
FOREIGN EXCHANGE CONSERVATION (TRAVEL) TAX, RULES, 1987

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FOREIGN EXCHANGE CONSERVATION (TRAVEL) TAX, RULES, 1987

Ministry of Finance (Department of Economic Affairs), Noti. No. G.S.R.743(E), dated September 2, 1987, published in the Gazette of India, Extra., Part II, Section 3(i), dated 2nd September, 1987, pp. 5-7 [F. No. 1/10/EC/87] In exercise of the powers conferred by Section 104 of the Finance Act, 1987 (11 of 1987), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement :-

(1) These rules may be called the Foreign Exchange Conservation (Travel) Tax Rules, 1987.

(2) They shall come into force on the 15th day of October, 1987.

2. Definitions :-

In these rules, unless the context otherwise requires,-

(a) "Act" means the Finance Act, 1987 (11 of 1987);

(b) "Appellate Officer" means the Controller who for the time being holds the office of Controller in the Exchange Control Department of the Reserve Bank and in relation to any powers exercisable by him under these rules includes an Additional Controller in that

Department ;

(c) "Adjudicating Officer" means a Joint Controller, a Deputy Controller, an Assistant Controller or any officer holding for the time being the charge of a Regional Office of the Exchange Control Department of the Reserve Bank or, as the case may be, the Exchange Control Cell of that Department ;

(d) "tax" means Foreign Exchange Conservation (Travel) Tax leviable under Section 100 of the Act ;

(e) "traveller" means any person to whom foreign exchange has been or is to be released for foreign travel ;

(f) "Treasury" means the Reserve Bank or any branch of the State Bank of India constituted under S.3 of the State Bank of India Act, 1955 or a subsidiary bank constituted under the State Bank of India (Subsidiary Bank) Act, 1959, wherein the Central Government has an account for remittance of tax ;

(g) words and expressions used but not defined in these rules or in Chapter 5 of the Act shall have the meanings assigned to them in the Foreign Exchange Regulation Act, 1973.

3. Collection of tax :-

An authorised dealer or a money changer shall collect from a traveller in respect of all foreign exchange released by him a tax at the rate of fifteen per cent of the rupee equivalent of the amount of foreign exchange released and issue a certificate to him in Form I annexed to these rules.

4. Tax to be paid into the Treasury :-

The tax collected by an authorised dealer or a money changer shall be held in a separate account maintained by him and the amount of said tax as reduced by the amount refunded under Rule 5, shall be paid into the Treasury into the Head of Account No. 0045-Other taxes and Duties and Commodities and Services- Foreign Exchange Conservation (Travel) Tax by the 1st and the 15th of each calendar month and if either of the aforesaid days happens to be holidays, then immediately on the following working day.

5. Procedure for claiming refund of tax :-

(1) A traveller who intends to sell back the whole or part of unused foreign exchange in respect of which tax had been collected) shall, within a period of one month from the date of return from the

foreign travel, for which foreign exchange was released or where due to certain reasons, no such foreign travel was performed, within one month from the date of release of foreign exchange, present the same to the authorised dealer or, as the case may be, the money changer, along with the certificate issued under Rule 3 and thereupon the authorised dealer or the money changer, as the case may be, after making an endorsement in the certificate, shall refund the entire amount or, as the case may be, the proportionate amount of the tax collected, along with the rupee equivalent of the foreign exchange.

(2) Where an authorised dealer or a money changer is satisfied, on an application in writing made by a traveller within the period specified in sub-rule (1), that the tax had been wrongly collected or an excess amount of tax had been collected, he shall, after making an endorsement in the certificate issued under Rule 3 refund the entire amount of tax so collected or, as the case may be, the excess amount so collected :

Provided that where there is disagreement between the authorised dealer or the 'money changer and a traveller, the authorised dealer or, as the case may be, the money changer shall refer the same to the Adjudicating Officer under whose jurisdiction the office of the authorised dealer or the money changer is situated and the orders of the Adjudicating Officer thereon shall be binding on both the parties.

6. Notice for payment of tax not paid or under paid :-

(1) Where any tax due has, for any reason whatsoever, not been paid or collected or has not been paid or collected in full or collected by an authorised dealer or a money changer but not deposited in full into the Treasury within the period specified in Rule 4, the Adjudicating Officer may, without prejudice to the provisions of Rule 8 regarding levy of penalty, serve a notice upon the traveller, the authorised dealer or, as the case may be, the money changer or all of them, requiring him or them to show cause why he or they should not pay the amount specified in the notice:

Provided that no notice under this sub-rule shall be served after the expiry of three years from the date of release of the foreign exchange.

(2) The Adjudicating Officer, after considering the representation, if any, made by the traveller, authorised dealer, or the money

changer, as the case may be, on whom notice is served, shall determine the amount of tax to be paid by him, not being in excess of the amount specified in the notice and thereupon the traveller, the authorised dealer or the money changer, as the case may be, shall pay the amount so determined to the Treasury.

7. Furnishing of return regarding tax collected or refunded

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Every authorised dealer or money changer, who has collected tax under Rule 3 or refunded the whole or part of the tax under Rule 5, shall submit a quarterly return in Form II annexed to these rules to the Officer-in-Charge of the regional office of the Reserve Bank within whose jurisdiction the office of the authorised dealer or the money changer is situated.

8. Adjudication of penalties :-

In every case in which any person is liable to penalty under Section 102 of the Act, such penalty shall be adjudged by an Adjudicating Officer.

9. Issue of show-cause notice before levy of penalty :-

No order imposing any penalty on any person shall be made unless such persons-

(a) is given a notice in writing informing him of the grounds on which it is proposed to impose a penalty;

(b) is given an opportunity of making representation either orally or in writing within fifteen days or such further period as the Adjudicating Officer at his discretion may grant, as against the imposition of penalty mentioned therein;

(c) is given a reasonable opportunity of being heard in the matter.

10. Appeal :-

(1) Any person aggrieved by any decision or order passed under the Act or these rules by the Adjudicating Officer, may within three months from the date of communication of such decision or order, appeal to the Appellate Officer against such decision or order:

Provided that the Appellate Officer may, if satisfied that such person was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(2) The Appellate Officer may after giving an opportunity to the appellant to be heard if he so desires, and after making such enquiry as may be necessary, pass such order as he thinks fit, confirming, modifying or annulling the decision or order appealed against :

Provided that no order enhancing any penalty shall be passed by the Appellate Officer:

Provided further that where the Appellate Officer is of the opinion that the tax has not been paid or has not been paid in full, no order directing the payment of such tax shall be passed unless the appellant is given notice within the time limit specified in sub-rule (1) to show cause against the proposed order.

(3) The Appellate Officer shall, after finally deciding an appeal, send a copy of his decision to the persons concerned as well as the Adjudicating Officer from whose order the appeal was preferred, for execution in accordance with Rule 11.

11. Recovery of sums due to Government :-

Where any tax demanded from any person or any penalty payable by any person under Chapter V of the Act has been finally determined but is not paid, the Adjudicating Officer may prepare a certificate signed by him specifying the amount due and send it to the Collector of the District in which the said person owns property or ordinarily resides or carries on business and the Collector, on receipt of such certificate, shall proceed to recover from the said person the amount specified thereunder as if it were an arrear of land revenue.

12. Power to collect particulars and information :-

Every Officer of the Exchange Control Department of the Reserve Bank authorised in this behalf by a special or general order of Appellate or Adjudicating Officer shall, for the purposes of ascertaining whether or not the requirements of the Act or these rules have been complied with, at any reasonable time, have access to any premises of an authorised dealer or money changer and have powers to require any person in charge thereof to produce before him for his verification any books of accounts, returns or other documents and to furnish to him such other information and particulars as he may reasonably require for the purpose of ascertaining whether the requirements of the Act or these rules have been complied with.

