



***TDS u/s 195 & Foreign
Outward Remittances***



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Scope

Any person (Resident or Non-Resident) making payment as **interest** or any other sum chargeable under **Any Head of Incomes**(not being salaries) to a non-resident (not being a company) or to the foreign company is liable to deduct TDS at the **rates in force**.



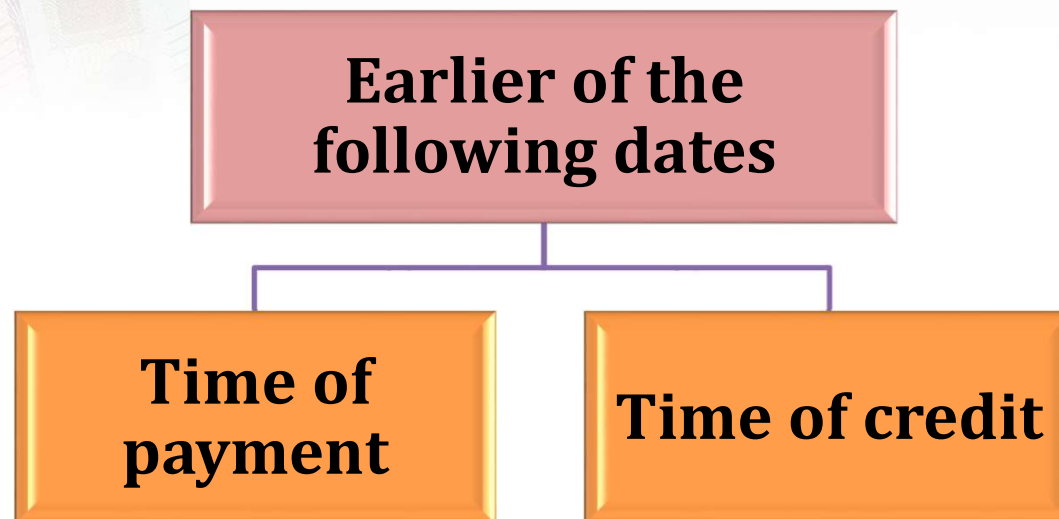
Making Payment to





Time of Tax Deduction

The Deductor is liable to deduct TDS within earlier of the following dates :





Deposit of Tax Deducted

The Tax So Deducted by the Payer must be deposited

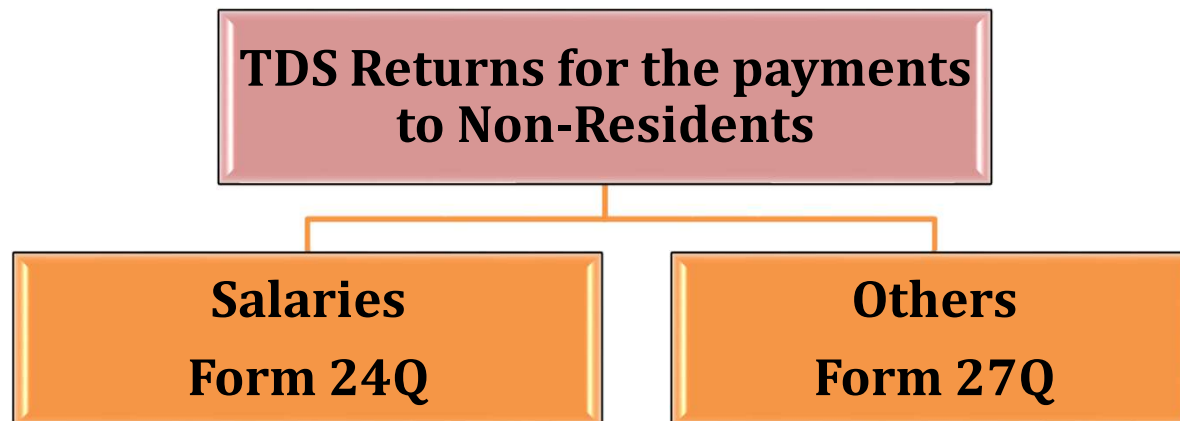
- Within **7 days** from end of the month in which deduction is made.
- If credit to the account of the payee is for the month of **March**, then tax should be deposited on or before **30th of April**.





Filing of Returns

- TDS Returns for the payments to Non-Residents have to be filed in **Form 27Q**.
- TDS Returns for salary payments to Non-Residents are to be filed in **Form 24Q**.



Non-Compliance

- **Interest (Sec 201A):**

Nature of Default	Interest subject to TDS/TCS amount
Non deduction of tax at source, either in whole or in part	1% per month or part of the month
After deduction of tax, non-payment of tax either in whole or in part	1.5% per month or part of the month





- **Late Fee(Sec 234E):**

A fee for late / non filing of the TDS Return is leviable at the rate of **Rs 200 per day** for the period of failure (Not more than the amount of TDS).





- **Prosecution (Sec 276B):**

If a person **fails to pay** to the credit of the Central Government -



The Tax deducted at source by him as required by or under the provisions of **Chapter XVII-B**, he shall be punishable with rigorous imprisonment for a term which shall not be less than **three months** but which may extend to **seven years** and with fine.



Procedures for Foreign Outward Remittances

- **Filing of Form 15CA and Form 15CB (Sec 195(6)):**
The person responsible for paying to a non-resident, not being a company or to a foreign company, any sum chargeable under the provisions of the Act, **shall furnish the Information in as prescribed.**

According to **Rule 37BB**, the person responsible for paying to a non-resident or to a foreign company shall furnish the Information in **Form 15CA.**



Information in Form 15CA

Part-A

- If the amount of payment or aggregate of such payment does not exceed Rs 5,00,000 /-

Part-B

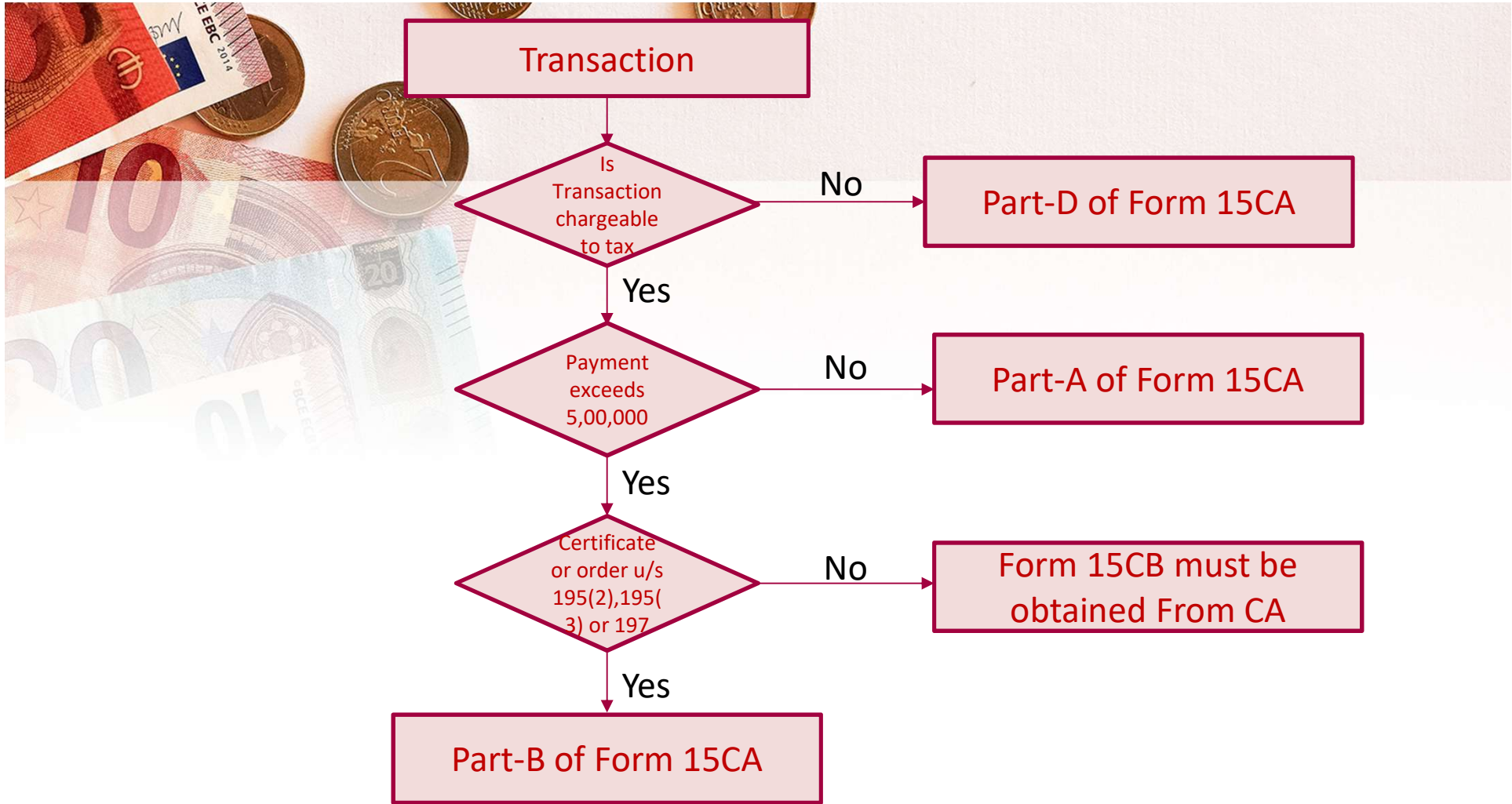
- If an order/ certificate u/s 195(2)/ 195(3)/ 197 of Income-tax Act has been obtained from the Assessing Officer.

Part-C

- Amount of payment or aggregate of such payments > Rs 5,00,000 and a certificate in Form No. 15CB from an accountant u/s 288(2).

Part-D

- If the remittance is not chargeable to tax under the provisions of the Income-tax Act, 1961





Sec 195(2):

If the **payer** considers the whole amount is not chargeable to tax, he can make an application to AO for determining the portion of payment on which tax has to be applied.

Sec 195(3):

The **Non-Resident payee** can make an application to AO for grant of a Certificate to receive the sums without deduction of tax **u/s 195(1)**



Sec 197:

The Payee and also the Payer can make an application under Sec 197 in Form 13 for deduction of tax at lower or NIL rate.





Sec 195(4):

A certificate granted (for lower/nil deduction) **shall remain in force till**

Expiry of the
period
specified
therein

(OR)

Cancellation
by the
Assessing
Officer

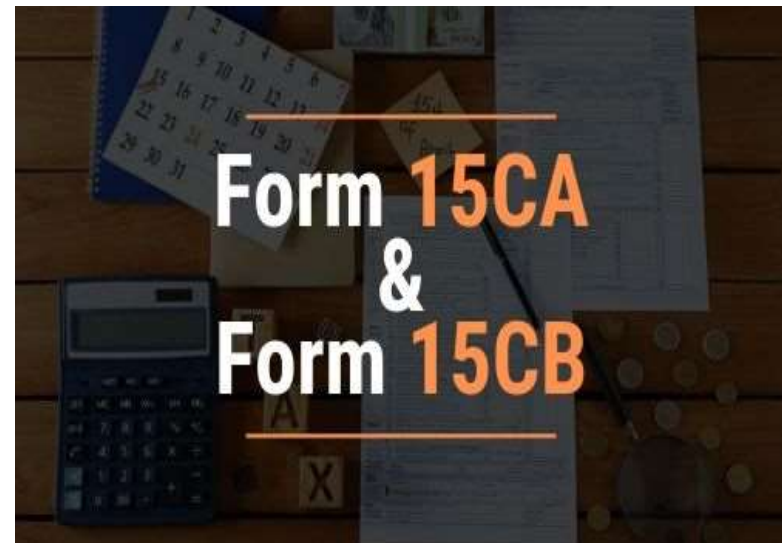
Whichever is Earlier



Certificate in Form 15CB:

Form No. 15CB will only be required for payments made to non-residents, which are taxable under Income Tax Act and if the payment **exceeds Rs. 5 lakhs.**

The Certificate must be obtained by an accountant as defined in the explanation below **sub section (2) of sec 288.**





Sec 271-I: Penalty for failure to furnish information or furnishing inaccurate information under section 195:



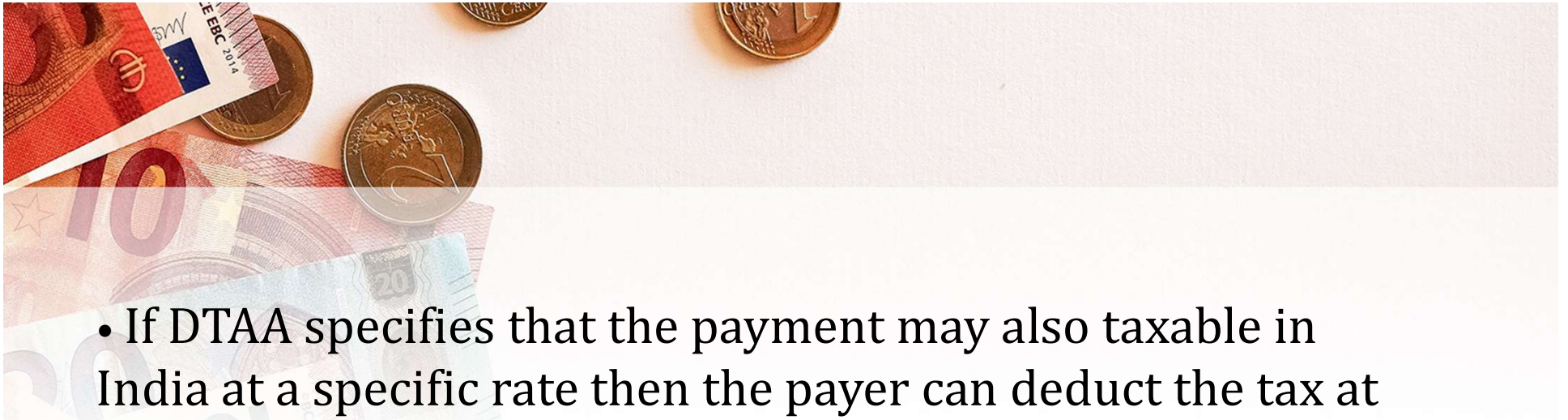
A Penalty of **One Lakh rupees** may be imposed by AO for not providing information or providing inaccurate information in Form 15CA and 15CB.



Double Taxation Avoidance Agreement


Double
Taxation
Avoidance
Agreement

Double Tax Avoidance Agreement (DTAA) is a tax treaty/agreement between two or multiple countries, to **Prevent Double Taxation** of income earned.



- If DTAA specifies that the payment may also taxable in India at a specific rate then the payer can deduct the tax at rate which is beneficial to the payee.

- Anyways, the payee can claim Foreign Tax Credit according to Article 25 of the respective DTAA.



Thank You..!!

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