

Section 9 of the Income-tax Act, 1961 - Income - Deemed to accrue or arise in India - Withdrawal of Circulars No. 23 dated 23rd July, 1969, No. 163 dated 29th May, 1975 and No. 786 dated 7th February, 2000

Circular No. 7/2009 [F. No. 500/135/2007-FTD-I], dated 22-10-2009

The Central Board of Direct Taxes had issued Circular No. 23 (hereinafter called "the Circular") on 23rd July 1969 regarding taxability of income accruing or arising through, or from, business connection in India to a non-resident, under section 9 of the Income-tax Act, 1961.

2. It is noticed that interpretation of the Circular by some of the taxpayers to claim relief is not in accordance with the provisions of section 9 of the Income-tax Act, 1961 or the intention behind the issuance of the Circular.
3. Accordingly, the Central Board of Direct Taxes withdraws Circular No 23 dated 23rd July, 1969 with immediate effect.
4. Even when the Circular was in force, the Income-tax Department has argued in appeals, references and petitions that-
 - (i) the Circular does not actually apply to a particular case, or
 - (ii) that the Circular can not be interpreted to allow relief to the taxpayer which is not in accordance with the provisions of section 9 of the Income-tax Act or with the intention behind the issue of the Circular.

It is clarified that the withdrawal of the Circular will in no way prejudice the aforesaid arguments which the Income-tax Department has taken, or may take, in any appeal, reference or petition.

5. The Central Board of Direct Taxes also withdraws Circulars No. 163 dated 29th May, 1975 and No. 786 dated 7th February, 2000 which provided clarification in respect of certain provisions of Circular No 23 dated 23rd July, 1969.