

TAX FLASH NEWS

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CBDT introduces functionality to ascertain specified persons for the applicability of higher rates of TDS/TCS for non-filing of tax returns

The Finance Act, 2021 introduced two new provisions, Section 206AB and Section 206CCA in the Income-tax Act, 1961. It provides for higher tax deduction/collection in case the payment to be made/received from a 'specified person' who has not filed his tax returns for last two years and total amount of TDS/TCS deducted/collected from such person in a previous financial year exceeds INR 50,000. This is a measure to improve tax return filing compliance by taxpayers who suffer a reasonable amount of TDS/TCS.

To implement these two provisions, tax deductor/collector was required to do a due diligence of satisfying himself if the deductee/collectee is a specified person. This would have resulted in extra compliance burden on such tax deductor/collector.

In order to assist the taxpayers, recently, the Central Board of Direct Taxes (CBDT) has issued a Circular¹ announcing a functionality namely 'Compliance Check for Section 206AB and 206CCA' which is accessible on the reporting portal of the income tax website. The functionality enables a status check as to whether a deductee/collectee is a specified person for the purpose of Section 206AB/206CCA. A search can be conducted on the functionality with the help of the Permanent Account Number (PAN) of the deductee/collectee, either in the form of a single search or a bulk PAN search (in case of large number of deductees/collectees).

CBDT has also issued an order² directing that the Director General of Income tax (Systems) (DGIT) will be the specified authority for furnishing the information to the 'Tax deductor/collector' who have registered in

the e-filing portal for obtaining such information. Further, CBDT has issued a Notification³ laying down the procedure for sharing of information with tax deductors/collectors.

The portal will be updated each year based on the income tax returns filed by the taxpayers. The party deducting / collecting taxes can download the details at the start of the financial year and comply with TDS / TCS liability basis the report generated / downloaded.

CBDT Circular

Key highlights of the functionality 'Compliance Check for Section 206AB and 206CCA' are as follows:

- The functionality is made available through the reporting portal⁴ of the income tax department.
- The tax deductor or the collector can feed the single PAN (PAN search) or multiple PANs (bulk search) of the deductee or collectee and can get a response from the functionality if such deductee or collectee is a specified person. For PAN Search, response will be visible on the screen which can be downloaded in the PDF format. For Bulk Search, response would be in the downloadable file which can be kept for record.
- A list of specified persons is prepared as on the start of the Financial Year (FY) 2021-22, taking Previous Years (PY) 2018-19 and 2019-20 as the two relevant previous years. List contains name of taxpayers who did not file return of income for both such years and have aggregate of TDS and TCS of INR 50,000 or more in each of these two previous years.

¹ CBDT Circular No. 11/2021, dated 21 June 2021

² CBDT Order (F. No. 225/671202111TA.1) dated 21 June 2021

³ CBDT Notification No. 01/2021, dated 22 June 2021

⁴ <https://www.incometax.gov.in/iec/foportal>

- If any specified person files a valid return of income (filed & verified) for PY 2018-19 or 2019-20 during the FY 2021-22, his name would be removed from the list of specified persons. This would be done on the date of filing of the valid return of income during the FY 2021-22.
- If any specified person files a valid return of income (filed & verified) for PY 2020-21, his name would be removed from the list of specified persons. This will be done on the due date of filing of return of income for AY 2021-22 or the date of actual filing of valid return (filed & verified) whichever is later.
- If the aggregate of TDS and TCS, in the case of a specified person, in the PY 2020-21, is less than INR 50,000, his name would be removed from the list of specified persons. This would be done on the first due date under Section 139(1) falling in the FY 2021-22.
- Belated and revised TCS and TDS returns of the relevant FYs filed during the FY 2021-22 would also be considered for removing persons from the list of specified persons on a regular basis.
- The deductor/collector needs to check the status only once at the beginning of the FY. If a particular PAN is not identified as specified person, the deductor/collector need not check the status again when tax is to be deducted/collected at source as there will be no new additions to this list during the FY.
- The Circular provides illustration to explain the above points. A deductor has 10,000 vendors. He can use the functionality in the bulk search mode and can get the result of all these 10,000 PANs at one go. The functionality has shown that out of these 10,000 PANs, 5 PANs are specified persons for the purposes of Sections 206AB and 206CCA. Now with respect of the remaining 9,995 PAN, it is clear that they are not in the list of specified persons for that FY. Since no new name would be added in the list of specified persons during the FY, the deductor or collector can be assured that these 9,995 PANs would remain outside the list of specified persons during that FY. Thus, deductor or collector need not check again with respect to these 9,995 PANs during that FY. There are chances that the 5 PANs which are of specified persons may move out of the list during the FY and for that there will be needed to recheck at the time of making tax deduction or tax collection.
- As per the provisos of Sections 206AB and 206CCA, the specified persons shall not include a non-resident who does not have a Permanent Establishment (PE) in India. Tax deductors and collectors are expected to carry out necessary due diligence in respect of a specified person established by the above referred functionality to consider him as non-specified, if he falls under these provision.

Our comments

The Circular may ease the burden of the tax deductors/collectors by ensuring that the deductors/collectors need to check the PAN in the functionality at the beginning of the financial year without there being any need to check the status of the non-specified person again during that financial year. With this new functionality, the Government has reiterated its commitment to ease the compliance burden of taxpayers.

The Circular and Notification issued by the CBDT are welcome move as it has recognised the practical difficulties involved in implementation of Section 206AB and 206CCA and responded to the representations made by the taxpayers.

This functionality would now end the compliance pressure and anxiety of deductor/collector to collect the copies of ROIs filed by deductee/collectee for last two years. The deductor/collector can check status without referring to the deductee/collectee. The functionality also offers facility for bulk verification of PANs.

Presently, the logic of the compliance check functionality appears to be for ensuring smooth implementation of Section 206AB/206CCA. However, the functional aspects and other practical challenges may be clear only after the functionality is operational and the provisions are effective.



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