

CIRCULARNO.-15/2014

F.No.133/50/2014-TPL
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)

New Delhi, the 17th October, 2014

Sub: Approval of long term bonds and rate of interest for the purpose of Section 194LC of the Income-tax Act, 1961-regarding.

...

Section 194LC of the Income-tax Act, 1961, introduced by the Finance Act 2012, provided for lower withholding tax at the rate of 5% on the interest payments by Indian companies on borrowings made in foreign currency by such companies from a source outside India. The benefit was available in respect of borrowings made either under an agreement or by way of issue of long term infrastructure bonds. The section further provided that such borrowing and the rate of interest should be approved by the Central Government. Subsequently with a view to lower the compliance burden and reduce the time lag which would have arisen on account of case-by-case approval, the Central Government had decided to grant approval to all borrowings by way of loan agreement and long term infrastructure bonds provided they satisfy certain conditions . The approval and the conditions were detailed in the CBDT Circular No.7 of 2012 dated 21st September, 2012.

2. The Finance (No. 2) Act, 2014 has amended section 194LC with effect from the 1st Day of October, 2014. Consequent to the amendment, the concessional rate of withholding tax has been extended to borrowing by way of any long term bonds, not limited to a long term infrastructure bond, if the borrowing is made on or after 1st day of October, 2014. Further, the concluding date of the period of borrowings eligible for concession under Section194LC which was earlier 01/07/2015 has been extended to borrowings made before the 1st day of July, 2017.

3. Therefore, the approval of the Central Government is further required in respect of long term bond issue and the rate of interest to be paid on such borrowings.

4. Considering the fact that there would be a large number of bond issues to be undertaken by Indian companies, providing a mechanism involving approval in each and every specific case would entail avoidable compliance burden on the borrower/issuer of bond. In order to mitigate the compliance burden and hardship, the Central Board of Direct Taxes [with the approval of the Central Government] conveys the approval of the Central Government for the purposes of section 194LC in respect of the issue of long term bond including long term infrastructure bond by Indian companies which satisfy the following conditions:-

- a. The bond issue is at any time on or after 1st day of October, 2014 but before the 1st day of July, 2017.
- b. The bond issue by the Indian company should comply with clause (d) of sub section (3) of section 6 of the Foreign Exchange Management Act, 1999 read with Notification No. FEMA3/2000-RB viz. Foreign Exchange Management (Borrowing or Lending in Foreign exchange) Regulations 2000, dated May 3, 2000, as amended from time to time, (hereafter referred to as “ECB regulations”), either under the automatic route or under the approval route.
- c. The bond issue should have a loan Registration Number issued by the Reserve Bank of India (RBI).
- d. The term “longterm” means that the bond to be issued should have original maturity term of three years or more.

5. Further, the Central Government has also approved the interest rate for the purpose of section 194LC in respect of borrowing by way of issue of long term bond including long term infrastructure bond as any rate of interest which is within the All-in-cost ceilings specified by the RBI under ECB regulations as is applicable to the borrowing through a long term bond issue having regard to the tenure thereof.

6. In view of the above, any bond issue, which satisfies the above conditions, would be treated as approved by the Central Government for the purposes of section 194LC.

7. It is also clarified that consequent to the amendment to Section 194 LC the approval of the Central Government contained in Circular No.07/2012, in so far as they apply to borrowings by way of a loan agreement, shall be valid for the borrowings made on or before 30/06/2017 instead of 30/06/2015 as mentioned in the said Circular.

(AshishKumar)
Director(TaxPolicy &Legislation)

Copyto:-

1. PS to FM/OSD to FM/OSD to MoS(R).
2. PS to Secretary(Revenue).
3. The Chairman, Members and all other officers in CBDT of the rank of Under Secretary and above.
4. All Pr. Chief Commissioners/ Pr.Director General of Income-tax-with a request to circulate amongst all officers in their regions/charges.
5. Pr.DGIT(Systems)/ Pr.DGIT (Vigilance)/ Pr.DGIT (Admn.)/ Pr.DG (NADT)/Pr. DGIT(L&R).
6. Media Co-ordinator and Official spokesperson of CBDT.
7. DIT(IT)/DIT(RSP&PR)/DIT(Audit)/DIT(Vig.)/DIT(Systems)/ DIT(O&MS)/DIT(Spl.Inv.).
8. The Comptroller and Auditor General of India (30copies).
9. Joint Secretary and Legal Advisor, Ministry of Law and Justice, New Delhi.
10. The Institute of Chartered Accountants of India, IP Estate, New Delhi.
11. All Chambers of Commerce as per usual mailing list.

(Ashish Kumar)
Director (TaxPolicy & Legislation)