



Draft Notification of exception, modification and adaptation in respect of foreign company said to be resident in India under section 115JH of the Income-tax Act, 1961 for PoEM

...continued

Draft Notification

Sl. No.	Situation	Treatment
7	Where more than one provision of Chapter XVII-B of the Act applies to Foreign Company as resident as well as foreign company	The provisions applicable to foreign company shall apply
8.	Provisions of section 195(2) (Determination of proportion of sum, paid to a non-resident, on which tax is to be deducted	The provisions of section 195(2) shall apply in such manner so as to include payment to the foreign company
9.	Once a foreign company is held to be resident in India due its PoEM	The foreign company shall be entitled to relief or deduction of taxes paid in accordance with the provisions of section 90 and 91 of the act.
10.	Rate of currency conversion from foreign currency into INR	Rate of exchange shall be in accordance with the provisions of Rule 115 of the Income-Tax Rules, 1962

The above exceptions, modifications and adaptations shall be applicable where a foreign company is said to be resident in India in any previous year on account of its PoEM and it has not been resident in India in any of the preceding previous years and all transactions of the said foreign company with other person or entity, shall not be altered only on the ground that it has turned resident on account of its PoEM being in India.

The foreign company shall continue to be treated as a foreign company even if it is held to be resident in India due to its PoEM and all the provisions of the act shall apply accordingly. Consequently, the provisions specifically applicable to –

- i. A foreign company shall continue to apply to it; and
- ii. Non-resident person shall not apply to it and the provisions specifically applicable to resident shall apply to it.

Thus, rate of tax in case of foreign company shall remain same.