

NRI Taxation & FEMA Compliance

Quick Guide to Form 15CA & 15CB

(An essential guide on foreign remittances and tax compliance under Indian law)

Form 15CA and 15CB are required for remittances by Indian residents to non-residents under the Income Tax Act and FEMA regulations. Form 15CA is a declaration for foreign remittance, while Form 15CB is a CA-certified form required when the remittance is taxable and exceeds certain thresholds.

For returning NRIs, key compliance steps include re-designation of NRE/NRO/FCNR accounts to resident or RFC status upon return to India. Interest earned on FCNR and RFC accounts remains tax-exempt as long as the individual maintains NRI or RNOR status. Additionally, returning NRIs are allowed to retain overseas assets without restriction on time or value, though income from these assets may become taxable in India depending on their residential status. These guidelines aim to ensure smooth financial transitions and regulatory compliance for NRIs returning to India.

1. Background: Regulatory Framework

- Non-Resident Indians (NRIs) and other residents making payments to NRIs must comply with Section 195 of the Income Tax Act, 1961 and relevant provisions of the Foreign Exchange Management Act (FEMA). Two key compliance requirements in this context are Form 15CA and Form 15CB.
- Before remitting funds outside India, individuals must determine whether the remittance is taxable under Indian Income Tax Laws.
- While remittance/ repatriation, or overseas payment, is governed by the FEMA regulations, the Form 15CA and Form 15CB are the requirements under the Income Tax Act.

2. Form 15CA

- It is a declaration by the remitter (person making the payment to a non-resident) that they have deducted income tax on the foreign remittance as per the provisions of the Income Tax Act.
- The remitter (typically an individual or company) files it online on the Income Tax Department website.
- It is required before making any remittance to a non-resident, regardless of whether the remittance is taxable in India or not (with some exceptions).
- It aids the Income Tax Department in tracking foreign exchange transactions.

3. Form 15CB

- It is a certificate issued by a Chartered Accountant. It certifies that:
 - The remittance is in accordance with the provisions of the Income Tax Act.
 - The correct TDS has been deducted, as applicable.
 - The nature and purpose of the remittance.
- No Form 15CB is required if the remittance is not chargeable to tax in India.
- It's required before filing Form 15CA (for certain categories of remittances where tax liability arises). There are exemptions for small remittances and certain specified transactions under Rule 37BB of the Income Tax Rules.

4. Decision Matrix – Whether 15CB is Required

| Part of Form 15CA | Nature of Remittance | Is 15CB Required? |
|-------------------|---|-------------------|
| Part A | Taxable remittance ≤ ₹5 lakh in a FY | No |
| Part B | Taxable remittance > ₹5 lakh with lower/no TDS certificate | No |
| Part C | Taxable remittance > ₹5 lakh without a lower / no TDS certificate | Yes |
| Part D | Remittance not chargeable to tax under the Indian Income Tax Act | No |

5. RBI Purpose Codes – Classification of Remittances

- Each outward remittance must be classified using a 'Purpose Code' defined by the RBI. Some of the commonly used codes include:

| Sl. No. | Purpose Code | Nature of Payment |
|---------|--------------|---|
| 1 | S0001 | Investment abroad in equity capital (shares) |
| 6 | S0011 | Loans extended to Non-Residents |
| 14 | S0212 | Booking of passages abroad by airline companies |
| 16 | S0302 | Travel under Basic Travel Quota (BTQ) |
| 19 | S0305 | Travel for education, incl. fees and hostel expenses |
| 26 | S1301 | Remittance towards family maintenance and savings by non-residents. |
| 27 | S1302 | Remittance towards Personal gifts and donations |
| 31 | S1306 | Remittance towards Payment or refund of taxes |

- Selection of an appropriate purpose code is mandatory for compliance with RBI reporting norms and must align with the underlying nature of the remittance.
- Correct purpose code selection ensures accurate processing and regulatory compliance.

6. Returning NRIs – Tax & FEMA Regulations

If any individual returning to India after a period of NRI status, the following steps are necessary: immediately on return to India:

- **Non-Resident Ordinary (NRO) Accounts:** Immediately on return to India, this account must be redesignated as a resident account.
- **Foreign Currency Non-Resident (FCNR) Accounts:** On returning to India, this account can be held until maturity and it cannot be renewed after maturity. On maturity, funds may be transferred to a Resident Foreign Currency (RFC) account.
- **Non-Resident External (NRE) Accounts:** NRE accounts must immediately be converted to Resident or RFC accounts upon return upon returning to India.
- **Foreign Assets:** NRIs may continue to hold overseas assets (e.g., bank accounts, investments and immovable properties) without any restriction on time & value. However, the income from such assets (interest, rent, capital gains, etc.) becomes taxable in India when such an individual attains 'Resident' status.

7. Taxation of Interest Income

| Account Type | Tax Exempt When | Taxable When |
|--------------|-----------------------|--------------------|
| FCNR | Status is NRI or RNOR | Status is Resident |
| RFC | Status is RNOR | Status is Resident |

- Global income becomes taxable once the individual qualifies as an **Ordinarily Resident in India**.

8. Action Points & Recommendations

- Before remitting any amount abroad, assess the taxability and determine:
 - Residential status
 - Nature and purpose of remittance
 - Whether Form 15CB is required
 - Applicable RBI Purpose Code
- For returning NRIs:
 - Monitor residency status under both Income Tax and FEMA.
 - Reclassify bank accounts as required.
 - Consider timing and structuring of remittances and investments to optimize tax impact.
- Ensure professional assistance is taken for:
 - Certification of Form 15CB (when applicable)
 - Filing of Form 15CA
 - Tax computation and global income reporting



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