



Income Tax Department

Ministry of Finance, Government of India

Certificate by TRO & Recovery Procedure [Section 222, Rule 117B]

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- If the assessee is in default/deemed in default, TRO issues a certificate in Form No. 57 stating arrears.
- Recovery may be done through:
 - o Attachment and sale of movable property
 - o Attachment and sale of immovable property
 - o Arrest and detention in prison
 - o Appointment of receiver for management of property
- TRO can act under these modes even if other recovery proceedings are already undertaken.
- Property transferred without adequate consideration to spouse, minor child, son's wife, or son's minor child continues to be treated as assessee's property for recovery, even after the child attains majority.

Jurisdiction of TRO [Section 223]

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- The certificate may be executed by TRO:
 - o where the assessee carries on a business/profession, or
 - o where the assessee resides/has property.
- If the assessee has property in multiple jurisdictions and recovery is difficult or needs to be expedited, a certificate (or part thereof) can be forwarded to another TRO who can recover as if he had drawn the certificate himself.

Validity, Amendment and Cancellation [Section 224]

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- The assessee cannot dispute the correctness of the TRO's certificate.
- TRO may cancel the certificate or correct clerical/arithmetical mistakes if required.

Stay of Recovery Proceedings [Section 225]

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- TRO may grant time for payment; proceedings stayed till expiry of such time.
- If tax demand is reduced in appeal/other proceedings, recovery of reduced portion shall remain stayed during pendency of further appeals.
- Once order becomes final, TRO must amend or cancel the certificate accordingly.

Other Modes of Recovery [Section 226]

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- In addition to Section 222, AO/TRO can recover tax by:
 - o Deduction from salary (Section 226(2))
 - o Recovery from money in custody of Court (Section 226(4))
 - o Distraint and sale of movable property (Section 226(5)), if authorised by CCIT/PCIT

Recovery through State Government [Section 227]

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- Where recovery is entrusted to State Government, arrears can be collected as municipal or local taxes.

Recovery under Agreements with Foreign Countries [Section 228A]

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- If foreign Government certifies arrears under its law against a resident or person having property in India, CBDT may forward certificate to TRO for recovery in India.
- TRO recovers as per Indian law and remits net proceeds to CBDT.

Recovery of Penalty, Interest and Other Sums [Section 229]

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- Any interest, fine, penalty, or other sum payable under the Act is recoverable as tax arrears.

Tax Clearance Certificate [Section 230]

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• Person Not Domiciled in India

- o Required when visiting India for business, profession, or employment and earning income in India.
- o Not required for tourists or non-business visits.
- o To obtain: The employer or payer provides an undertaking in Form 30A, which is submitted to the CCIT/DGIT. The CCIT/DGIT then issues a certificate in Form 30B, which is valid for a specified period.

• Person Domiciled in India

- o Required only if the Assessing Officer, with the approval of the Principal CCIT/CCIT, believes the departure of a person from India may harm revenue.
- o The CBDT has specified the following situations: serious financial irregularities under investigation, or direct tax arrears exceeding Rs. 10 lakh that have not been stayed.
- o Certificate generally not required; instead, Form 30C with PAN, purpose, and stay period abroad to be furnished.
- o To obtain a certificate: Application in Form 31 to be filed before the Assessing Officer, who may issue a certificate in Form 33.
- o AO can refuse only if arrears are unpaid or arrangements have not been made. If no tax is due, the certificate cannot be refused.

• Responsibility of Ship or Airline Owners

- o Must ensure that passengers required to obtain a certificate possess it.
- o Failure makes the owner or charterer personally liable for unpaid tax.
- o Treated as assessee-in-default and recoverable as tax arrears.

