

F.No.500/39/2015 (US FT & TR-V)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
Foreign Tax & Tax Research – II
FT & TR-V Division

New Delhi, 26th of October, 2016.

To

All the Pr. Chief Commissioner of Income Tax / Pr Director General of Income Tax

Sir / Madam,

Sub: Withholding of tax on "Other sum chargeable" in the case of non residents – Disallowance U/s 40(a)(i) of the Income-tax Act, 1961 - reg.

Reference is invited to Circular No 3/2015 dated 12.2.2015 issued by the CBDT clarifying that for the purpose of making disallowance of "other sums chargeable" under Section 40(a)(i) of the Income-tax Act, 1961, in the case of non-residents, the appropriate portion of the sum chargeable to tax under the Act, ie, income component therein shall form the basis of such disallowance.

2. It has been brought to the notice of the Board by various forums, that this Circular is not being kept in view by administrative Commissioners & Commissioners (Appeal) while filing further appeals and while deciding cases. Further, the Circular is not kept in view by departmental representatives in ongoing litigation cases, who still take a position that the disallowance should be based on the gross amount of offshore payments such as purchases. In this connection, I am directed to request you that the departmental officers including representatives of the department in litigation before ITAT/Courts etc. may be sensitized to the content of this circular.

3. This issues with the approval of Member (IT), CBDT.

Tatung Padi
25/10/16
(Tatung Padi)

DCIT(OSD), FT&TR-V, CBDT

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