

F.No.279/Misc./140/2015-ITJ

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, 28th December, 2015

Subject:- TDS under section 194A of the Act on interest on fixed deposit made on directions of Courts – reg.

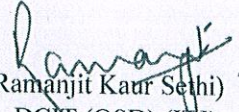
Section 194A of Income Tax Act, 1961 ("the Act") stipulates deduction of tax at source (TDS) on interest other than interest on securities if the aggregate of amount of such interest credited or paid to the account of the payee during the financial year exceeds the specified amount.

2. In the case of UCO Bank in Writ Petition No. 3563 of 2012 (available on NJRS at 2014-LL-1111) and CM No.7517/2012 vide judgment dated 11.11.2014, the Hon'ble Delhi High Court has held that the provisions of section 194A do not apply to fixed deposits made in the name of Registrar General of the Court on the directions of the Court during the pendency of proceedings before the Court. In such cases, till the Court passes appropriate orders in the matter, it is not known who the beneficiary of the fixed deposits will be. Amount and year of receipt is also unascertainable. The Hon'ble High Court thus held that the person who is ultimately granted the funds would be determined by orders that are passed subsequently. At that stage, undisputedly, tax would be required to be deducted at source to the credit of the recipient. The High Court has also quashed Circular No 8 of 2011.

3. The Board has accepted the aforesaid judgment. Accordingly, it is clarified that interest on FDRs, made in the name of the Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of section 194A will apply to the recipient of the income.

4. Accordingly, such issues may not be contested in appeal and pending litigation, if any, on this issue before various Courts/Tribunals may be withdrawn/not pressed upon.

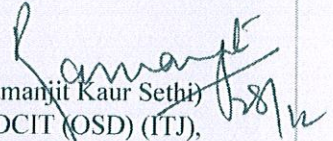
5. This may be brought to the notice of all concerned.


(Ramanjit Kaur Sethi) 28/12
DCIT (OSD) (ITJ),
CBDT, New Delhi.

Copy to:

1. The Chairperson, Members and officers of the CBDT of the rank of Under Secretary and above.

2. All Pr. Chief Commissioners of Income-Tax & All Directors General of Income-Tax with a request to bring to the attention of all officers.
3. The Pr. Director General of Income-Tax, NADT, Nagpur.
4. The Pr. DGIT (Systems), ARA Centre, Jhandewalan Extension, New Delhi.
5. The Pr. DGIT (Vigilance), New Delhi.
6. The ADG (PR, PP & OL), Mayur Bhawan, New Delhi for printing in the quarterly tax bulletin and for circulation as per usual mailing list (100 copies).
7. The Comptroller and Auditor General of India (40 copies).
8. The ADG-4 (Systems) for uploading on ITD website.
9. Data Base Cell for uploading on irsofficersonline.
10. Guard file.


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