

**Income Tax Clearance Certificate/No Objection Certificate
from Income Tax Authorities – Revision of format of
undertaking and certificate
A.P. (DIR Series) Circular No.56 (November 26, 2002)**

**Reserve Bank Of India
Exchange Control Department
Central Office
Mumbai 400 001**

A.P. (DIR Series) Circular No.56

November 26, 2002

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Income Tax Clearance Certificate/No Objection Certificate
from Income Tax Authorities – Revision of format of
undertaking and certificate**

Attention of authorised dealers is invited to A.P.(DIR Series) Circular No.27 dated September 28, 2002 enclosing therewith a copy of the Government's circular No.759 dated November 18, 1997 (F.No.500/152/96-FTD) regarding undertaking to be obtained from a person making remittance of foreign exchange.

2. The Central Board of Direct Taxes, Ministry of Finance, Government of India, have now issued Circular No.10/2002 dated October 9, 2002 (F.No.500/152/96-FTD) **revising the format of undertaking and certificate** to replace the undertaking and certificate as prescribed in CBDT's circular dated November 18, 1997, referred to above.

3. A copy of the circular together with Annexures A and B, issued by CBDT is enclosed. Authorised Dealers should, therefore, before allowing the remittances, obtain the aforesaid undertaking accompanied by a certificate from the Accountant, as defined in Section 288 of the Income Tax Act, for compliance with the income-tax provisions.

4. Authorised Dealers may bring the contents of this Circular to the notice of their 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).

Yours faithfully,

**Grace Koshie
Chief General Manager**

F.No.500/152/96-FTD
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(Foreign Tax Division)

New Delhi,
Dated : 9th October, 2002

To
All Chief Commissioners/Directors General of Income-Tax,

Sir,

**Sub : Remittances to a non-residents – deduction of tax at source –
Section 195 of the I.T. Act – Circular No.759 dated 18.11.1997 and
Circular No.767 dated 22nd May, 1998 - Revision of format of
undertaking and certificate – Regarding -**

Circular No.759 dated 18.11.1997 was issued by the Central Board of Direct Taxes to dispense with the requirement of a No Objection Certificate from Income-tax authorities for remittance to a non-resident as required by the Reserve Bank of India. By the aforesaid circular, remittances were allowed to be made by the RBI without insisting upon a No Objection Certificate from the Department provided the person making the remittance furnished an undertaking in duplicate accompanied by a certificate from an accountant. The format of the application and the certificate has been circulated to the authorised dealers by the Reserve Bank of India through their Circular No.A.D. (MA Series) Circular No.48 dated 29.11.1997.

2. However, it has recently been observed that often the certificates have been issued prescribing NIL deduction of tax at source in certain cases where tax was liable to be deducted or prescribing deduction of tax at a lower rate than was payable on the basis of the provisions of the Act and the applicable DTAC. The certificate does not provide for necessary details or the reasons for adopting a certain rate for deduction of tax. This results in unnecessary calling of information from the assesseees at a later stage and thus gives rise to an avoidable perception of grievance on the part of the tax-payer. Therefore, in order to streamline the procedure as well as to ensure the correct deduction of tax at source, the proforma of the undertaking to be given by the remitter and the certificate to be issued by a chartered accountant have been re-considered and new formats are being prescribed which are enclosed as Annexure A and B to this circular. The revised proforma for 'undertaking' as well as the 'certificate' shall to apply in terms of Circular No.759 dated 18.11.1997 of CBDT. Other requirements of the Circular remain unchanged. It is reiterated that the persons making the remittances shall submit the undertaking and certificate as per annexures A & B to the Reserve Bank of India/authorised dealer banks, who shall in turn forward the same to the Assessing Officer mentioned in the undertaking.

3. The Reserve Bank of India is being requested to circulate the amended format of the 'undertaking' and the 'certificate' to their authorised dealers.

4. This circular comes into effect with immediate effect.

Yours faithfully,

Sd/-

(Devendra Shanker)
Director (FTD)
Central Board of Direct Taxes

Annexure 'A' FORM & APPLICATION FOR REMITTANCE U/S 195 OF THE INCOME TAX ACT	PDF	WORD
Annexure 'B' CERTIFICATE	PDF	WORD

Circular No.759

F.No.500/152/96-FTD
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi,
Dated : 18th November, 1997

To
All the Chief Commissioners of Income-Tax,
Directors General of Income-Tax

Sir,

**Subject : Remittance to a non-resident – deduction of tax at source –
Submission of No Objection Certificate – Dispensing with – regarding**

1. Section 196 of the Income-tax Act, 1961 provides that any person responsible for paying to a non-resident any sum chargeable under the Act shall, at the time of credit of such income to the account of the payee or at the time of repayment thereof in cash or by cheque or draft or any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.

2. The Reserve Bank of India have provided in their Office Manual that no remittance shall be allowed unless a No Objection Certificate has been obtained from the Income-tax Department. It has since been decided that henceforth remittances may be allowed by the Reserve Bank of India without insisting upon a No Objection Certificate from the Income-Tax Department and on the person making the remittance furnishing an undertaking (in duplicate) addressed to the Assessing Officer accompanied by a certificate from an Accountant (other than an employee) as defined in the explanation below Section 288 of the Income-tax Act 1961 in the form annexed to this circular. The person making the

remittances shall submit the undertaking along with the said certificate of the Accountant to the Reserve Bank of India, who in turn shall forward a copy thereof to the Assessing Officer.

3. The contents of this Circular may be brought to the notice of all the officers working in your charge.

Yours faithfully,

Sd/-

(Rajat Bansal)

Under Secretary (FTD)

Undertaking

To

(Designation of the Assessing Officer),

I/we

(Name, address & Permanent Account Number)

propose to make a remittance
of _____

(Amount)

being

(Nature of payment)

to

(Name & complete address of the person to whom the remittance has been made)

after deducting a sum of Rs. _____ being the tax @ _____, which is the appropriate rate of tax deductible at source on the said amount of remittance.

2. A certificate from the accountant as defined in Explanation below Section 288 of the Income-tax Act certifying the nature and amount of income, amount of tax payable and the amount actually paid, is also annexed.

3. In case it is found that the tax actually payable on the amount of remittance made has either not been paid or has not been paid in full, I/we undertake to pay the said amount of tax along with interest found due in accordance with the provision of the Income-tax Act.

4. I/we will also be subject to the provisions of penalty and prosecution for the said default as per the Income-tax Act.

5. I/we also undertake to submit the requisite documents etc. for enabling the Income-tax Department to determine the nature and amount of income and tax, interest, penalty etc. payable thereon.

(Name and Signature)

Date :

Place :

(The Undertaking shall be signed by the person authorised to sign the return of income of the person making the payment)

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Certificate

I/we have examined the books of accounts of
M/s

(Name, address and Permanent Account Number of person making the remittance)
for ascertaining the nature of the remittance,
of _____
(Amount of remittance)
to

(Name and complete address of the person to whom the remittance is being made)
and the rate at which the tax is deductible at source thereon and hereby certify that a sum of
Rs. _____ has been deducted as tax at the appropriate rate and has been paid to the
credit of the Government.

(Accountant)

Place :

Date :