

RNM ALERT



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*SPECIAL FLASH
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TAX RESIDENCY CERTIFICATE REQUIRED FOR AVAILING DTAA BENEFIT

We wish to highlight to all our Non Resident readers that with effect from 1st April 2012 thru an amendment in Section 90 of the Income Tax Act, 1961 under the Union Budget 2012-13, the benefit of the Double Tax Avoidance Agreement (DTAA) provisions are available only to such persons who have obtained a Tax Residency Certificate (TRC), in the prescribed format, from the government of the country of which the taxpayer is a resident. This requirement is applicable to both Non Resident Indians (NRIs) and non resident Corporates.

The provisions of General Anti Avoidance Regulations (GAAR) is to come into effect, with effect from Financial Year 2013-14. It may be recalled that under a separate amendment brought in thru the Union Budget 2012-13, the provisions of General Anti Avoidance Regulations (GAAR) contained in the Income Tax Act, 1961 shall supersede the DTAA even if such provisions are not beneficial to him.

The Indian Revenue authorities have not yet issued the notification prescribing the specified format of the TRC and the same is awaited. For updates regarding the notification and the prescribed TRC formats, you may visit www.incometaxindia.gov.in



It is recommended that all NRI's evaluate the benefits that they are availing under the DTAA currently or likely to avail and determine whether the TRC submission shall be required to be made in their case or not. Banks in India where the accounts of Non Residents are held are requesting their account holders to submit the TRC within 15 days of issuance of the notification by the Revenue Authorities to enable the Banks to fulfill their withholding tax responsibilities and continue giving benefit of the lower tax rates under the DTAA, where applicable. It needs to be highlighted here that until the Revenue Authority issues the notification we are unable to advise whether such TRC requirement shall be an annual filing requirement or only a one time requirement.

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