

Article



Reporting requirement for Securitisation Trusts to Income Tax Authorities & Investors - Rule 12CC of Income Tax Rules, 1962

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Introduction

Securitisation Trusts has been on the radar of the government for the past several months with noticeable amendments been made by the Finance Act, 2016. The intent of the government in making the position of law clear with specific rules further got attestation with the introduction of Income-tax (33rd Amendment) Rules, 2016, (hereinafter referred as “the said rules”) made by the Central Board of Direct Taxes (CBDT) vide notification no 107/2016 dated 28th November, 2016¹. Before moving ahead with the explanation for the reporting requirement introduced by the said rules, it is imperative to understand the context in which the rules have been introduced.

Current Position of Law

Section 115TCA – Tax on income from securitisation trusts

Section 115TCA, introduced by the Finance Act, 2016, states that

- Any income accruing or arising to, or received by, a person, being an investor of a securitisation trust, out of investments made in the securitisation trust, shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person, had the investments by the securitisation trust been made directly by him. [Section 115TCA(1)]
- The person responsible for crediting or making payment of the income on behalf of securitisation trust and the securitisation trust shall furnish, within such period, as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in such form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed. [Section 115TCA(4)]
- Such income will taxable in the hands of the investors. The investors will get full credit for the tax deducted at source under section 194LBC.
- The provisions of section 115TCA shall be applicable from 1st April, 2017 i.e. for the financial year 2016-17.

Section 194LBC

The income payable to an investor by a securitisation trust shall be subject to tax deduction at source as under. In case of -

- an individual or HUFs- 25%
- any other person- 30%
- a non-resident investor or a foreign company - rates in force shall apply.

¹ <http://www.incometaxindia.gov.in/communications/notification/notification1072016.pdf>

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Income-tax (33rd Amendment) Rules, 2016- Rule 12CC -Statement under subsection (4) of section 115TCA

The said rules have been introduced in light of section 115TCA (4) with regard to submission of statement to the income tax authorities and the investors as stated above.

- In the Income-tax Rules, 1962, after rules 12CB, rule 12CC has been substituted.
- The rules is deemed to come into force from 1st June, 2016
- The rules specify that the statement of income distributed by a securitisation trust to its investors shall be –

Furnished to	Due Date	Form No.	Manner of furnishing
Principal Commissioner or the Commissioner of Income-tax within whose jurisdiction the principal office of the securitisation trust is situated	30th day of November of the financial year following the previous year during which such income is distributed	64E	<ul style="list-style-type: none"> • Duly verified by an accountant in the manner indicated therein. • To be furnished electronically under digital signature
Investor	30th day of June of the financial year following the previous year during which the income is distributed	64F	Duly verified by the person distributing the income on behalf of the securitisation trust in the manner indicated therein

- The rules further states that the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for filing of Form No. 64E and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished.
- The proforma for Form 64E and 64F have been provided in the notification and have been included in Appendix – II, after Form 64D, of the said rules.