

FORM 41 - Information to be provided under section 159(8) of the Act

Name of form as per I.T. Rules, 1962	Form 10F	Name of form as per I.T. Rules, 2026	41
Corresponding section of I.T. Act, 1961	90(5) and 90A(5)	Corresponding section of I.T. Act, 2025	159(8)
Corresponding Rule of I.T. Rules, 1962	21AB	Corresponding Rule of I.T. Rules, 2026	75

A. PURPOSE

Form 41 is a self-declaration required under 159(8)(b) of the Income-tax Act, 2025. It is prescribed by Rule 75 of the Income-tax Rules, 2026. It enables non-resident taxpayers to claim benefits under the Double Taxation Avoidance Agreement (DTAA) between India and their country of residence.

B. WHO SHOULD FILE

Non-resident individuals, companies, or other entities

- (a) receiving income from India and seeking to avail of DTAA benefits on taxation of income in India
- (b) that do not have a Permanent Account Number (PAN) in India or not required to file Income Tax Return in India but whose payment is subject to TDS in India and wish to avail lower or nil withholding tax rates under the applicable DTAA.

C. FREQUENCY & DUE DATES

The form is required to be furnished whenever treaty benefits are claimed. Where ITR is to be filed, the form is required for processing of DTAA benefit claim in the ITR. Thus, the form is required to be filed only once in a tax year

D. STRUCTURE OF FORM 41

Form 41 has four parts.

1) Part A

Particulars of taxpayer such as name, communication address, email etc. PAN is optional, i.e., if available to the taxpayer.

2) Part B

(Residential Information) of taxpayer with details of status (individual; company, firm etc.) of the taxpayer, Nationality, Address of the taxpayer in the country and TIN.

3) The declaration on TRC and

4) The verification statement at the end

E. WHAT ARE THE DOCUMENTS REQUIRED TO FILE FORM 41?

- **Tax Residency Certificate (TRC):** Issued by the tax authority of the country of residence, confirming the taxpayer's residency status. It must be valid for the relevant financial year in India. This is to be uploaded along with Form 41.
- **TIN:** Tax Identification Number allotted in the country of residence to the taxpayer.

F. FILING COUNT

If average is taken for the past 5 years, the filing count is around 23,000 forms per year. However, there is an increasing trend seen with 66,502 forms filed in the FY 2024-25 itself.

G. WHAT IS THE PROCESS FLOW OF FILING FORM 41?

1. **Registration:** Non-residents must register on the Income Tax e-filing portal. If they do not have a PAN, they can register under the new category for non-residents without PAN.
2. **Form 41 Submission:** After registration, taxpayer must login to the e-filing portal and submit Form 41 electronically.

3. **Verification:** The form can be verified using an Electronic Verification Code generated through pre-validated bank account or demat account, through net banking or ATM (bank specific) or a Digital Signature Certificate (DSC), depending on the taxpayer's profile. For non-residents registering without PAN, OTP is sent to phone number and email for verification.

H. OUTCOME OF PROCESSED FORM 41

Benefit of DTAA is available only with filing of Form 41.

Consequences of Non-compliance:

In the absence of a valid electronically filed Form 41 (along with TRC and other documents), the DTAA benefit is not available. This means that

- (a) the Indian payer must deduct TDS at the rate applicable and
- (b) the income claimed exempt in ITR is to be taxed at applicable Indian tax rates.

I. BRIEF NOTE ON BROAD OR QUALITATIVE CHANGES PROPOSED

Part A standard template for personal details and common verification panel suggested are added. Most information is sought to be captured in a tabular format

J. CHALLENGES AND SOLUTIONS

Form 41 is for cross verification and undertaking. It is an additional compliance applicable even for people who do not have PAN nor are required to file return of income in India. Hence, the form is retained in simple structure and is envisaged to a smart form with

- auto-population/pre-filling of relevant details using information available with the department (if PAN details available)

K. COMMON CHANGES MADE ACROSS FORMS

- 1) To make Forms system-friendly and enable e-filing and uploading, certain anomalies found due to grouping of Name, Designation, Address, PAN have been separated into different boxes.
- 2) Assessment / Financial / Previous year or years have been replaced with Tax year or years, wherever appearing in the Form/Annexure.
- 3) Sections, Clauses and Schedules changes as per the Income-tax Act, 2025.
- 4) Common verification statement