

SATURDAY INTERNATIONAL TAX GYAN !!!

#taxmadeeasy



E- Filing of Form 10F

113

Date: 06.08.2022

WHAT IS FORM 10F?



- ❖ A person who earns any income from India but is a non-resident in India, might be required to pay tax in both countries as per laws and provisions prevailing in those respective countries.
- ❖ To avoid such double taxation, DTAA (Double Taxation Avoidance Agreement) was introduced.
- ❖ In order to claim the benefit of DTAA in India a non-resident has to provide a **tax residency certificate (TRC), and Form 10F as prescribed in section 90(5) read with rule 21AB.**
- ❖ Form 10F is not mandatory if the TRC provided by deductee contains the details such as Status, Nationality, TIN or any other identification number, Residency & address of the non-resident **(As mentioned in Rule 21AB(1))**
- ❖ **Form 10F is a self declaration** which should contain details as prescribed in clause 1 of rule 21AB that the person is a tax resident of a country other than India.

FORM 10F v/s TRC

- ❖ Both these Forms are misunderstood as same/ substitute of each other but Form 10F is not a substitute of TRC however it can be considered as a supporting document to Form 10F (**Section 90(5)**).



BASIS OF DIFFERENCE	TRC	FORM 10F
Scope	Scope of TRC is wider.	Form 10F is a supporting document to TRC.
Issuing authority	It is a certificate, received by the non-resident from the Government of his residency country.	It is self-declaration by the non-resident.
Compulsion	TRC, alone (if all info. is provided) is enough for claiming the benefit of DTAA.	Form 10F alone is not enough to claim the benefit of DTAA.

BEFORE

e-filing
of
form 10F

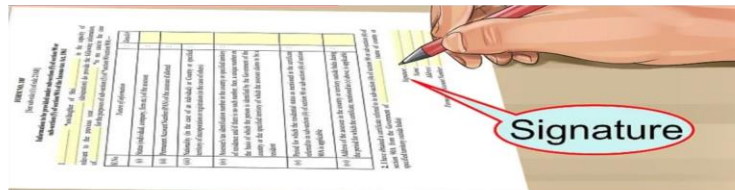
AFTER

Non Resident prepares Form 10F

Gives it to the Deductor

**Form 10F was not required to be submitted to Income Tax Department
It remained with Deductor only**

Deductor considers Form 10F as supporting document to decide taxability for Non-Resident



Non Resident files Form 10F on Income Tax Portal

Acknowledgement is generated after filling the Form

Now, Form 10F will be in records of Income Tax department

Non Resident gives this electronically filed form to deductor for further procedure



e-Filing Anywhere Anytime
Income Tax Department, Government of India

PROCEDURE TO FILE FORM 10F

1. Login on income tax portal & open 'file income tax forms' from the dropdown of e-file menu and select Form 10F.



Call Us

English

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A⁺



Information under section 90(5) or section 90A(5) [Form

No. 10F]

Information to be provided under sub-section (5) of section 90 or sub-section (5) of section 90A of the Income-tax Act, 1961. This Form is in compliance with sub-rule (1) of rule 21AB.

* Indicates mandatory fields

I **XYZ** of Shri

in the capacity of **PARTNER** do provide the following information, relevant to the previous year 2021-22 in the case of

ABC for the purposes of sub-section(5) of

Nature of information

(i) Status (individual, company, firm etc.) of the assessee *

(ii) Permanent Account Number

ABCDE1234F

(iii) Country or specified territory of incorporation or registration *

[< Cancel](#)

[Save Draft](#)

[Preview](#)

2. Select Form 10F from the various options.
3. Enter relevant AY and click on “Let’s get started”.
4. Enter details like personal information, residency, PAN, etc. in relevant tabs.

(ii) Permanent Account Number

ABCDE1234F

(iii) Country or specified territory of incorporation or registration *

(iv) Assessee's tax identification number in the country or specified territory of residence and if there is no such number, then, a unique number on the basis of which the person is identified by the Government of the country or the specified territory of which the assessee claims to be a resident *

(v) Period for which the residential status as mentioned in the certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A is applicable

From *

to *

(vi) Address of the assessee in the country or territory outside India during the period for which the certificate, mentioned in (v) above, is applicable

Country *

Flat / Door / Building *

Road / Street / Block / Sector

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Preview



2. I have obtained a certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A from the Government of

Name

XYZ

Permanent Account Number

ABCDE1234F

Address

Country *

India

Flat / Door / Building *

Road / Street / Block / Sector

PIN Code *

Post Office *

Select

Area / Locality *

Select

District *

Select

State *

Select

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5. Attach TRC to complete the process.



Select

Select

Verification

I **XYZ** do hereby declare that to the best of my knowledge and belief what is stated above is correct, complete and is truly stated.

Tax residence certificate *

 [Attach File](#)

Note:

1. Size of each attachment should not exceed 5MB.
2. All the attachments together cannot exceed 50MB.
3. All the attachments should be in pdf and zip format only.

IP Address

123

Place *

Date

05-Aug-2022

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Difficulties in relation to E-Filing of Form 10F



✓ TRC is a compulsory document to file form 10F as it is evident through the e-filing of Form 10F discussed earlier.

TRC mandatory for 10F

TAX RESIDENCY
CERTIFICATE

✓ Form 10F is now required to be furnished electronically on the IT e-filing portal. The creation of a taxpayer's profile/account on an e-filing portal requires the taxpayer's PAN. This could mean that non-residents will have to register on the website to file Form 10F, thereby inadvertently getting a PAN in India.

PAN mandatory for filing Form 10F



✓ The recent change for electronic filing of Form 10F might be in the direction which leads to the filing of income tax returns (in cases other than those specifically exempt) by Non Resident Company in India.

It may be Necessary to File Income tax return in India:



OUR COMMENTS

- ❖ If a non-Resident takes a benefit of DTAA at the time of tax withholding in India, then it is currently mandatory to file income tax return after considering Section 139 of Income Tax Act. However many non-residents were not filing Income tax return in India.
- ❖ Now, because of compulsory filing of form 10F online and taking PAN, it will be easy for IT department to trace Non-resident and ask them to file income tax return.
- ❖ As of now there is no requirement/ facility to submit online just the TRC without Form 10F.
- ❖ It would have been better if Income tax department would have included the facility to file Form 10F and TRC along with Form 15CB/ 15CA.
- ❖ Till today no detailed instructions have been provided by Income tax department for filing of Form 10F.
- ❖ As of now one cannot file or submit Form 10F for FY 2022-23 and hence it becomes difficult to take benefit of DTAA with regard to transaction in FY 2022-23.
- ❖ Because of above it is difficult for a CA to issue Form 15CB (after taking treaty benefit) as such Form 10F is not online yet.

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