

1. CBDT NOTIFIES RULES FOR IMPLEMENTING AMENDMENTS MADE BY TAXATION LAWS (AMENDMENT) ACT, 2021 PRESS RELEASE, DATED 2-10-2021

The Central Board of Direct Taxes (CBDT) publishes Rules for executing the Taxation Laws(Amendment) Act, 2021 dated 2nd October 2021. The Taxation Laws (Amendment) Act, 2021 (2021 Act), among other factors, adjusted the Income-tax Act, 1961 (Income-tax Act) to offer that no tax request will be raised in the future for any offshore indirect transfer of Indian assets if the transaction was completed before May 28, 2012, based on the amendment to section 9 of the Income-tax Act formed by Finance Act, 2012.

The 2021 Act also states that any demand for an offshore indirect transfer of Indian assets made before May 28, 2012 (including the validation of demand provided under Section 119 of the Finance Act 2012) will be negated if certain conditions are met, including the withdrawal or furnishing of an undertaking for the withdrawal of pending litigation and the furnishing of an undertaking to the effect that no claim for cost, damages, interest, etc. shall be filed and such other conditions are fulfilled as may be prescribed. In these situations, the amount paid/collected will be reimbursed in full, with no interest, if the standards are fulfilled.

CBDT has said in a statement issued on 2nd October 2021 that "The draft rules, to amend the Income-tax Rules, 1962, prescribing the specified conditions as referred above and providing the form and manner for furnishing of undertaking for withdrawal of pending litigation, claiming no cost, damages, interest, etc. were circulated in public domain on 28th August, 2021, inviting suggestions/comments from all stakeholders by the 4th of September, 2021"

After examining the stakeholder comments and incorporating several suggestions contained therein, the rules for implementing the 2021 Act have been published in the Official Gazette vide Notification No. GSR 713(E) dated 1st October, 2021 wherein the following rules have been inserted to the Income-tax Rules, 1962:

- i. Rule 11UE which provides for the specified conditions in order to be eligible to claim relief under 2021 Act; and
- ii. Rule 11UF which provides the form and manner of furnishing the undertaking for withdrawal of pending litigation, claiming no cost, damages, etc.

2. Notification regarding the Relaxation of Validation (Section 119 of the Finance Act, 2012) Rules, 2021 (dated – 14.10.2021) – Ministry of Finance.

The Central Board of Direct Taxes hereby, vide notification no G.S.R. 713(E) [NO. 118/2021/F. NO. 370142/47/2021-TPL], dated 1-10-2021, in exercise of the powers conferred by clauses (i), (ii), (iii) and (iv) of the Explanation to fifth and sixth provisos to Explanation 5 to clause (i) of sub-section (1) of section 9 read with section 295 of the Income-tax Act, 1961 , gives the Income-tax (31st Amendment) Rules, 2021. It inserts Rule 11UE and 11UF in the Income-tax Rules, 1962 under Part II as sub part named ' J - Indirect transfer prior to 28th May, 2012 of assets situate in India'

- Rule 11UE Prescribes Specified conditions under Explanation to fifth and sixth proviso to Explanation 5 to section 9 (1)(i) of Income tax Act. It requires the declarant to furnish an undertaking in Form No. 1 and requires to append the undertakings from all the interested parties in Part M of the Annexure to the undertaking in Form No. 1 and furnish all the attachments required to be furnished under any clause or Part thereof.It prescribes certain conditions to be fulfilled
- Rule 11UF provides for form , manner and procedure for furnishing undertaking under rule 11UE for withdrawal of pending litigation, claiming no cost, damages, etc.

Reader may refer to above notification for complete details

3. APPLICATIONS FOR SETTLEMENT BEFORE INTERIM BOARD FOR SETTLEMENT- INSTRUCTIONS TO SUBORDINATE AUTHORITIES - ORDER UNDER SECTION 119(2)(b)

ORDER F. NO. 299/22/2021-DIR (INV. III)/174, DATED 28-9-2021

- The Finance Act, 2021 has amended the provisions of the Act to inter alia provide that the Income-tax Settlement Commission (ITSC) shall cease to operate with effect from 1-2-2021. Further, it has also been provided that no application for settlement can be filed on or after 1-2-2021, which was the date on which the Finance Bill, 2021 was laid before the Lok Sabha. In order to dispose off the pending settlement applications as on 31-1-2021, the Central Government has constituted Interim Board for Settlement (hereinafter referred to as the "Interim Board"), vide notification No. 91 of 2021 dated 10-8-2021.
- Meanwhile, in order to avoid genuine hardship to number of taxpayers who were in the advanced stages of filing their application for settlement before the ITSC as on 1-2-2021 and also due to the hardship faced during the covid pandemic by the tax payers, the Central Board of Direct Taxes (referred to as the "Board") had provided relief vide Press Release dated 7-9-2021 thereby allowing assessee eligible to file application for settlement on 31-1-2021 to file such applications till the extended period of 30-9-2021.
- In view of the above, the Board in exercise of its power under clause (b) of sub-section (2) of section 119 of the Income-tax Act, 1961 (the Act), in order to avoid genuine hardship to assessee authorizes the Commissioner of Income-tax, posted as Secretary to the Settlement Commission prior to 1-2-2021, to admit an application for settlement on behalf of the Interim Board filed after 31-1-2021, which is the date mentioned in sub-section (5) of section 245C of the Act for filing such application, and before 30-9-2021 and treat such applications as valid and process them as "pending applications" as defined in clause (eb) of section 245A of the Act.
- The above relaxation is available to the applications filed:—
 - (i) by the assessee who were eligible to file application for settlement on 31-1-2021 for the assessment years for which the application is sought to be filed (relevant assessment years); and
 - (ii) where the relevant assessment proceedings of the assessee are pending as on the date of filing the application for settlement.

4. CBDT exempts Non-Resident, Foreign Company from furnishing Income Tax Return under section 139(1) for Assessment year 2021-22 onwards

The Central Government, vide notification S.O. 4207(E) dated 11.10.2021, in exercise of the powers conferred by section 139(1C) of income tax Act, hereby exempted the class of persons namely a non-resident, not being a company; or a foreign company and non-resident, being an eligible foreign investor from the requirement of furnishing a return of income under section 139(1) from assessment year 2021-2022 onwards

1. The non-resident, not being a company; or a foreign company is exempted on the condition that the said class of persons does not earn any income in India, during the previous year, other than the income from investment in the specified fund referred to in sub-clause (i) of clause (c) of Explanation to clause (4D) of section 10 of the said Act; and the provisions of section 139A of the said Act are not applicable to the said class of persons subject to fulfillment of the conditions mentioned in sub-rule (1) of rule 114AAB of the Income-tax Rules, 1962.
2. The non-resident, being an eligible foreign investor is exempted on the condition that the said class of persons, during the previous year, has made transaction only in capital asset referred to in clause (viiab) of section 47 of the said Act, which is listed on a recognized stock exchange located in any International Financial Services Centre and the consideration on transfer of such capital asset is paid or payable in foreign currency. The said class of persons does not earn any income in India, during the previous year, other than the income from transfer of capital asset referred to in clause (viiab) of section 47 of the said Act. The provisions of section 139A of the said Act are not applicable to the said class of persons subject to fulfillment of the conditions mentioned in sub-rule (2A) of rule 114AAB of the said rules.

Explanation. -For the purposes of this Notification. —

- (a) "eligible foreign investor" means a non-resident who operates in accordance with the Securities and Exchange Board of India, circular IMD/HO/FPIC/CIR/P/2017/003 dated 04th January, 2017;
 - (b) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);
 - (c) "recognised stock exchange" shall have the meaning as assigned to it in clause (ii) of Explanation 1 to sub-section (5) of section 43 of the said Act.
3. The above exemption from the requirement of furnishing a return of income shall not be available to such persons where a notice under sub-section (1) of section 142 or section 148 or section 153A or section 153C of the said Act has been issued for filing a return of income for the assessment year specified therein.

5. PROCESSING OF RETURN WITH REFUND CLAIMS UNDER SECTION 143(1) BEYOND PRESCRIBED TIME LIMITS IN NON-SCRUTINY - INSTRUCTIONS TO SUBORDINATE AUTHORITIES- Section 119 read with 143(1)

ORDER F. NO. 225/98/2020-ITA-II, DATED 30-9-2021

- Central Board of Direct Taxes (Board) vide its order under section 119 of the Income-tax Act, 1961 (Act) dated 5-7-2021 on the captioned subject relaxed the time-frame prescribed in second proviso to sub-section (1) of Section 143 of the Act. It was directed that all validly filed returns up to Assessment Year 2017-18 with refund claims, which could not be processed under sub-section (1) of the Section 143 of the Act and which had become time-barred, should be processed by 30-9-2021 subject to the conditions/exceptions specified therein.
- The matter has been re-considered by Board in view of pending taxpayer's grievances related to issue of refund. To mitigate the genuine hardship being faced by the taxpayers on this issue, Board, by virtue of its power under section 119 of the Act and in partial modification of its earlier order under section 119 of the Act dated 5-7-2021, supra, hereby further extends the time frame mentioned in the para no. 3 of the said order from 30-9-2021 to 30-11-2021. All other contents of the said order u/s 119 of the Act dated 5-7-2021 will remain unchanged.

6. ORDER UNDER SECTION 119 PROVIDING EXCLUSION TO SECTION 144B - CASES IN WHICH LIMITATION PERIOD EXPIRES ON 30-9-2021- INSTRUCTIONS TO SUBORDINATE AUTHORITIES -

ORDER F. NO. 187/3/2020-ITA-I, DATED 22-9-2021

- The Central Board of Direct Taxes (the Board) vide Order F.No. 187/3/2020-ITA-I dated 13th August, 2020 (the Order) read with order under section 119 of the Income-tax Act, 1961 (the Act) regarding mutatis mutandis application of Orders, Circulars etc. issued in order to implement the Scheme to Faceless Assessment u/s 144B of the Act, vide F.No.187/3/2020-ITA-I dated 31st March, 2021 directed that all the Assessment Orders shall be passed by the National Faceless Assessment Centre (NaFAC) u/s 144B of the Act except as under:—
 - i. Assessment orders in cases assigned to Central Charges.
 - ii. Assessment orders in cases assigned to International Tax Charges.
 - In partial modification of the Order vide Order F.No. 187/3/2020-ITA-I dated 6th September, 2021, in addition to the exceptions provided in the said Order, the following exception was also added:
 - iii. Assessment orders in cases where pendency could not be created on ITBA portal because of technical reasons or cases not having a PAN, as the case may be.
 - In further modification of the above Order, the Board in exercise of powers under section 119 of the Act, hereby directs that in addition to the exceptions as provided in the said Orders, the following exception is hereby added as under:—
 - iv. Assessment orders in cases
 - (a) set aside to be done de novo
 - or
 - (b) to be done u/s 147 of the Act

for which the time limit for completion expires on 30-9-2021 pending with the jurisdictional Assessing Officer as on 11-9-2021 or thereafter, which cannot be completed as per the procedure laid down under section 144B of the Act due to technical/procedural constraints in the given period of limitation.

- Accordingly, the Board clarifies that assessment in cases at (iii) and (iv) above shall be completed by the jurisdictional Assessing Officer.
- The Board further reiterates that the exception at (iv) above is applicable only to the cases for which the time limit for completion expires on 30-9-2021.

7. CENTRAL GOVERNMENT RELAXES PROVISIONS OF TDS UNDER SECTION 194A OF THE INCOME-TAX ACT, 1961 IN VIEW OF SECTION 10(26) OF THE ACT

PRESS RELEASE, DATED 17-9-2021

The Central Board of Direct Taxes has clarified that, no TDS on Interest from Bank Deposit for Scheduled Tribe Category.

The CBDT in the exercise of the powers conferred by sub-section(1F) of section 197A of the Income Tax Act, 1961 notified that no deduction of tax shall be made on the following payment under section 194A of the Act, namely payment in the nature of interest, other than interest on securities, made by a Scheduled Bank (hereinafter the 'payer') located in a specified area to a member of Scheduled Tribe (hereinafter the 'receiver') residing in any specified area as referred to in s.10(26) of the Act, subject to the following conditions:

- The payer satisfies itself that the receiver is a member of Scheduled Tribe residing in any specified area, and the payment as referred above is accruing or arising to the receiver as referred to in section 10(26) of the Act, during the previous year relevant for the assessment year in which the payment is made, by obtaining necessary documentary evidences in support of the same;
- The payer reports the above payment in the statements of deduction of tax as referred to in sub-section (3) of section 200 of the Act;
- The payment made or aggregate of payments made during the previous year does not exceed twenty lakh rupees
- For the purposes of the said notification, 'Scheduled Bank' means a bank included in the Second Schedule of the Reserve Bank of India Act,1934.