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Amendment to Rules for Furnishing of Information for Payments made to Non-Residents (Form 15CA / Form 15CB)¹

In exercise of the powers conferred by section 195(6) read with section 295 of the Income-tax Act, 1961, the Central Board of Direct Taxes (CBDT) has amended Rule 37BB of Income-tax Rules, 1962 in respect of “Furnishing of information for payment to a non-resident, not being a company, or to a foreign company”.

These Rules will be referred to as the *Income-tax (21st Amendment) Rules, 2015* and shall be **effective from 1st April, 2016**.

This amendment has brought much needed clarity to many taxpayers making remittances outside India. CBDT vide these amendments has given relaxation for furnishing of information u/s 195 for many transactions including payment against imports. We have summarized the important aspects of amendments in the following table:

<u>Sr. No.</u>	<u>Remittance - Chargeable to Tax</u>	<u>Other Conditions</u>	<u>Information to be furnished by the Payer</u>
1	Yes	Aggregate of Payments to NR during the Financial Year is <= INR 5,00,000/-	Form 15CA - Part A
2	Yes	AO's Certificate u/s 197; or AO's order u/s 195(2) / (3) is obtained	Form 15CA - Part B
3	Yes	Remittance is chargeable to tax and not covered by above two conditions (Sr. No. 1 & 2)	Form 15CA - Part C, after obtaining Form 15CB from Accountant as defined u/s 288(2)
4	No	The payer is an individual and remittance does not require prior approval of Reserve Bank of India u/s 5 of FEMA, 1999 read with Schedule III of Foreign Exchange (Current Account Transaction) Rules, 2000.	No Information to be disclosed
5	No	Remittance is of Specified Nature as per (Enclosed)	No Information to be disclosed
6	No	Remittance is not chargeable to tax and not covered by above two conditions (Sr. No. 4 & 5)	Form 15CA - Part D

Note: Form 15CA – Part A & Part D now requires the payer to disclose the RBI purpose code in the Form

Enclosures: List of Specified Remittances, Section 5 of FEMA, Schedule III of Foreign Exchange (Current Account Transaction) Rules, 2000 and CBDT Notification 93/2015

¹ This Note is not a substitute for such professional advice or services, and it should not be acted on or relied upon or used as a basis for any decision or action that may affect you or your business. Before making any decision or taking any action that may affect you or your business, you should consult a qualified professional advisor.

The following Remittances that are not chargeable to tax, do not require any information to be disclosed u/s Rule 37BB of Income-tax Rules, 1962

Sl. No.	Nature of Payment
1	Indian investment abroad -in equity capital (shares)
2	Indian investment abroad -in debt securities
3	Indian investment abroad-in branches and wholly owned subsidiaries
4	Indian investment abroad -in subsidiaries and associates
5	Indian investment abroad -in real estate
6	Loans extended to Non-Residents
7	Advance payment against imports
8	Payment towards imports-settlement of invoice
9	Imports by diplomatic missions
10	Intermediary trade
11	Imports below Rs.5,00,000-(For use by ECD offices)
12	Payment- for operating expenses of Indian shipping companies operating abroad.
13	Operating expenses of Indian Airlines companies operating abroad
14	Booking of passages abroad -Airlines companies
15	Remittance towards business travel.
16	Travel under basic travel quota (BTQ)
17	Travel for pilgrimage
18	Travel for medical treatment
19	Travel for education (including fees, hostel expenses etc.)
20	Postal Services
21	Construction of projects abroad by Indian companies including import of goods at project site
22	Freight insurance – relating to import and export of goods
23	Payments for maintenance of offices abroad
24	Maintenance of Indian embassies abroad
25	Remittances by foreign embassies in India
26	Remittance by non-residents towards family maintenance and-savings
27	Remittance towards personal gifts and donations
28	Remittance towards donations to religious and charitable institutions abroad
29	Remittance towards grants and donations to other Governments and charitable institutions established by the Governments.
30	Contributions or donations by the Government to international institutions
31	Remittance towards payment or refund of taxes.
32	Refunds or rebates or reduction in invoice value on account of exports
33	Payments by residents for international bidding.

Section 5 of Foreign Exchange Management Act, 1999

5. Current account transactions- Any person may sell or draw foreign exchange to or from an authorized person if such sale or drawal is a current account transaction: Provided that the Central Government may, in public interest and in consultation with the Reserve Bank, impose such reasonable restrictions for current account transactions as may be prescribed

Foreign Exchange (Current Account Transaction) Rules, 2000

Notified by GOI Notification No. G.S.R 426(E) dated May 26, 2015

“Facilities for individuals—

1. Individuals can avail of foreign exchange facility for the following purposes within the limit of USD 2,50,000 only. Any additional remittance in excess of the said limit for the following purposes shall require prior approval of the Reserve Bank of India.

- i. Private visits to any country (except Nepal and Bhutan).
- ii. Gift or donation.
- iii. Going abroad for employment.
- iv. Emigration.
- v. Maintenance of close relatives abroad.
- vi. Travel for business, or attending a conference or specialised training or for meeting expenses for meeting medical expenses, or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/ check-up.
- vii. Expenses in connection with medical treatment abroad.
- viii. Studies abroad.
- ix. Any other current account transaction

Provided that for the purposes mentioned at item numbers (iv), (vii) and (viii), the individual may avail of exchange facility for an amount in excess of the limit prescribed under the Liberalised Remittance Scheme as provided in regulation 4 to [FEMA Notification 1/2000-RB, dated the 3rd May, 2000](#) (here in after referred to as the said Liberalised Remittance Scheme) if it is so required by a country of emigration, medical institute offering treatment or the university, respectively:

Provided further that if an individual remits any amount under the said Liberalised Remittance Scheme in a financial year, then the applicable limit for such individual would be reduced from USD 250,000 (US Dollars Two Hundred and Fifty Thousand Only) by the amount so remitted:

Provided also that for a person who is resident but not permanently resident in India and –

- a. is a citizen of a foreign State other than Pakistan; or
- b. is a citizen of India, who is on deputation to the office or branch of a foreign company or subsidiary or joint venture in India of such foreign company,

may make remittance up to his net salary (after deduction of taxes, contribution to provident fund and other deductions).

Explanation: For the purpose of this item, a person resident in India on account of his employment or deputation of a specified duration (irrespective of length thereof) or for a specific job or assignments, the duration of which does not exceed three years, is a resident but not permanently resident:

Provided also that a person other than an individual may also avail of foreign exchange facility, mutatis mutandis, within the limit prescribed under the said Liberalised Remittance Scheme for the purposes mentioned herein above.

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