

# Tax demand waiver: Income tax dept can waive off demand above Rs 1 lakh in these cases

By Neelanjit Das, ET Online | Last Updated: Feb 22, 2024, 12:36:00 PM IST

## Synopsis

Income tax demand waiver: The Central Board of Direct Taxes (CBDT) has stated in a circular dated February 13, 2024 that the tax department would waive off all eligible tax demands up to an aggregate limit of Rs 1 lakh per taxpayer. Experts opine that if the tax dept waives off both tax demand and interest on such demand, the quantum of demand waived can be much more than Rs 1 lakh.



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You may get waiver above Rs 1 lakh on your income tax demand notice in these cases

The Central Board of Direct Taxes (CBDT) has fixed the maximum ceiling limit as Rs 1 lakh for waiving eligible income tax demands. However, in an order dated February 13, 2024, CBDT said that future interest will not make part of this calculation of the overall amount of [income tax demand](#).

CBDT said in the order, "Consequent to the aforesaid remission and extinguishment of entries of outstanding demand, there shall not be requirement of calculation of interest on account of delay in payment of demand under sub-section (2) of section 220 of the Income-tax Act, 1961 or corresponding provisions of Wealth-tax Act, 1957 and Gift-tax Act, 1958 and therefore, the same shall not be considered for the purpose of determining the ceiling of Rs 1,00,000 (Rupees one lakh)."

**Also read:** [Tax demand up to Rs 1 lakh/person waived: Check ITR a/c.](#)

## How the total income tax demand waiver can be more than Rs 1 lakh

As per income tax provisions, if demand is not paid within 30 days of raising demand, interest at 1% per month is charged for the period of delay under section 220. If this amount is included to determine the overall amount of tax demand, then many taxpayers may not be eligible for the waiver. However, some tax experts say that the calculation of interest is still an area where further clarification from CBDT is required.

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"CBDT has clarified that no interest shall be calculated for non-payment of tax demand. However, if a tax demand was already raised including accrued interest amount, then it is unlikely that it would be waived off if it is crossing the umbrella limit of Rs 1 lakh," says Mihir Tanna, associate director-direct tax, S.K Patodia LLP, a CA firm.

While the aggregate limit of [waiver](#) is Rs 1 lakh per taxpayer, the maximum limit of waiver per tax demand until AY 2010-11 is only Rs 25,000.

Tanna explains with an example: A's outstanding demand is Rs 20,000 for AY 2005-06 and no interest has been charged to date. It is likely that the demand for A will be extinguished as the outstanding demand is less than the specified limit. In another example, Mr. B's outstanding demand is Rs 20,000 for AY 2005-06, and interest of Rs.10,000 is charged to date. It is likely that demand of Mr. B will not be extinguished as the outstanding demand is more than the specified limit.

Records are as per the data available at Income Tax Department Date of last refresh: 19-Feb-2024

Demand Reference No:	Assessment Year:		
2020201037024019461T	2010		
Outstanding Demand Amount ₹19552	<b>EXTINGUISHED DEMAND</b> Current Status 31-Dec-2020 Date of Demand Raised	Section Code : 220(2) Rectification Rights : Mode of Service :-	<a href="#">Submit Response</a>
Demand Reference No:	Assessment Year:		
2018201110000970845T	2011		
Outstanding Demand Amount ₹0 Final Interest ⓘ ₹10206 <a href="#">View Interest Computation</a>	<b>Pending Payment / Response</b> Current Status 29-Aug-2018 Date of Demand Raised	Section Code : 147 Rectification Rights : Mode of Service :-	<a href="#">Pay Now</a> <a href="#">Submit Response</a>
Demand Reference No:	Assessment Year:		
2021201240408945954T	2012		
Outstanding Demand Amount ₹5000	<b>EXTINGUISHED DEMAND</b> Current Status 03-Mar-2022 Date of Demand Raised	Section Code : 271F Rectification Rights : Assessing Officer Mode of Service :-	<a href="#">Download</a> <a href="#">Submit Response</a>

Income tax demand

Source: Mihir Tanna, associate director-direct tax, S.K Patodia LLP

According to By Rajarshi Dasgupta, Executive Director, AQUILAW, a law firm, "The tax demand should not include interest under section 220(2). This section is applied when one does not pay the said tax demand within one month. Thus, if a demand (includes tax plus interest under section 234A, B and C) becomes Nil, no further demand will come up under section 220(2). The aggregate limit of Rs 1 lakh includes tax plus interest u/s 234A, B and C, however Interest under section 220(2) will not be considered in calculating the cap of Rs 1 lakh."

However, not all experts agree with this. Opinions of tax experts are different regarding the inclusion of interest amounts under the limit of Rs 1 lakh. According to Ankit Jain, Partner, Ved Jain & Associates, a CA firm, "The order has clarified

that while determining the amount eligible for refund, only the initial demand entry as uploaded would be considered and not the interest accrued since the demand was uploaded. This is an important clarification beneficial to the taxpayer."

Jain further explains with an example, if a tax demand was uploaded for Rs 20,000 in 2016 about FY 2007-08, it may have accumulated an interest of around Rs 17,000 making the total amount payable at Rs 37,000. However, since the tax demand amount is less than the limit of Rs 25,000, it will be eligible for waiver. Once the original demand is waived, no interest will remain applicable on that demand. Hence, the whole of Rs 37,000 would be waived off including the interest accrued since then.

Jain however says that the interest accrued on such tax demands under Sec 220(2) would not be considered in this limit of Rs 1 lakhs either. "So, the total waiver for a taxpayer can be more than Rs 1,00,000 including the interest," says Jain.

Financial Year	Demand Entry	Accrued Interest	Eligible demand	Cumulative Eligible Demand	Waiver
FY 1995-96	Rs. 23,000	Rs. 50,000	Yes	Rs. 23,000	Yes
FY 2001-02	Rs. 24,000	Rs. 42,000	Yes	Rs. 47,000	Yes
FY 2004-05	Rs. 18,000	Rs. 35,000	Yes	Rs. 65,000	Yes
FY 2005-06	Rs. 20,000	Rs. 30,000	Yes	Rs. 85,000	Yes
FY 2007-08	Rs. 8,000	Rs. 14,000	Yes	Rs. 93,000	Yes
FY 2009-10	Rs. 45,000	Rs. 80,000	No	Rs. 93,000	No
FY 2010-11	Rs. 4,000	Rs. 6,000	Yes	Rs. 97,000	Yes
FY 2011-12	Rs. 6,000	Rs. 8,000	Yes	Rs. 1,03,000	No*
FY 2013-14	Rs. 4,000	Rs. 5,500	Yes	Rs. 1,07,000	No*
FY 2016-17	Rs. 7,500	Rs. 8,000	No	Rs. 1,07,000	No

Table showing tax demand and accrued interest

Source: Ankit Jain, partner, Ved Jain and Associates

\*Demand not waived because it is crossing the cumulative threshold of Rs 1 lakh per taxpayer.

Jain explains that in the table above the total demand outstanding is Rs 1,59,500 on which the total interest accrued to date is Rs 2,78,500. The demands highlighted in green are eligible for a waiver and would be waived off. The demands highlighted in red are ineligible since they exceed the threshold or lie beyond the period of waiver. The demands in yellow are those that are eligible but not being waived off since the cumulative eligible demands exceed Rs 1,00,000. Hence, the total original demand waiver stands at Rs 97,000. With the interest amount included, the taxpayer would save almost Rs 2,74,000 in this case. The interest amount waived in this case would be Rs 1,77,000.

According to Pallav Pradyumn Narang, Partner, CNK, "The said interest will also not be considered for the calculation of the monetary limits. Therefore, if the principal demand is Rs 75,000 and the interest thereon is, say, Rs 30,000 then only the principal demand will be considered for calculating the monetary limits. The monetary limit of Rs 1 lakh will be calculated by aggregating all demands under the yearly threshold limits as long as each of them is extinguished in full. Part extinguishment is not allowed."

### When will interest be included under the umbrella limit of Rs 1 lakh?

According to Jain when CPC can bifurcate between tax demand and interest on tax demand then only the interest component would be kept outside the limit of Rs 1 lakh. If it cannot be bifurcated, then the total tax demand including interest will be considered under the Rs 1 lakh limit.

"The CPC will only consider the original demand entry as per their records. Usually, it doesn't include the interest under Sec 220(2), and it is calculated separately. However, in case the original demand entry includes such interest, then it will also be included while calculating the eligibility as per the threshold of Rs 1 lakh. This is primarily so because the CPC

would not have the information available to them to bifurcate the original demand between the basic demand and the interest. So, the system will consider the total demand as uploaded while determining eligibility for the waiver," says Jain.