

¹**[FORM No. 34D**

[See rule 44E]

[Form of application by a non-resident applicant] for obtaining an advance ruling under section 245Q(1) of the Income-tax Act, 1961

(PLEASE READ THE NOTES CAREFULLY BEFORE FILLING THIS FORM)

BEFORE THE BOARD FOR ADVANCE RULINGS

Application No. of

1. Full name and address of the applicant
2. Telephone, Fax No. and email address
3. Status
4. The Commissioner and Assessing Officer having jurisdiction over the applicant
5. Permanent Account Number or Aadhaar Number
6. Particulars of the non-resident with whom the transaction is undertaken or proposed to be undertaken
 - (a) Name of the non-resident
 - (b) Address of the non-resident
 - (c) Telephone and Fax Number of the non-resident
 - (d) Permanent Account Number of the non-resident (if allotted)

1. Substituted by the Income-tax (Twelfth Amendment) Rules, 2022, w.e.f. 5-5-2022.

- (e) Taxpayer Registration Number or Taxpayer Identification Number/Functional equivalent or Any unique number used for identification of the non-resident by the Government of that country or specified territory of which it claims to be a resident.
- (f) Name of Immediate parent company of the non-resident
- (g) Address of Immediate parent company of the non-resident
- (h) Country of residence of Immediate parent company of the non-resident
- (i) Permanent Account Number of Immediate parent company of the non-resident (if allotted)
- (j) Taxpayer Registration Number or Taxpayer Identification Number or Functional equivalent/ Any unique number used for identification of the Immediate parent company of the non-resident by the Government of that country or specified territory of which it claims to be a resident
- (k) Name of Ultimate parent company of the non-resident
- (l) Address of Ultimate parent company of the non-resident
- (m) Country of residence of Ultimate parent company of the non-resident
- (n) Permanent Account Number of Ultimate parent company of the non-resident (if allotted)
- (o) Taxpayer Registration Number or Taxpayer Identification Number or Functional equivalent or Any unique number used for identification of the Ultimate parent company of the non-resident by the Government of that country/specified territory of which it claims to be a resident;

7. Basis of claim that the person referred to in serial number 6 with whom the transaction is undertaken or proposed to be undertaken is a non-resident

8. Questions of law or of fact relating to a transaction undertaken or proposed to be undertaken on which the advance ruling is required

9. Statement of the relevant facts having a bearing on the aforesaid questions

10. Statement containing the applicant's interpretation of law or facts, as the case may be, in respect of the aforesaid questions

11. List of documents or statements attached

12. Particulars of account payee demand draft accompanying the application

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(Applicant)

Verification

I, son/daughter/wife [name in full and in block letters] of do hereby solemnly declare that to the best of my knowledge and belief what is stated above and in the annexure(s), including the documents accompanying such annexure(s), is correct and complete. I further declare that I am making this application in my capacity as (designation) and that I am competent to make his application and verify it.

I also declare that the question on which the advance ruling is required is not pending in my case before any income-tax authority, the Appellate Tribunal or any court.

Verified today, the.....day of.....

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Signed
(Applicant)

Place.....

Notes:

- 1. The application shall be filled in English or Hindi.
- 2. The number and year of receipt of the application shall be filled in the Office of the Board for Advance Rulings.

3. The application shall be accompanied by an account payee demand draft of two thousand five hundred Indian rupees drawn in favour of Board for Advance Rulings, payable at New Delhi. Particulars of the draft shall be given in reply to item No. 12.

4. In reply to item No. 3, the applicant shall state whether he or it is an individual, Hindu undivided family, firm, association of persons or company.

5. For item No. 6, the reply shall be given in the context of the provisions regarding 'residence' in India as contained in section 6 of the Income-tax Act. The position in this regard is as follows:

An individual is said to be 'resident' in any financial year, if he has been in India during that year:

- for a period or periods of 182 days or more ; or

- for a period or periods of 60 days or more and has also been in India within the preceding four years for a period or periods of 365 days or more.

However, the period of 60 days is increased to 182 days in the case of a citizen of India or a person of Indian origin who has been outside India and comes on a visit to India or a citizen of India who leaves India for purposes of employment outside India, or as a member of the crew of an Indian ship. Further, a person who is a citizen of India or a person of Indian origin who has been outside India and comes to a visit to India, the aforementioned period of 60 days is increased to 120 days if the total income of such person, other than income from foreign sources, exceeds rupees 15 lakh during the relevant previous year.

Furthermore, irrespective of the above mentioned conditions, an individual, who is a citizen of India and has total income, other than the income from foreign sources, exceeding rupees 15 lakh will be deemed to be a resident if he is not liable to tax in any other country or territory due to his domicile or residence or any other criterion.

An association of persons or a Hindu undivided family is resident in India in every case except where the control and management of its affairs is situated wholly outside India.

A company is resident in India, if it is an Indian company or its place of effective management is situated wholly in India.

A person who is not resident in India as above, is non-resident in India.

7. Regarding item No. 8, the question(s) shall be based on actual or proposed transactions. Hypothetical questions shall not be entertained.

8. In respect of item No. 9, in Annexure I, the applicant shall state in detail the relevant facts and also disclose the nature of his business or profession and the likely date and purpose of the proposed transaction(s). Relevant facts reflected in the documents submitted along with the application shall be included in the statement of facts and not merely incorporated by reference.

9. For item No. 10, in Annexure II, the applicant shall clearly state his interpretation of law or facts in respect of the question(s) on which the advance ruling has been sought.

10. The application, the verification appended thereto, the annexures to the application and the statements and documents accompanying the annexures, shall be,—

(a) in the case of an individual,—

(I) signed digitally, if he is required under these rules to furnish his return of income under digital signature

(i) by the individual himself; and

(ii) where, for any unavoidable reason, it is not possible for the individual to sign the application, by any person duly authorised by him in this behalf :

Provided that in a case referred to in sub-clause (ii), the person signing the application holds a valid power of attorney from the individual to do so, which shall be attached to the application ; or

(II) communicated through his registered e-mail address, in any other case;

(b) in the case of a Hindu undivided family,—

(I) signed digitally, if it is required under these rules to furnish his return of income under digital signature,—

(i) by the karta thereof; and

(ii) where, for any unavoidable reason, it is not possible for the karta to sign the application, by any other adult member of such family ;or

(II) communicated through its registered e-mail address, in any other case;

(c) in the case of a company, digitally signed,—

(i) by the Managing Director thereof, or where for any unavoidable reason such Managing Director is not able to sign and verify the application, or where there is no Managing Director, by any Director thereof ;

(ii) where, for any unavoidable reason, it is not possible for the Managing Director or the Director to sign the application, by any person duly authorised by the company in this behalf :

Provided that in the case referred to in sub-clause (ii), the person signing the application holds a valid power of attorney from the company to do so, which shall be attached to the application ;

(d) in the case of a firm,

(I) signed digitally, if it is required under these rules to furnish its return of income under digital signature,—

(i) by the managing partner thereof; and

(ii) where for any unavoidable reason such managing partner is not able to sign and verify the application, or where there is no managing partner as such, by any partner thereof, not being a minor ;

(II) communicated through its registered e-mail address, in any other case;

(e) in the case of an association of persons,—

(I) signed digitally, if it is required under these rules to furnish his return of income under digital signature, by any member of the association or the principal officer thereof ; or

(II) communicated through its registered e-mail address, in any other case;

(f) in the case of any other person,—

(I) signed digitally, if it is required under these rules to furnish his return of income under digital signature, by that person or by some person competent to act on his behalf; or

(II) communicated through his registered e-mail address, in any other case;

ANNEXURE I

Statement of the relevant facts having a bearing on the question(s) on which the advance ruling is required

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Place.....

(Applicant)

Date.....

ANNEXURE II

Statement containing the applicant’s interpretation of law or facts, as the case may be, in respect of the question(s) on which advance ruling is required

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Place.....

Date.....

(Applicant)]