



Income Tax Department

Central Board of Direct Taxes



TDS Compliance for Non-residents



Why Tax Deducted at Source (TDS) on payment to Non-residents required?

Whenever any person (Resident tax payer) makes a payment to a Non-Resident or foreign company, that person is required to deduct tax at source (TDS) before sending /remitting the money, if that income is taxable in India. This ensures that the government collects tax at the source itself.

Key Highlights

- **Covers Non-residents & Foreign Companies** – Applies to interest, royalty, dividends, capital gains, technical service fees, winnings (lottery, games, horse races, online games) etc.
- **No minimum limit** – Even a small taxable payment requires TDS deduction.
- **TDS Rate** – Based on Finance Act or DTAA (whichever is lower).
- **Compliance is strict** – Deductor require Tax Deduction and Collection Account Number (TAN), challans, quarterly returns, and to issue TDS certificates.
- **PAN is important** – If Non-resident doesn't give PAN to the deductor, TDS will be deducted at higher rate (u/s 206AA of the Income-tax Act).

Q.1. Who are Non-Residents?

Ans. A person is a **non-resident**, if they **do not meet the residency conditions under section 6 of Income-tax Act, 1961.**

Resident if:	Stayed in India \geq 182 days in a year, OR Stayed in India \geq 60 days in a year + \geq 365 days in last 4 years.
Special rules for Indian citizens / PIOs:	Income $>$ ₹15 lakh (other than foreign income): 120 days rule applies. Leaving India for employment /ship crew: 182 days rule applies.
If these conditions are not met	Person is a Non-resident.

Q.2. Who should deduct TDS u/s 195 of the Act?

Ans. Anyone (resident or non-resident) making payments (other than salary) to non-resident:

- Individuals
- HUFs
- Firms
- Companies
- Govt. bodies / Agencies

Q.3. What is TDS Rate for FY 2025-26 as per Finance Act?

Ans.

Income Type	TDS Rate
Investment income (Interest/Dividend)	20%
Long-term capital gains (shares, debentures, govt securities) u/s 115E	12.5%
LTCG on listed shares (u/s 112A)	12.5% (after 23/07/24) / 10% (before)
Other LTCG	12.5%
Short-term capital gains on securities (FII/fund)	20%
Interest on foreign currency loans	20%
Royalty/Technical Fees	20%
Winnings (lottery, games, horse races, online games)	30%
Any other income	30%

4. What are the steps of TDS Compliances?

Ans. (i) **Get TAN** (Tax Deduction Account Number)

(ii) **Deduct TDS** at payment time.

(iii) **Deposit TDS** using challan 281 by **7th of next month.**

(iv) **File TDS return (Form 27Q)** every quarter:

o Q1 (Apr–Jun): 30 July

o Q2 (Jul–Sep): 31 Oct

o Q3 (Oct–Dec): 31 Jan

o Q4 (Jan–Mar): 31 May

(Form 27Q is a quarterly statement for deduction of tax on payments other than salary made to non-residents.)

(v) **Issue TDS certificate** (Form 16A) to Non-resident within 15 days of return filing.

Q.5. What is Lower/Nil TDS (Form 13)?

Ans. (i) Non-resident can apply to jurisdictional assessing officer (u/s 197 of Income-tax Act) for nil or lower deduction certificate.

(ii) If approved, deductor/payer can deduct at lower rate.

Q.6. What are Foreign Remittance Declarations?

Ans. Before remitting money abroad, payer must submit Form 15CA & Form 15CB on income-tax portal. These forms are

required to be filed even if payment is not taxable, except in cases where such compliance is exempted under the relevant rule.

Q.7 Why submission of Form 15CA & Form 15CB is required?

Ans. Filing of Form 15CA and Form 15CB enables correct accounting for the TDS deducted and enable Bank to process remittance, if these forms are filed on Income-tax portal.

Q.8 Whether there is any penalty, if there is a failure to furnish information or furnishing inaccurate information in Form 15CA and Form 15CB as per section 195(6) of the Income-tax Act, 1961?

Ans. Penalty for non-compliance is a sum of ₹1 lakh (as per u/s 271-I of the Act).

Q.9. What are consequences of Non-Compliance?

- Ans. (i) Expense disallowed for business.
(ii) Interest @ 1.5% per month till deposit.
(iii) Penalty equal to TDS amount if not paid.
(iv) Penalty for short deduction = difference between correct & deducted TDS.
(v) Bank may not process remittance.

Attention for Taxpayers:

If a person is making any payment to a Non-resident (property purchase, interest, royalty, dividends etc.) check if such payment is taxable in India. If yes, deduct TDS under Section 195 of Income-tax Act at the rate applicable as per Act or DTAA, then deposit it in appropriate account, then file returns in Form 27Q and issue TDS certificates. This ensures tax compliance and it will avoid any penalties.



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