in my capacity as _____ and I am also competent to make this application and verify it. I am holding permanent account number _____ (if allotted).

Date:

Signature

Place:

Address

ANNEXURE I

Please furnish following particulars in respect of the payments for which the certificate is sought

| Sl.No. | Tax deduction and Collection Account No. (TAN) or Permanent account number (PAN) of the person making payment | Section under which tax at source is to be deducted | Estimated amount of income/sum to be received | Requested rate of Deduction (Please fill '0' where 'NIL' deduction is requested) |
|--------|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) |
| | | | | |
| | | | | |
| | | | | |

ANNEXURE II

[For the purpose of tax deduction at source]

Please furnish following particulars in respect of the payments for which the certificate is sought. (Please upload a note justifying the issue of certificate under sub-rule (6) of rule 28AA)

| Sl.No. | Section under which tax at source is to be deducted | Estimated amount of income/sum to be received | Requested rate of Deduction |
|--------|---|---|-----------------------------|
| (1) | (2) | (3) | (4) |
| | | | |
| | | | |
| | | | |

ANNEXURE III

[For the purpose of tax collection at source]

Please furnish following particulars in respect of receipts for which the certificate is sought

| Sl.No. | Tax deduction and Collection Account No. (TAN) or Permanent account number (PAN) of the Seller/Lessor/Licensor | Section under which tax at source is to be collected | Estimated amount to be paid | Requested rate of collection |
|--|--|--|-----------------------------|------------------------------|
| (1) | (2) | (3) | (4) | (5) |
| | | | | |
| | | | | |
| | | | | |
| <p>Date: _____ Signature _____</p> <p>Place: _____ Address _____</p> | | | | |

4. The comments and suggestions of stakeholders and general public on the above draft notification are invited. The comments and suggestions may be sent electronically by 04th September, 2018 at the email address, ts.mapwal@nic.in

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