

Filing of Form 15CA and 15CB

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Concept behind applicability of Form 15CA and 15CB

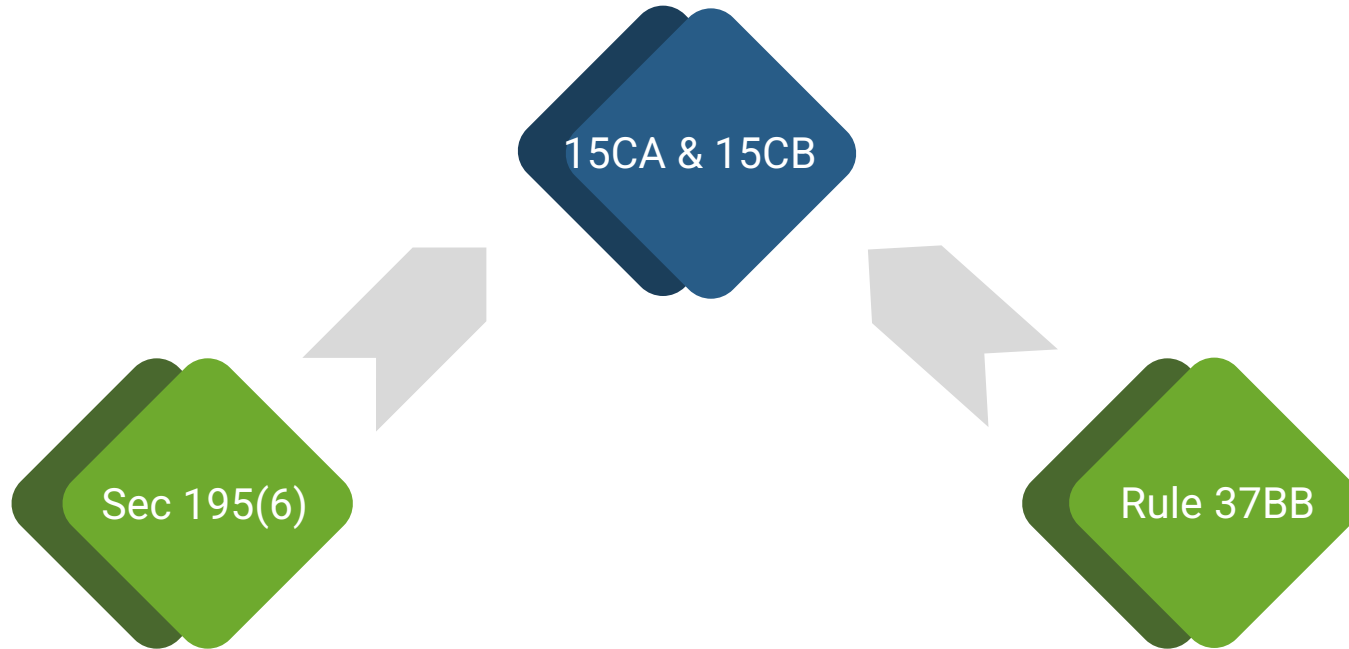
Earlier, the person making a remittance to Non- Resident was required to furnish a certificate in specified format circulated by RBI

The **Income Tax Law** of our country requires **authentication of foreign remittances (payments)** made to a Non Resident or Foreign Company, for any amount which is taxable as per the existing laws. For this purpose, **certain rules and guidelines** have been **framed** by the Income Tax Act for making foreign remittances.

To monitor and track the transactions in an efficient manner, it was proposed to introduce e-filing of information in the certificates.

Section 195(6) of the Income Tax Act 1961 and **CBDT circular No.4/2009 (Annex IV)** dated June 29, 2009 provides that an undertaking in Form 15 CA accompanied by Chartered Accountant's certificate in Form 15 CB needs to be furnished by the person making the remittance or giving credit to a non-resident.

Basis of applicability of form 15CA & 15CB



Section 195(6)

The person responsible for paying to **non-resident (other than a company)** or to a **foreign company**, any sum whether it is **chargeable** under the **Income Tax Act** or **not**, shall furnish the information relating to payment of such sum, in **such form** (15CA & 15CB) and **manner** (Rule 37BB) as may be prescribed.



Salient Features of Rule 37BB are as under:

- Information has to be furnished in relation to any payment to a non-resident, whether chargeable to tax in India or not;
- Reporting need to be done **only** at the **time of payment** irrespective of the fact whether TDS has been deducted in the past or a position has been adopted for not deducting tax;
- Exemption from reporting for **payments made by an Individual** under Liberalized Remittance Scheme (LRS) of RBI.





What is Form 15CA?

- ❖ Form 15CA is a **declaration** made by the **person remitting the money** wherein he states that he has **deducted the tax** from **any payments** so made to the **non-resident**.
- ❖ The **idea** behind deduction of the taxes at source and their subsequent reporting is **to ensure** that **taxes** are **collected on time**.



Applicability of Form 15CA- Part A/B/C/D

The furnishing of information for payment to non- resident , not being a company, or to a foreign company in Form 15CA has been classified into 4 parts:

Part A

Applicable if: Remittance is **Taxable** and Remittance or aggregate thereof **does not exceed** Rs. 5.00 Lacs in F.Y.

15CA: Required
15CB: Not required

Part B

Applicable if: Remittance is **Taxable** and Remittance or aggregate thereof **exceed** Rs. 5.00 Lacs in F.Y. **and order obtained** under Sec 195(2)/195(3)/197

15CA: Required
15CB: Not required

Part C

Applicable if: Remittance is **Taxable** and Remittance or aggregate thereof exceed Rs. 5.00 Lacs in F.Y. **and CA Certificate is obtained**

15CA: Required
15CB: Required

Part D

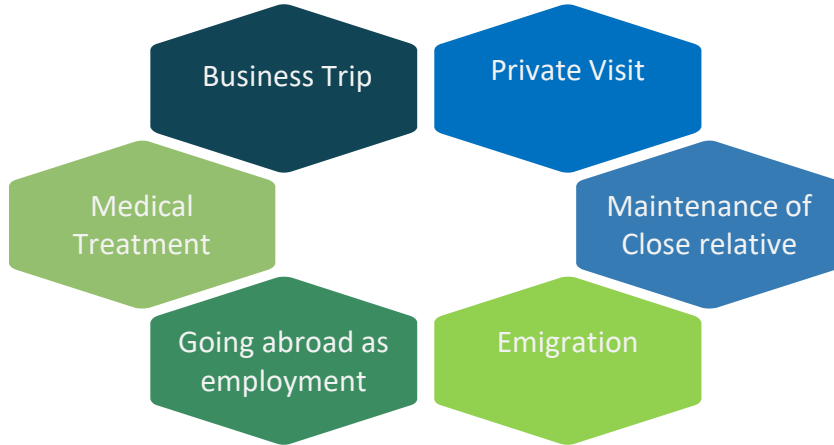
Applicable if: Remittance is **not Taxable** under the act

15CA: Required
15CB: Not required

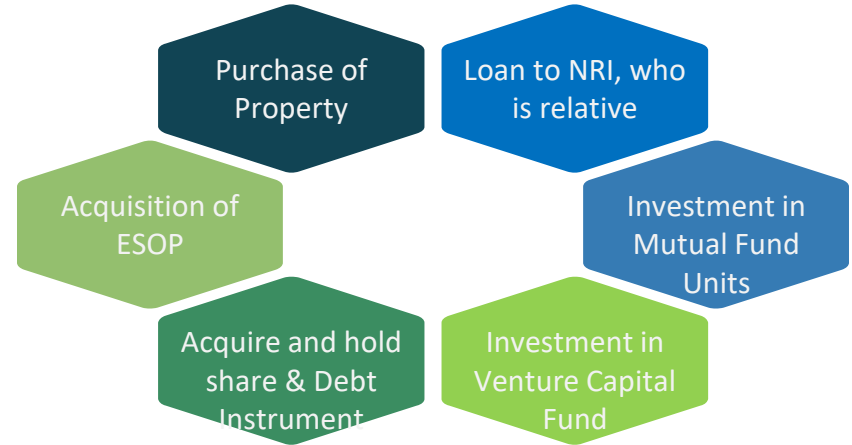
Permissible Transactions (Form 15CA/CB is not required to file)

- **Individual** is not required to furnish the information in Form 15CA and 15CB for remittance which **doesn't require RBI approval**.
- **List of payments (33 items)** mentioned in Rule 33BB which **doesn't require compliances** and **reporting** through the submission of 15CA and 15CB. Few of those transactions are as follows:

Current A/c Transactions



Capital A/c Transaction





What is Form 15CB?

- ❖ Form 15CB is a **certificate** to be **furnished by an accountant** in cases where any payment / aggregate of **payments exceeding ₹5 Lakh** in a **FY** chargeable to income tax is made to a Non-Resident (not being a Company) or a Foreign Company, and a certificate from the assessing officer u/s 195 / 197 is not obtained.



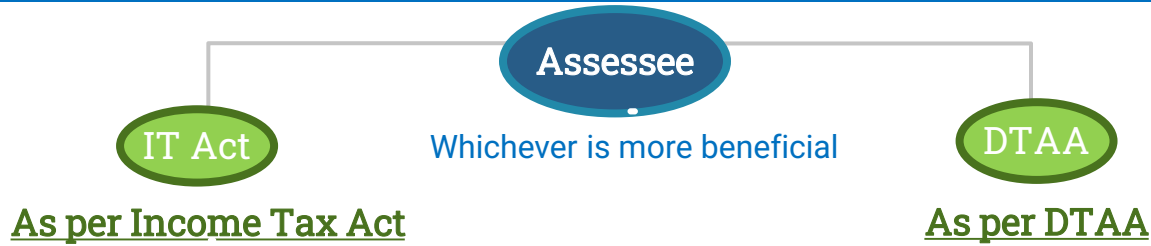
- ❖ In other words, Form 15CB is a **tax determination certificate** in which the CA examines the remittance with regards to chargeability provisions.
- ❖ In form 15CB, a CA certifies the **details of the payment, TDS rate, TDS deduction and other details of nature and purpose of remittance.**



Procedure for filing form 15CB



Income Tax Act or DTAA



Applicant is required to have **PAN**. However, applicant having no PAN are required to pay **TDS as per higher rate** as section 206AA becomes applicable.

So in order to avoid TDS deduction under section 206AA we need to consider Rule 37BC which says that section 206AA will not be applicable if non-resident provides the following documents:

- Name, E-mail id, Contact no
- Address in the country or specified territory outside India of which deductee is a resident
- Certificate of his being resident in any country or specified territory outside India from the Government of that country
- Tax Identification Number of the deductee in the country or specified territory of his residence

Following **documents** are required for **claiming benefit** of DTAA:

- Tax Residency Certificate of base country
- Form 10F duly filled by the authorized person of the remittee.
- Self declaration regarding no PE in India (In case of business income)

Details of Remitter

1. Name of Remitter
2. Address of Remitter
3. PAN of Remitter
4. Principal place of business of remitter
5. E-mail address and phone no of remitter
6. Status of the remitter (Co/LLP/Firm etc.)

Details of Remittee

1. Name of Remittee
2. Pan of Remittee (if any)
3. Address of the Remittee
4. Country of the Remittee
5. Principal Place of the business of the Remittee

Details of Remittance

1. Country to which remittance is made
2. Currency in which remittance is made
3. Amount of remittance in Indian Currency
4. Proposed date of remittance
5. Nature of Remittance
6. Purpose code

Bank details of the Remitter

1. Name of bank of the remitter
2. Name of bank branch
3. IFSC Code
4. BSR Code

Over to Income Tax Portal



<https://eportal.incometax.gov.in/iec/foservices/#/login>

Consequences of Non-Filing

Non-filing of Form 15CA/15CB leads to penalty under section 271-I of Income Tax Act.

- Penalty of Rs 1,00,000 upon **failure to furnish Information / furnishing inaccurate information.**

However, as per provisions of section 237B of the Income Tax Act, **no penalty** can be imposed under section 271-I, in case the **defaulter proves the reasonable cause for the failure.**

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Thank You!!

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