The procedures for overseas remittances vary

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All Indian residents are permitted to repatriate funds overseas or spend overseas under the Liberalized Remittance Scheme (LRS) up to $250,000 per year. Non-resident Indians (NRIs) or Overseas Citizens of India (OCIs) are allowed to repatriate up to $1 million per year, besides their current incomes. The procedures for the two categories vary.

If you are a resident Indian and you are remitting money overseas under LRS into your own overseas bank account or for making investments or for buying a property abroad, you merely have to file Form A2 with the remitting bank, and give a declaration that you have not exceeded your LRS limit of $250,000 for the year. However, if the LRS remittance exceeds ₹7 lakh, then the bank will collect an additional 5% of the amount in excess by way of tax collected at source (TCS). This can be claimed as a tax credit against your income tax liability when you file your tax return.

If you are an NRI or an OCI, you also need to furnish Form A2, and a declaration to the effect that the total remittances being made by you have not exceeded the limit laid down of $1 million (plus current income) under the foreign exchange laws. As an NRI/OCI, there will be no TCS applicable on your remittance, since the remittance is not being made under LRS.

There is one more requirement insisted upon by banks in the case of NRI/OCI remittances, even though such remittances are being made by them to their own overseas bank accounts. Banks generally insist that for such remittances, a certificate in Form 15CB from a chartered accountant, and intimation in Form 15CA to the income tax department (both of which are filed online) should also be furnished. These forms are not asked for by banks when the remittance is being made under LRS by a resident.

Form 15CA and 15CB are income tax forms, which are prescribed in cases of tax deduction at source from payments to non-residents. Tax is required to be deducted at source from a payment to a non-resident of any income which is chargeable to tax, and such forms are required to be furnished irrespective of whether such payment is chargeable to tax or not. The income tax rules grant an exemption from furnishing such forms, if the payment is not taxable as the income of the

recipient and is covered by LRS. There is no specific exemption provided for remittances by NRIs/OCIs. However, if the NRI/OCI is transferring funds from his Indian bank account to his own overseas bank account, he is not making any payment to anybody at all. A payment would mean that the remittance is being made to another person. One cannot pay anything to oneself. The transaction therefore is not covered by the provision of the law itself, as it requires a payment to a non-resident for the requirement to apply at all. In fact, if one tries to upload the form, the nature of the remittance does not fall under any of the categories permitted under the drop-down menu on the website, and therefore one has to improvize and fit it into some category which is available in the drop-down menu. This clearly demonstrates that even the tax department does not envisage filing of such forms for remittance to oneself by NRIs/OCIs.

Then why do banks insist on furnishing of such forms filed with the income tax department before allowing such remittance, though the law itself does not require it? The genesis may perhaps lie in a circular issued by Reserve Bank of India (RBI) almost a couple of decades ago, when certain forms (Appendix A and B) had to be furnished as per practice for all remittances, though not prescribed by tax laws. Even after the tax laws were amended to formalize such forms by introduction of Forms 15CA and 15CB, the banks continue to follow the same old practice.

Is there a need for such a form at all in case of remittances by NRIs/OCBs to their overseas bank accounts? All incomes paid to NRIs/OCIs are subject to TDS at rates ranging from 20% to 30%, which more than covers all income tax liabilities of the NRIs/OCIs. Even a bank paying savings interest of ₹100 deducts ₹33 as TDS from such interest to an NRI/OCI. Taxes on capital gains of NRIs/OCIs are also deducted at source. The purpose of Form 15CA/15CB is to ensure that all taxes due on the remittance are paid in full before making the remittance. When TDS has already been deducted on all incomes, where is the question of payment of any further taxes at the time of remittance?

It is perhaps time that RBI instructs banks that such forms should be insisted upon only where the tax law requires furnishing of such forms, and the CBDT clarifies that the forms are not required to be furnished where the payer is transferring funds to himself. This will ensure that unnecessary procedures do not bog down NRIs/OCIs, who wish to remit their funds out of India.

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