

Form 40 – Frequently Asked Questions

Form for exercise of option for claiming relief under section 158 of the Income-tax Act' 2025

Name of form as per I.T. Rules, 1962	Form 10EE	Name of form as per I.T. Rules, 2026	40
Corresponding section of I.T. Act, 1961	89A	Corresponding section of I.T. Act, 2025	158
Corresponding Rule of I.T. Rules, 1962	Rule 21AAA	Corresponding Rule of I.T. Rules, 2026	74

1: What is Form 40 ?

Ans: Form 40 is the prescribed form for exercise of option to claim the tax relief under section 158 of the Income-tax Act' 2025 (“*ITA 2025*”) by a person resident in India, in respect of income from a retirement benefit account, maintained in a notified country. The countries notified for this purpose of this relief are USA, UK, Canada, and Australia, at present. On exercise of option, the Indian resident gets the relief from taxation of income on accrual basis in India, in case such income from retirement benefit account is taxed at the time of withdrawal or redemption in the notified country. In other words, filing of this Form allows for the deferral of taxation until the income is withdrawn or redeemed in the foreign country.

2: Who should file Form 40?

Ans: Any specified person (*being a person resident in India, who had opened a retirement benefit account in a notified country, while being a resident of that country and non-resident in India*), may, at his option, file Form 40 to claim the tax relief under Section 158 of ITA 2025. The option once exercised, cannot be revoked for that tax year, and it applies to all subsequent tax years. The option has to be exercised by the resident person for all such retirement benefit accounts maintained in the notified country.

3. Who is required to verify the Form 40?

Ans. The specified person, who intends to exercise the option for claiming the tax relief under section 158, is required to make a **self-declaration** in **Part B** of the Form 40, to the effect that he has exercised this option for all specified accounts maintained in the notified country. The details of all such specified accounts are required to be mentioned in the Row 3 of Part B. The specified person is further required to affirm the condition that the option, once exercised for any tax year, cannot be withdrawn for that tax year or any subsequent year.

4: Where and how the Form 40 is required to be filed?

Ans: The Form 40 shall be filed electronically on the e-filing portal of Income-tax Department. The form shall be furnished electronically either under digital signature or through electronic verification code, duly verified by the specified person.

5: What is the time limit for filing Form 40?

Ans: The Form 40, for exercise of option for claiming tax relief under section 158 of the ITA' 2025, is required to be filed electronically on or before such "*due date*" for filing return of income prescribed under section 263(1)(c) of the ITA' 2025, as may apply for the specified person claiming the tax relief. This time limit is specified in the relevant rule.

6: What documents are required to file Form 40?

Ans: The following documents/details may be required while filing Form 40, -

- Specified Account or Foreign Retirement Account details - Account number(s), Date of account opening, Account balance at the end of the previous tax year.
- Name of the retirement fund and the notified country.
- Details of income already taxed in India in earlier years, if any.
- Copy of statement of the specified account having above details.
- Document showing how the income from specified account has been taxed or is taxable in the notified country including relevant statutory provision of the notified country or any other relevant document.

- Computation of income for all the tax years in which the income from specified account has already been included in the total income.
- A reconciliation statement of the computation of income with the return of income for the said tax years.

7. Is Form 40 mandatory?

Ans: Exercise of option by way of filing a valid Form 40 within the specified time limit, is a mandatory condition for making an admissible claim of tax relief under section 158, by the specified person, in respect of income from a retirement benefit account, maintained in a notified country. The option, however, once exercised for any tax year, shall continue to be valid for that tax year and all subsequent tax years.

8: Can I edit Form 40 after submission?

Ans: No. Once Form 40 is validly submitted, after self-declaration by the specified person, and acknowledgment is generated, it **cannot be edited**. Please ensure that all details are correct before final submission.

9: Do I need to attach any document with the Form 40?

Ans: The following documents are mandatory to be attached, as required at Serial Number 5 (Part B) of the Form EE, -

- **Annexure A1-** A copy of statement of the specified account having the details of account number, the notified country, and the account balance as on last date of the financial year prior to the tax year for which the option is exercised;
- **Annexure A2-** Documentary evidence to show how the income from specified account has been taxed or is taxable in the notified country. Relevant statutory provision of the notified country or any other relevant document may be attached.
- **Annexure A3-** The computation of income for all the tax years in which the income from specified account has already been included in the total income. The computation has to be reconciled with the return of income for the said tax years. A reconciliation statement of the computation of income is to be attached.

10: While filling Part A and Part B, can I leave any field blank?

Ans:

- PAN of the specified person is mandatory. Name and complete address thereof shall be pre-filled, which can be updated by the user.
- An updated Email address and Mobile number would ensure faster communication and verification; therefore it is recommended to provide it.
- Details of all specified accounts maintained in any notified country, in Row 3 of Part B may be provided, as applicable.
- Details of option exercised in Row 4 of Part B is a mandatory field.

11: What if the specified person exercising the option does not have a PAN?

Ans: Form 40 cannot be submitted without a valid PAN of the specified person exercising the option to claim the tax relief.

12: Can Form 40 be filed offline?

Ans: No. Form 40 can only be submitted **online** through the Income Tax e-Filing portal.

13: Why is Form 40 important?

Ans: Exercise of option by way of filing of a valid Form 40 within the specified time limit is a mandatory compliance for claiming tax relief by a specified person, in respect of income from a retirement benefit account, maintained in a notified country, under section 158 of the ITA' 2025. However, the claim of tax relief is further subject to fulfillment of certain other eligibility conditions, as prescribed in the relevant rule.