

Form No. 120 – Form seeking Advance Rulings Before Board for Advance Rulings

Purpose:

The purpose of filling forms for advance rulings under the Income-tax Act is to seek a determination or ruling from the Board for Advance Rulings (BAR) on questions of law or fact relating to proposed or undertaken transactions by the applicant. These forms facilitate clarity and certainty on tax liability issues in advance, avoiding future disputes and litigations. The forms include details of the applicant, the transaction, relevant facts, legal interpretations, and fee payment proof, ensuring a structured, transparent, and efficient process.

Who Should File:

S. No.	New Form No.	Applicant Category	Description	Existing Form No.
1	120	Non-resident	A non-resident in regard to tax liability arising out of a transaction undertaken or proposed to be undertaken in India.	34C
2		Resident undertaking transaction with non-resident	A resident undertaking or proposing to undertake a transaction with a non-resident to determine the tax liability of the non-resident.	34D
3		Resident with high-value transactions	A resident who has undertaken or proposes to undertake one or more transactions with a total value of Rs. 100 crore or more.	34DA
4		Public Sector Company	A public sector company seeking advance rulings on income-tax issues pending before any income-tax authority or appellate tribunal.	34E
5		Any person (resident or non-resident)	Any person can seek a ruling on whether a proposed arrangement is an impermissible avoidance arrangement under GAAR provisions.	34EA

Frequency & Due Dates:

- **Filing Frequency:**

There is no fixed frequency or periodic schedule for submitting advance ruling applications. Forms are filed as and when an applicant has a transaction (proposed or undertaken) needing tax certainty or a legal decision.

- **Due Dates:**

- An application can be filed *prior to* or *after* entering into the transaction, depending on the applicant's requirement.
- There is no statutory last date for filing; it is transaction-driven and at the applicant's discretion.
- Withdrawal window: An applicant may withdraw their application within 30 days from the date of filing.
- Fee payment: Proof of payment must be attached at the time of application submission.

Structure of Form No. 120:

- Applicant's identification: name, PAN, address, contact details, citizenship, and status.
- Details of residency (resident/non-resident).
- Date of Incorporation and details of Authorized Representative in India.
- Fee payment details (amount, challan number, date, and bank info).
- Statement of relevant facts concerning the ruling request.
- Statement interpreting the law or facts as per the applicant.
- Information about the transaction/arrangement subject to advance ruling, including the tax benefit, parties involved.
- Disclosure of any pending related proceedings or issues decided by tax authorities or courts.
- Verification by the applicant.

Documents required to file the Form No. 120:

Following documents are required for filing Form No. 120 :

- Proof of payment of application fee (challan, bank receipt, etc.).
- PAN card copy (for residents and non-residents if allotted).
- Taxpayer Identification Number (TIN) or equivalent for non-residents.
- Certificate of incorporation/registration (company, trust, partnership, etc.).
- Address and identity proof of applicant.
- Proof of being Non-resident.
- Details and documents regarding business/profession (Memorandum of Association, Partnership/Trust deed, etc.).
- Question(s) relating to the transaction on which advance ruling is required.
- Statement of relevant facts having a bearing on the question(s).
- Statement of interpretation of law or facts.
- Copies of relevant agreements/arrangements giving rise to transaction, if any.
- Supporting documents for group structure/beneficial ownership (for non-residents).
- Details of other parties to arrangement (Identity, PAN, Relation).
- Document indicating Tax year(s) during which the tax benefit is likely to arise (give year wise break-up).
- Any relevant assessment orders, appellate orders, or documents if proceedings/arbitrations are pending or decided.
- Authorization letter/power of attorney if the application is filed by an authorized representative.
- Any other document as required by the Board or mentioned in instructions relevant to the case.
- The applicant shall, along with the attachment, provide an index of the documents uploaded with the description and corresponding page numbers.

Filing Count:

43 Applications of Form 34C, 34D, 34DA, 34E and 34EA have been filed over the past five years.

S. No.	Form No.	No. of Filings in past Five Years
1.	34C	26
2.	34D	11
3.	34DA	5
4.	34E	1
5.	34EA	0

Process Flow of filing Form No. 120:

The process flow includes following steps:

- Prepare the application: Fill Form No. 120, ensuring all sections are complete with accurate applicant details, transaction/arrangement info, questions on which ruling is sought, facts, and interpretations.
- Attach mandatory documents: Documents relevant to statement of facts and interpretation of law/facts, plus all supporting documents, agreement copies, and proof of fee payment.
- Sign/verify: Application, annexures, and all attached statements must be signed or digitally signed by the authorized person (as per applicant type), and furnished from the registered email address.
- Submit online: Henceforth, new Form No. 120 can only be submitted online through the Income Tax e-Filing Portal.
- Rectify defects: If application is found defective, rectify and resubmit within allowed time.
- An application is scrutinized for completeness and correctness.

Outcome of Processed Form No. 120:

- Application is sent for comments, records may be called from the jurisdictional Pr. CsIT/CsIT; applicant may be asked for clarifications.
- Applicant may withdraw its application within 30 days, or BAR may reject the application if it does not fulfill eligibility or if questions are pending elsewhere.
- The Board may allow/reschedule hearings—fully online through video conferencing.
- After examination and hearing (if needed), the BAR pronounces its advance ruling on the specific question(s) raised in the application.
- The ruling is communicated to both applicant and the Revenue.
- If dissatisfied, either party (applicant or Revenue) can appeal against the ruling to the jurisdictional High Court.
- The period during which the application is pending before the BAR is excluded from the limitation period for assessment.

Brief note on broad or qualitative changes proposed:

Key updates include the following:

- **Expanded and Structured Information Requirements:**
 - The new form introduces more granular particulars regarding beneficial ownership, parent company structures, and parties involved—reflecting strengthened focus on transparency and international tax compliance.
- **Adaptation to New Regulatory Contexts:**
 - There are specific documentation for similar/related proceedings, and disclosure of concurrent litigation or prior decisions.
- **Improved Applicant Experience, Expedited Process:**

- Multiple old forms (34C, 34D, 34DA, 34E, 34EA) are now combined into a single Form No.120 for all categories of applicants, with streamlined fields for non-resident, resident, PSU, or GAAR queries.
- Simplification of Rules and Forms has also led to approximate reduction of 4,690 words (58.86 percent).
- Currently none of the BAR Forms are available online. The Committee has recommended that the new combined BAR Form i.e. Form No. 120 be made available online. Further, Systems has been apprised of the requirements. In the proposed system, following issuance of a notice by the Secretary, BAR, on ITBA, an intimation should be sent to the concerned Assessing Officer (AO) through ITBA to abate proceedings and disable related functionalities, preventing any further action by the AO. Systems have been apprised of this requirement.

Challenges and Solutions:

Challenges in Old Forms 34C, 34D, 34DA, 34E, and 34EA (Advance Rulings):

- **Insufficient Disclosure Requirements:**

Forms collected only basic facts; they often lacked detailed fields for group structures, beneficial ownership, or relationships—leading to queries, delays, or additional requests.

Solutions in New Form No. 120

- **Enhanced and Standardized Information:**

All forms require detailed and standardized disclosures including identity, group structure, beneficial ownership, transaction parties, and parent/ultimate holding companies.

Common Changes made across Forms:

- **Single Unified Online Form:**

Multiple old forms (34C, 34D, 34DA, 34E, 34EA) have now been combined into a single digital Form No. 120 for all categories of applicants, with streamlined (Drop-Down based Optional) fields for non-resident, resident, PSU, or GAAR queries.

- **Enhanced and Standardized Information:**

New Form No. 120 require detailed and standardized disclosures including identity, group structure, beneficial ownership, transaction parties, and immediate/ultimate parent holding companies.

- **Mandatory Attachments & Annexures:**

Applicants must now submit structured annexures/statements on facts, legal interpretations, and ownership diagrams, improving clarity and completeness.

- **Digital Filing and Verification:**

New Form No. 120 is proposed to be made available online, authenticated using digital signatures, reducing manual paperwork and increasing reliability.

- **Group Structure & Beneficial Owner Definitions:**

Every applicant must provide comprehensive details on group structures and beneficial owners as per latest definitions (Companies Act, PMLA, FATF).

- **Simplified & Detailed Instructions:**

The new Form No. 120 provides detailed notes, definitions and ensuring applicants are well-guided. Stepwise instructions, definitions, and explanatory notes in the new form to improve accuracy.