

**F.No. 142/24/2015-TPL**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Direct Taxes**  
**(TPL Division)**

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New Delhi, dated 18<sup>th</sup> April, 2016

**Sub: Draft rules for granting relief or deduction of Income-tax under section 90/ 90A/ 91 of the Income-tax Act - reg.**

Clause (ha) of sub-section (2) of section 295 of the Income-tax Act, 1961 (the Act) provides that the Central Board of Direct Taxes (CBDT) may prescribe rules specifying the procedure for the granting of relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, against the income-tax payable under the Act.

II. A Committee was set up by CBDT to suggest the methodology for grant of Foreign Tax Credit (FTC) after examining the various issues related to it. After due consideration of the issues raised by various stakeholders, the Committee submitted its report. Taking into account, the report of the Committee and the provisions of the Act the draft rules for grant of FTC are proposed as under:

(1) An assessee being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India, in the manner and to the extent as specified in this rule.

(2) The foreign tax shall mean,-

- (a) in respect of a country or specified territory with which India has entered into an agreement for avoidance of double taxation of income in terms of section 90 or 90A of the Act, the tax covered under the said agreement;
- (b) in respect of any other country or specified territory, the tax payable under the law in force in that country in the nature of income-tax referred to in clause (iv) of the Explanation to section 91.

(3) The credit for foreign tax shall be available against the amount of tax, surcharge and cess payable under the Act but not in respect of any sum payable by way of interest, fee or penalty.

(4) No credit shall be available in respect of any amount of foreign tax which is disputed in any manner by the assessee.

(5) The credit of foreign tax shall be the aggregate of the amounts of credit computed separately for each source of income arising from a particular country or specified territory and given effect to in the following manner:

- (i) the credit shall be the lower of the tax payable under the Act on such income and the foreign tax paid on such income;
- (ii) the credit shall be determined by conversion of the currency of payment of foreign tax at the telegraphic transfer buying rate on the date on which such tax has been paid or deducted.

(6) In a case where any tax is payable under the provisions of section 115JB or 115JC of the Act, the credit of foreign tax shall be allowed against such tax in the same manner as is allowable against any tax payable under the normal provisions of the Act.

(7) Where the amount of foreign tax credit available against the tax payable under the provisions of section 115JB or 115JC exceeds the amount of tax credit available against the normal provisions, then while computing the amount of credit under section 115JAA or section 115JD in respect of the taxes paid under section 115JB or section 115JC, as the case may be, such excess shall be ignored.

(8) No credit of any foreign tax shall be allowed unless the following documents are furnished by the assessee, namely:-

- (i) certificate from the tax authority of a country or specified territory outside India specifying the nature of income and the amount of tax deducted therefrom or paid by the assessee. However, in a case where the foreign tax is deducted at source, the assessee may furnish a certificate of tax deducted from the person responsible for deduction of such tax;
- (ii) acknowledgement of online tax payment or bank counter foil or slip or challan for tax payment where the payment of foreign tax has been made by the assessee; and
- (iii) a declaration that amount of foreign tax in respect of which credit is being claimed is not under any dispute.

III. The comments and suggestion of stakeholders and general public on the above draft rules are invited. The comments and suggestions may be submitted by 02<sup>nd</sup> May, 2016 at the email address ([dirtpl4@nic.in](mailto:dirtpl4@nic.in)) or by post at the following address with "Comments on draft rules for granting Foreign Tax Credit" written on the envelope:

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