

No. 402/92/2006-MC (46 of 2008)
Government of India/ Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, the 30th September 2008

PRESS RELEASE

Clarification regarding tax deduction at source on arrears of salary paid to government servants on account of implementation of the recommendations of Sixth Central Pay Commission

The Implementation Cell of the Department of Expenditure, Ministry of Finance vide its Office Order F. No. 1/1/2008-IC dated 30th August, 2008 has stated at Para 2(v) *“Bills may be drawn separately in respect of the arrears of pay and allowances for the period from January 1, 2006 to August 31, 2008. The aggregate arrears, computed after deduction of subscription at enhanced rates of GPF and NPS with reference to the revised pay, may be paid in two installments, the first installment being restricted to 40% of the aggregate arrears. DDOs/PAOs will ensure that action is taken simultaneously in regard to Government’s contribution towards enhanced subscription. Orders in regard to the payment of the second installment of arrears will be issued separately.”*

2. A number of representations have been received by Central Board of Direct Taxes (CBDT) seeking clarification as to whether TDS need to be deducted on 40% of arrear to be paid during 2008-09 or on the entire arrear payable to the government servant. The matter has been examined by the CBDT and the issue is clarified as under:-

Salary is as defined under Section 15 of Income Tax Act, 1961:-

- (a) any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not;
- (b) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him;
- (c) **any arrears of salary paid or allowed** to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.

3. It is clear from the Office Memorandum issued by the Department of Expenditure that 60% of the pay arrears neither fall in the category of **due** nor are **allowed**. Moreover, Section 192 of Income Tax Act’61, inter alia, requires any person responsible for paying any income chargeable under the head “Salaries” to deduct income tax on the amount payable at the stipulated rate at the time of **payment**. Therefore it is clarified **that income tax at source** would be deducted u/s 192 only from the **arrears of salary actually paid during FY 2008-09**. On the balance, tax would be deducted during the financial year in which these pay arrears are actually paid.

4. The above clarification has been issued by the CBDT vide Circular No.9/2008 [F.No.275/192/2008-IT(B)] dated 29th September, 2008.

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