

(15)Income Tax

(15.1.1) Sub: Deductions of Income Tax at source under section 194C of the Income Tax Act, 1961 Deduction from payments to contractors and sub- contractors- Instructions regarding.

Reference letter No.275/972-ITJ dated the 29th May, 1972 (Not printed) received from the Ministry of Finance (Department of Revenue & Insurance) on the above subject and to inform that the orders contained therein are not applicable in the case of CSIR and its National Labs./Instts.

Therefore, no deductions whatsoever on the above account, may kindly be made from the bills of -the contractors etc.

(No. 17/6/72-Engg., dated 17-11-72)

(15.1.2) Sub: Pilot Scheme - Production of Income Tax Clearance Certificate - Intimation of payments made Agencies to the Income Tax Deptt.

Ref: Govt. of India, Ministry of Finance O.M.No.221/16/73- IT dated 9-7-73 (Not printed) (circulated under CSIR endorsement No.31(22)/73-G. dated 14-11-73)

As per para 3 of the Ministry of Finance O.M., the paying Deptt. /Office should ascertain, before making any payments to any person for work done, goods supplied or services rendered (including those by doctors, Accountants and lawyers but excluding employees) the payees Permanent Accounts Number from him and such numbers should be included in the periodical statements which are sent to the respective Commissioners of Income-Tax under the existing procedures for intimating the payments made to various persons. etc.

The question of applicability of these orders to the CSIR and its National Labs./Instts. has been examined in consultation with the Ministry of Finance. It has been decided that the orders contained in the above referred O.M. including the requirement of sending intimation to the Income Tax Deptt. of Payments made to private parties applies to C.S.I.R. and National Labs./Instts. also

(No. 17(52)/73-Engg., dated 13-9-1975)<![endif]>

(15.1.3) Reference to your D.O. letter NO.1.170112/13 dated 26th November, 1987 (Not printed) regarding deduction of Income Tax at source from the contractors bills.

Section 104-C is not applicable to CSIR, the same being a Registered Society under Registration of Societies Act XXI of 1860.

You may like to take up the issue with concerned Income Tax authorities and explain the correct position and status of your organisation.

(D.O.No. 1(5)/77-Finance, dated 15-12-1987) addressed by the then FA CSIR to DG National Council of Science Museums.

(15.1.4) Sub: Clarification regarding deduction of Income at source.

Under Section 192 of Income Tax Act, it is the duty of the person responsible for making payment of any income chargeable under the Head 'Salaries' to deduct income tax at the time of payment at the rates approved for the relevant year and to remit such tax to the income tax Department. Section 204 of IT Act further provides that the expression "person responsible for paying means in the case of payment of Income Tax chargeable under the Head "Salaries' other than payment by the Central Govt. or the Govt. of State, the employer himself or, if the employer is a Company, the Company itself, including the Principal Officer thereof'.

According to the practice being followed in CSIO since its inception these calculations were used to be made by the Accounts Section. But since the last year the Accounts Section has transferred this work to Drawing and Disbursing Officer on the pretext that this is the sole responsibility of Drawing and disbursing Officer to make these calculations/deductions and to submit return to the Income Tax Officer. It has, therefore, given rise to a controversy. You are, therefore, requested to kindly clarify whether the calculations of Income Tax is the responsibility of Accounts Section or that of Drawing and Disbursing Officer, for our future guidance. An early clarification in this matter is solicited.

(CSIR Letter No.CSIO/Misc./E.I/90,dated 11-1-1990)

(15.1.5) Sub: Deduction of Income Tax at Source.

Reference CSIO Letter No.CSIO/Misc/E.I/90 dated 11.1.90 (para 15.1.4). It is the responsibility of the Drawing and Disbursing Officer to recover the Income Tax correctly, remit the same to Income Tax Department and submit Returns to Income Tax Department as per Income Tax Laws.

(No1(5)/77-Finance, dated 3-5-1990)

(15.1. 6) Sub: Taxability of Merit Awards and Hostel subsidy to wards of employees.

Reference CFRI Letter No.AO/CFRI/91 dated 30-4-91. (Not printed) While the hostel subsidy as indicated in para 2 of your letter is exempt from Income-Tax, the Merit Award given to children of CSIR employees who secure admission to IITs is not exempt from taxation. The Awards so granted will be treated as perquisite in the hands of the concerned employees.

(GOI, Office of the Income -Tax Officer, Ward-4, Dhanbad No.IDS/91-921106. dated.6-5-1991)

(15.1.7)

(GOI Ministry of Finance, Department of Revenue, Central Board of Direct Taxes U.O.No.200/76/93-ITA-I, dated 4/9-11-93.)

(15.1.8) Sub: Deduction of Income Tax at source under Section 194-C of the Income Tax Act 1961 Deduction from payments to Contractors and sub-Contractors.

Laboratories/Institutes were informed vide this Office Circular No. 17/6n2-Engg. dated 17th November, 1972 (para 15. 1. 1) that the orders contained in the Ministry of Finance (Deptt. of Revenue and Insurance) letter No. 27519172-ITO dt. 29th May, 1972, on the above subject, were not applicable in the case of CSIR and its National Laboratories/Institutes.

Accordingly, Laboratories/Institutes were advised that no deductions whatsoever on the above account be made from the bills of the Contractors etc.

However, references have been received from some of the Laboratories/Institutes to the effect that the local Income Tax Officers are not accepting the interpretation contained in the above cited circular letter dated 17th Nov. 1972.

Accordingly, a reference was made to the Ministry of Finance seeking a clarification in the matter. Ale Ministry of Finance, Deptt. of Revenue vide their letter No.275/25/92-IT(B) dated 12th March, 1992 have clarified that Societies registered under the Societies Registration Act 1860 are not covered under the provision of Section 194-C of the Income Tax Act 1961.

You are requested kindly to inform the concerned Income Tax Officers, if necessary, of the clarification given by the Ministry of Finance in their aforesaid letter dated 12th March, 1992.

(CSIR Letter No 17(6)72-Engg. , dated 28-04-1992).

(15.1.9) Sub: Deduction of income Tar at source under section 194-CoftheIncome TaxAct1961 -Deduction

Kind attention is drawn to our letter of even number dated 28.4.1992 (para 15.1.9). The enclosures sent with the letter (communication No.275/25/92-IT dated 12th March 1992, from the Ministry of Finance, Department of Revenue, Central Board of Director Taxes, Govt of India) brings out that the Financial Bill 1992 proposes to amend Section 194-C by adding Sub-Section IG within the preview of deductions to be made from the agencies.

With the passing of the Bill it is stipulated therein that w.e.f. 1st June 1992 certain types of bodies, authorised Institutions including societies registered under the Societies Registration Act 1860 will be covered by the provisions of the recovery of income tax w.e.f 1st June, 1992.

You are, therefore, requested to please ensure that the provisions are complied with and income tax recovery from the payments of Contractors/Sub-contractors etc. as contained in the said section is made accordingly.

(CSIR Letter No 17(6)72-Engg., dated, 31.08.1992).

(15.1.10)Sub: Subscription to professional Societies- CSIR Group-IV Scientists.

Reference point No.2 of this office letter of even number dated 26-8-88 on the above subject. The matter regarding whether the amount of subscription is subject to Income Tax or not was taken up with the Central board of Direct Taxes who have clarified that since payment of subscription made to CSIR Scientists for their becoming members of professional societies is not 'reimbursement but is an 'allowance', it is exempt from Income Tax under Section 10(14) by virtue of their notification No.S.O.267(E) of 29- 3-90.

This issues with the concurrence of Financial Adviser, CSIR.

(No. 17(132/A)/87-E-II, dated 18-3-93)

(15.1.11)

(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of -

(a) fees for professional services, or

(b) fees for technical services,

shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to five per cent of such sum as income-tax on income comprised therein:

Provided that no deduction shall be made under this section -

(A) from any sums as aforesaid credited or paid before the 1st day of July, 1995; or

(B) where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed -

(i) twenty thousand rupees, in the case of fees for professional services referred to in clause (a), or

(ii) twenty thousand rupees, in the case of fees for technical services referred to in clause (b).

(2) Where the Assessing Officer is satisfied that the total income of any person in receipt of the sum referred to in sub-section (1) justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by that person in this behalf, give to him such certificate as may be appropriate.

(3) Where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) shall, until such certificate is

cancelled by the Assessing Officer, deduct income-tax at the rates specified in such certificate or deduct no tax as the case may be.

Explanation - For the 'purposes of this section, -

<![endif]>(a) "Professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the Board for the purposes of section 44AA or of this section

(b) "Fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9

(c) where any sum referred to in sub-section (1) is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and the provisions of this section shall apply accordingly."

The above provisions may kindly be noted for compliance.

(CSIR Letter No: 1(5)/94-Finance, dated:23rd August, 1995.)

(15.1.12) Sub: Refund of advance drawn out of Provident Fund Account - Admissibility of deduction under

Reference CSIR u.o. No. 115/77-Finance dated the 19th April, 1990 on the above subject (Not printed). The Direct Tax Laws (Amendment) Act, 1989 inserted clause (d) in sub-section (8) of section 80C of the Act w.e.f. 1 st April, 1989. The said clause clarifies that "contribution" to any fund shall not include any sum in repayment of loan. In view thereof, refund of advance drawn by an employee out of his Provident Fund Account cannot treated as contributions to his Provident Fund Account and hence the question of its qualifying for deduction under section 80C does not arise.

(M/Finance, Department of Revenue, U.O.F.NO. 178/100/90-ITA.I. , dated 11 -5-1990.