

## Income-tax Rules for Remittances outside India – New Changes

On 5<sup>th</sup> August, 2013 CBDT revised the guidelines on Form 15CA and Form 15CB and further amended it on 2<sup>nd</sup> **September 2013**. Below article gives a summary of amended Rule 37BB of Income-tax Rules, 1962.

- Revised Forms and Amendments came into force on 1<sup>st</sup> **October, 2013**.
- **Form 15CA / 15CB may not be required if,**
  - Remittance is not chargeable to tax
  - Remittance is covered by specified list given in *Explanation* to amended Rule 37BB of Income-tax Rules, 1962. (given below)
- Form 15CA / 15CB shall be required even for remittance of interest and salary outside India.
- The new Form 15CA provide for two categories (i.e., Part A and Part B of Form 15CA) in which remittances are required to be reported.

| Particulars                           | Part A   | Part B   |
|---------------------------------------|--|--|
| Who shall have to fill it?            | To be filled up if sum which is chargeable to tax is remitted to Non-Resident [NR] or foreign company which doesn't exceed Rs. 50,000 per transaction and the aggregate of such payments during the financial year doesn't exceed Rs. 2,50,000   | To be filled up if sum remitted to NR or foreign company, is chargeable to tax and exceeds Rs 50,000 per transaction or the aggregate of such payments during the financial year exceeds Rs. 2,50,000  |
| What information has to be filled in? | <ul style="list-style-type: none"><li>• Particulars of Remitter, Remittee, Remittance made and TDS</li><li>• Mandatory to furnish PAN of Remitter, if tax is deducted then TAN of the Remitter also needs to be provided</li><li>• E-mail and Phone Number of remittee to be furnished</li></ul> | <ul style="list-style-type: none"><li>• Particulars of Remitter, Remittee, Remittance made and TDS</li><li>• Mandatory to furnish PAN of Remitter, if tax is deducted then TAN of the Remitter also needs to be provided</li><li>• E-mail and Phone Number of remittee to be furnished</li></ul> |

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|  | <ul style="list-style-type: none"> <li>Forms prescribe mandatory application of provisions of Section 206AA, if remittance is chargeable to tax and PAN of remittee is not available</li> <li>Aggregate amount of remittance made during the year including the proposed remittance</li> </ul> | <ul style="list-style-type: none"> <li>Forms prescribe mandatory application of provisions of Section 206AA, if remittance is chargeable to tax and PAN of remittee is not available</li> <li><b><u>Information to be filled after obtaining:</u></b> <ul style="list-style-type: none"> <li>Certificate in Form No. 15CB; or</li> <li>Certificate from AO for deduction at lower rate or for proportionate deductions; or</li> <li>Order from AO for Nil deduction of tax.</li> </ul> </li> </ul> |
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- As seen above, only Form 15CA (and not 15CA & 15CB, both) would be required, if amount which is taxable, is remitted and which doesn't exceed Rs. 50,000 per transaction & the aggregate of such payments during the financial year doesn't exceed Rs. 2,50,000.
- Form 15CA (consequently, even Form 15CB) is not required to be filled if Remittance is covered by specified list given in *Explanation* to amended Rule 37BB,

| <b>Sr. No.</b> | <b>Purpose code as per RBI</b> | <b>Nature of payment</b>  |
|----------------|--------------------------------|---|
| 1              | S0001                          | Indian investment abroad -in equity capital (shares)  |
| 2              | S0002                          | Indian investment abroad -in debt securities  |
| 3              | S0003                          | Indian investment abroad -in branches and wholly owned subsidiaries                           |
| 4              | S0004                          | Indian investment abroad -in subsidiaries and associates                                      |
| 5              | S0005                          | Indian investment abroad -in real estate  |
| 6              | S0011                          | Loans extended to Non-Residents   |
| 7              | S0202                          | Payment- for operating expenses of Indian shipping companies operating abroad.                |
| 8              | S0208                          | Operating expenses of Indian Airlines companies operating abroad                              |
| 9              | S0212                          | Booking of passages abroad -Airlines companies  |
| 10             | S0301                          | Remittance towards business travel.   |
| 11             | S0302                          | Travel under basic travel quota (BTQ)   |
| 12             | S0303                          | Travel for pilgrimage   |
| 13             | S0304                          | Travel for medical treatment  |
| 14             | S0305                          | Travel for education (including fees, hostel expenses etc.)                                   |
| 15             | S0401                          | Postal services   |
| 16             | S0501                          | Construction of projects abroad by Indian companies including import of goods at project site |
| 17             | S0602                          | Freight insurance – relating to import and export of goods                                    |
| 18             | S1011                          | Payments for maintenance of offices abroad  |
| 19             | S1201                          | Maintenance of Indian embassies abroad  |

|    |        |   |
|----|--------|---|
| 20 | S1 202 | Remittances by foreign embassies in India   |
| 21 | S1301  | Remittance by non-residents towards family maintenance and-savings  |
| 22 | S1302  | Remittance towards personal gifts and donations   |
| 23 | S1303  | Remittance towards donations to religious and charitable institutions abroad  |
| 24 | S1304  | Remittance towards grants and donations to other Governments and charitable institutions established by the Governments |
| 25 | S1305  | Contributions or donations by the Government to international institutions  |
| 26 | S1306  | Remittance towards payment or refund of taxes.  |
| 27 | S1501  | Refunds or rebates or reduction in invoice value on account of exports  |
| 28 | S1503  | Payments by residents for international bidding   |

- New Form 15CA has to be filled online after logging in at [www.incometaxindiaefiling.com](http://www.incometaxindiaefiling.com) under *e-file >> Prepare & Submit Online Forms (Other than ITR)*
- Contrary to the earlier requirement, Form 15CB will not be required if an Order under section 197 or section 195 of the Income-tax Act has been obtained from the Income-tax department.
- Form 15CB has been altered to include comment on the following:
  - Taxability under the Income-tax Act without considering the relief of the Double Tax Avoidance Agreements (DTAA)
  - If income is chargeable to tax in India and relief is claimed under the DTAA, whether Tax Residency Certificate (TRC) has been obtained from the recipient
  - Taxable income and tax liability as per DTAA
  - If remittance is on account of capital gains details of amount of short-term, long-term capital gains and the basis of arriving at the taxable income.

**Comments:**

This amendment may reduce the compliance burden on remitter as many transactions would be exempted from the compliance of Form 15CA / 15CB due to the nature of the remittance or taxability under the provisions of the Act. However, it places onus on the remitter to determine whether the payment is chargeable to tax or not. Further, banks may request the remitter to provide a declaration in cases of transaction which he / she believe are not chargeable to tax [Eg.: transfer of funds from NRO to NRE account, import of goods (from NR not having Permanent Resident in India), etc].

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