



LOWER WITHHOLDING TAX CERTIFICATE
PROVISIONS, PROCEDURE, AND PRACTICAL
ASPECTS

PROVISIONS

Provision of obtaining a lower withholding tax certificate ('LWTC') from the revenue authorities available, in case,

- Payee considers that the rate of applicable withholding tax shall be greater than its actual tax liability for a given financial year ('FY');

LWTC provides for the facility of Nil or lower withholding tax rate. It strikes a balance by reducing cash blockage/cash flow issues for the taxpayer and realizing the government dues at the earliest.

The application for obtaining a lower/nil withholding tax certificate may be applied by the resident payee or by payer/payee in case of non-resident payee;

No LWTC is granted unless the application contains Permanent Account Number ('PAN') of the applicant;



APPLICATION FILING PROCESS FOR OBTAINING LWTC

STEP 1

Application in Form 13 or Form 15E* along with annexures, submit electronically through Traces portal with the concerned TDS Assessing Officer ('AO')

STEP 2

On satisfaction, AO forwards the file to the Joint Commissioner of Income Tax/Additional Commissioner of Income Tax ('JCIT'/'ADIT') for approval

STEP 3

Approval of Commissioner of Income Tax ('CIT') is required in case the tax foregone amount exceeds INR 50/10 lakhs (as the case may be) (if applicable).
In case of non-resident taxpayers, the said threshold is INR 10 crores.



PROCEDURE

The application for LWTC is required to be processed within 30 days from the end of the month in which application is electronically filed

The certificate is issued to the deductor/payer directing it to deduct the tax at the rate mentioned in the certificate

LWTC is valid from the date on which it is issued till the expiry of the validity of certificate or cancellation of the same by the concerned AO, whichever is earlier

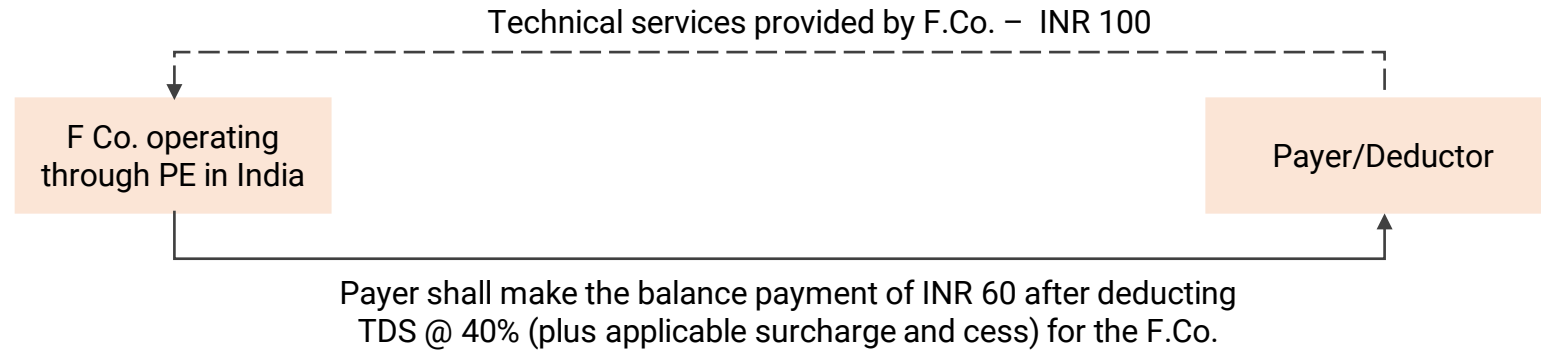
- Generally, valid till the end of relevant FY unless cancelled by AO earlier

Certificate issued by the concerned TDS officer can be downloaded by the deductor and the tax payer through traces portal



ILLUSTRATION EXPLAINING RELEVANCE OF LWTC

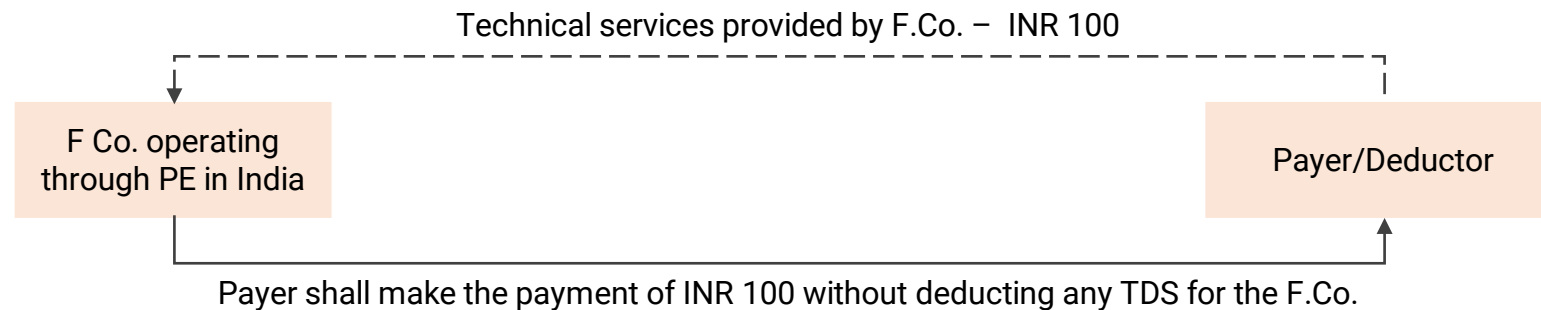
Foreign Company (F.Co.) receiving payment under the normal withholding regime



COMMENTS

In case of Nil/low actual tax liability of F.Co. in India, the F.Co. will have to opt for refund of tax deducted which in turn creates working capital issues for the F.Co.

F.Co. obtains a NIL withholding tax certificate



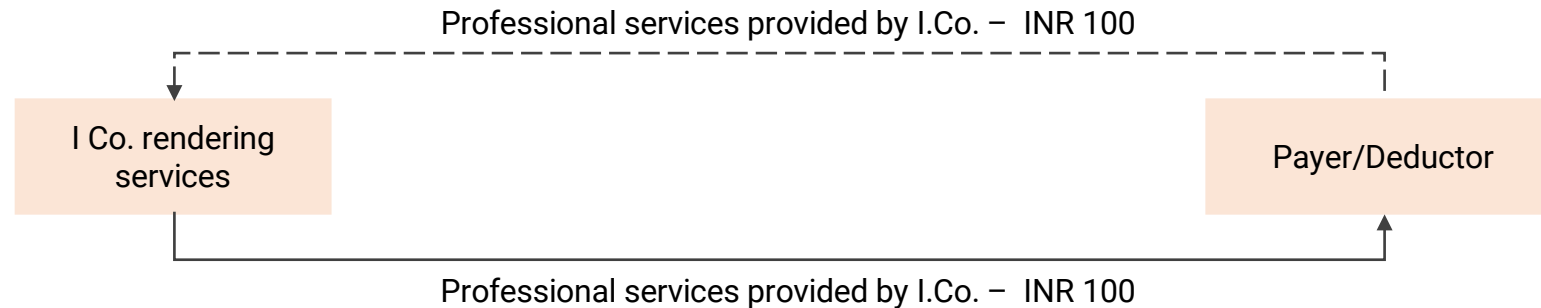
COMMENTS

Reduced cash blockage for the F.Co. in case of issuance of Nil rate LWTC to F.C



ILLUSTRATION EXPLAINING RELEVANCE OF LWTC

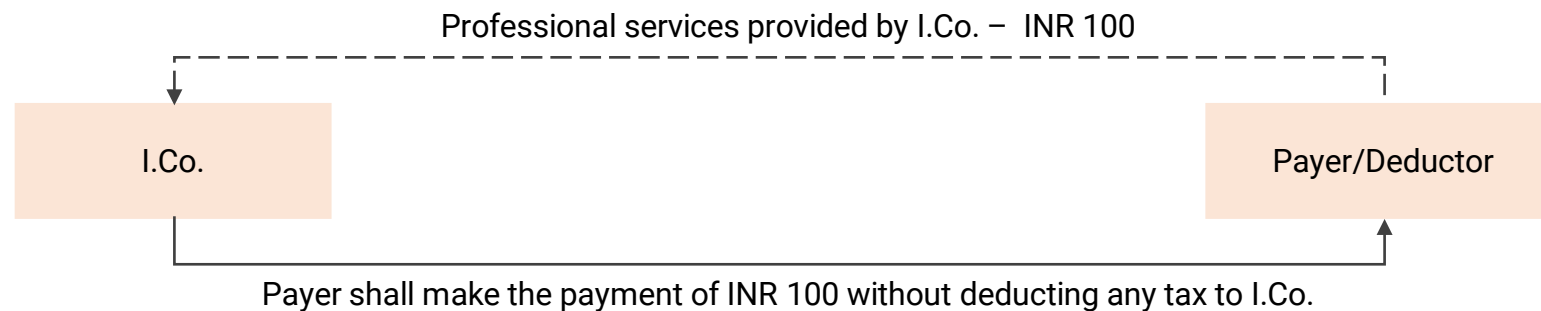
Indian Company (I.Co.) receiving payment under the normal withholding regime



COMMENTS

In case of Nil/low actual tax liability of I.Co. in India, the I.Co. will have to opt for refund of excess tax deducted which in turn may create working capital issues for the I.Co.

I.Co. obtains a NIL withholding tax certificate



COMMENTS

Reduced cash blockage for the I.Co. in case of issuance of Nil rate LWTC to I.Co.



DOCUMENTS REQUIRED FOR FILING APPLICATION UNDER SECTION 197

- Covering letter explaining the nature of business of the applicant and the reason for obtaining LWTC
- Details of the deductor with their correct address & TAN
- Form 13 (filed electronically)
- Details of revenue to be earned during the year under consideration, along with the relevant contracts
- Projected financial statements & computation of income, and tax payable thereon for the year under consideration;
- Audited financial statements along with tax audit report for 4 preceding years;
- Provisional financial statements for the immediately preceding Financial Year;
- Income tax return filed for 4 preceding years;
- Assessment orders of preceding 4 years (if any)
- Notarized copy of affidavit for litigation status till the date of making the application;
- Notarized copy of power of attorney in favour of the Authorized Representative ('AR')





THANK YOU.

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