Withholding Tax and New Form 15CA & 15CB

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Section 195 - Overview applicability

Section	Provisions
195(1)	Scope and conditions for applicability
195(2)	Application by the 'Payer' for determining sum chargeable
195(3)	Application by the 'Payee' for lower or Nil withholding
195(4)	Validity of certificate issued by the AO u/s 195(3)
195(5)	CBDT empowered to make Rules in respect of sec 195(3)
195(6)*	CBDT empowered to provide forms in which information to be furnished for all payments made non-resident or a foreign company whether taxable or not
195(7)	CBDT empowered to specify class of persons or cases (where recipient is NR) who will be mandated to furnish application to AO for determination of withholding rate

^{*} Amended by Finance Act, 2015, applicable from 1st June 2015

Section 195(1) - Scope and applicability

- Applicable on any sum (other than salary)
 - All types of payments covered unlike domestic WHT provisions wherein specific payments are covered
- payable by any person to a non-resident
 - Transactions between Resident to Non-Resident as well as between Non-Resident & Non-Resident also covered
- which is chargeable to tax in India
 - Provisions of the Act or DTAA, whichever is beneficial shall apply
- Deduction at the time of credit of payment, whichever is earlier
- at rates in force

Section 195(6)

The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.

Penalty u/s 271-l

If a person, who is required to furnish information under sub-section (6) of section 195,

- fails to furnish such information; or
- furnishes inaccurate information,

the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one lakh rupees.

Form 15CA has been classified into 4 parts- Part A, Part B, Part C and Part D

Part A - Where the remittance or the aggregate of such remittances does not exceed 5 lakh rupees during the FY. (Whether taxable or not)

Part B - Where an order/ certificate u/s 195(2) / 195(3) / 197 of Income-tax Act has been obtained from the AO. (Whether NIL rate or Lower Rate Certificate)

Part C - Where remittance is chargeable to tax under domestic law and the remittance or the aggregate of such remittances exceeds 5 lakh rupees during the FY and a certificate in Form No. 15CB from a CA has been obtained electronically.

Part D - Where the remittance is not chargeable to tax under Domestic Law.

No 15CA / CB is required in following cases:-

- If an individual is making remittance which do not requiring RBI approval under items mentioned in Schedule III to the Foreign Exchange (Current Account Transaction) Rules, 2000

Or

- if remittance is in the nature of 33 items provided in the rule 37BB

33 items

Indian investment abroad - in equity capital (shares)

Indian investment abroad - in debt securities

Indian investment abroad - in branches and wholly owned subsidiaries

Indian investment abroad - in subsidiaries and associates

Indian investment abroad - in real estate

Loans extended to Non-Residents

33 items

Advance payment against imports

Payment towards imports - settlement of invoice

Imports by diplomatic missions

Intermediary trade

Imports below Rs.5,00,000 - (For use by ECD offices)

Freight insurance - relating to import and export of goods

Payments by residents for international bidding.

Refunds or rebates or reduction in invoice value on account of exports

33 items

Payment for operating expenses of Indian shipping companies operating abroad

Operating expenses of Indian Airlines companies operating abroad

Booking of passages abroad - Airlines companies

Remittance towards business travel

Travel under basic travel quota (BTQ)

Travel for pilgrimage

Travel for medical treatment

Travel for education (including fees, hostel expenses etc.)

Postal services

Construction of projects abroad by Indian companies including import of goods at project site

33 items

Payments for maintenance of offices abroad

Maintenance of Indian embassies abroad

Remittances by foreign embassies in India

Remittance by non-residents towards family maintenance and savings

Remittance towards personal gifts and donations

Remittance towards donations to religious and charitable institutions abroad

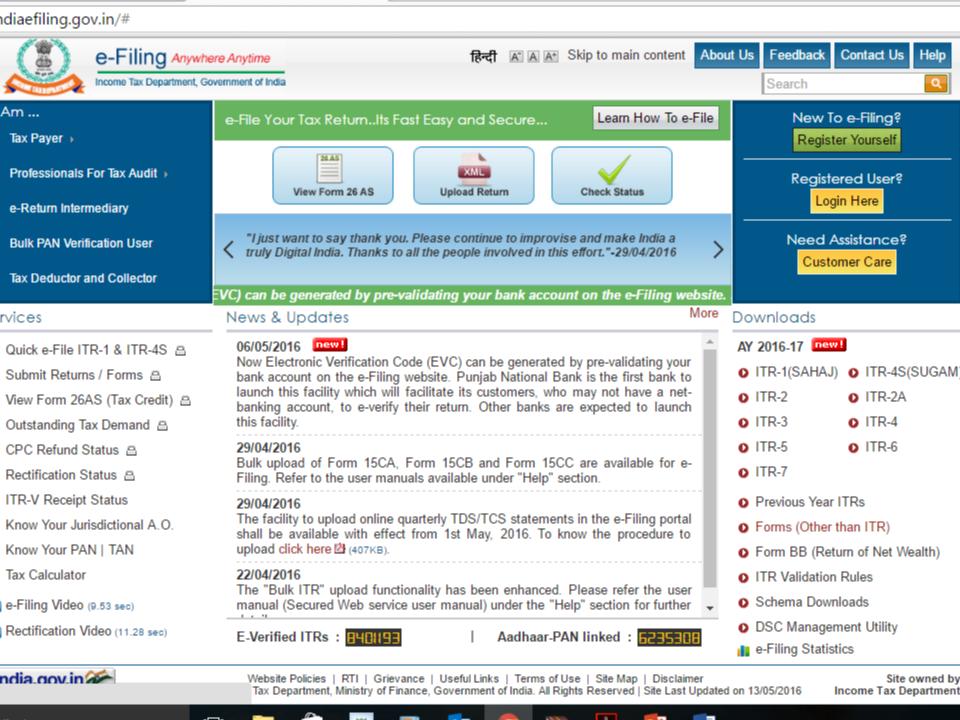
Remittance towards grants and donations to other Governments and charitable institutions established by the Governments

Contributions or donations by the Government to international institutions

Remittance towards payment or refund of taxes

- Form 15CA needs to be filled electronically under digital signature
- Form 15CB also to be filled *electronically under* digital signature of CA
- The authorised dealer shall furnish a quarterly statement for each quarter of the financial year in Form No. 15CC electronically under digital signature within 15 days from the end of the quarter.

How to File Form 15CA/CB



JOWINIOGGS

ITR Forms (Other than ITR) Schema & Validation Rules Form BB DSC Management Util



Note:

- 1. Use instructions given in Readme.txt file downloaded along with the Form utilities.
- 2. The downloaded ZIP folder of the form should be Extracted/Unzipped before opening the
- 3. To know more on how to use JAVA utilities, please click here (86KB)
- 4. To download java, please use the link --> Java Runtime Environment Version 7 Update 6 of 1.7/7).
- 5. To know more on how to install/configure and run java, please click here (25KB)

Forms (Other than ITR) Utility Downloads

Name	Description	<u>\$</u>
Form 15CA	Information to be furnished for payments to a non-resident not being a company, or to a foreign company	Down (410KE
	Audit report under section 44AB of the Income-tax Act,1961 in a case	V ₅



[[]]







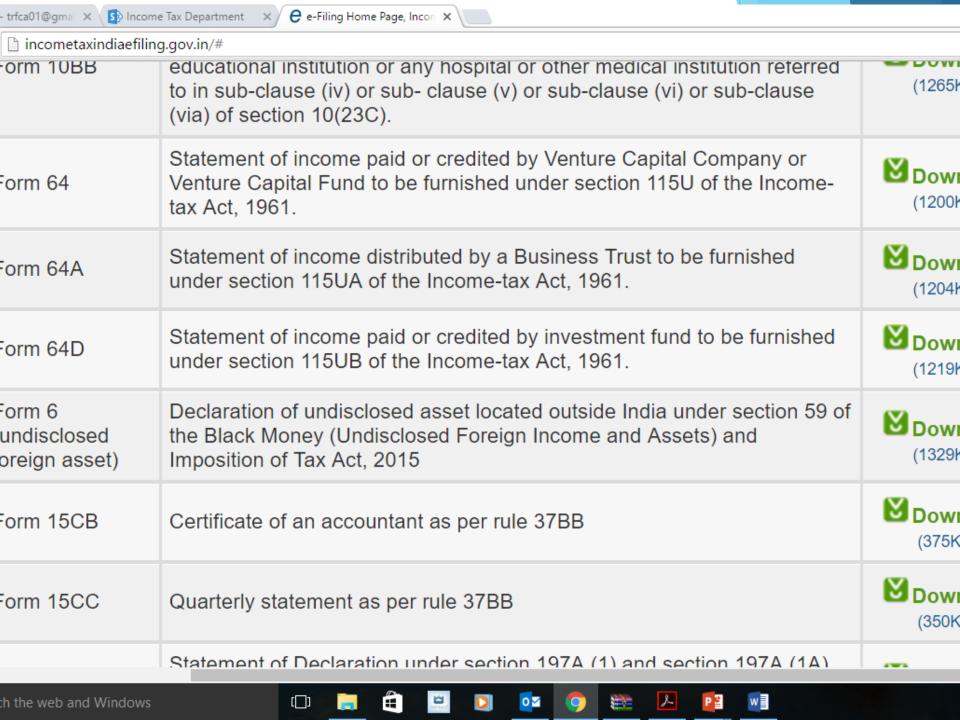


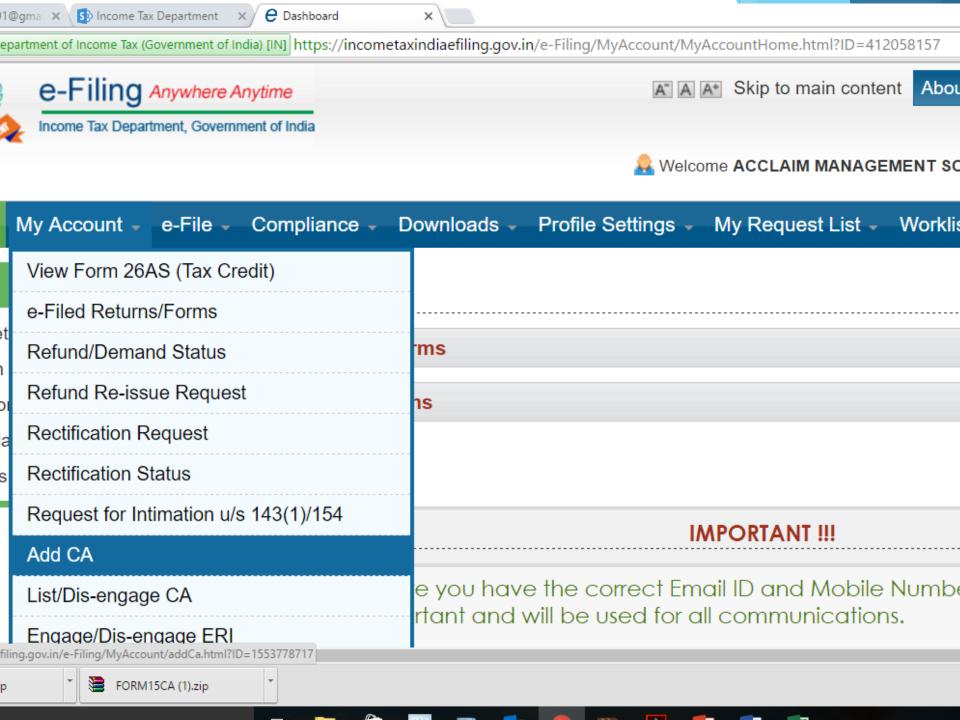






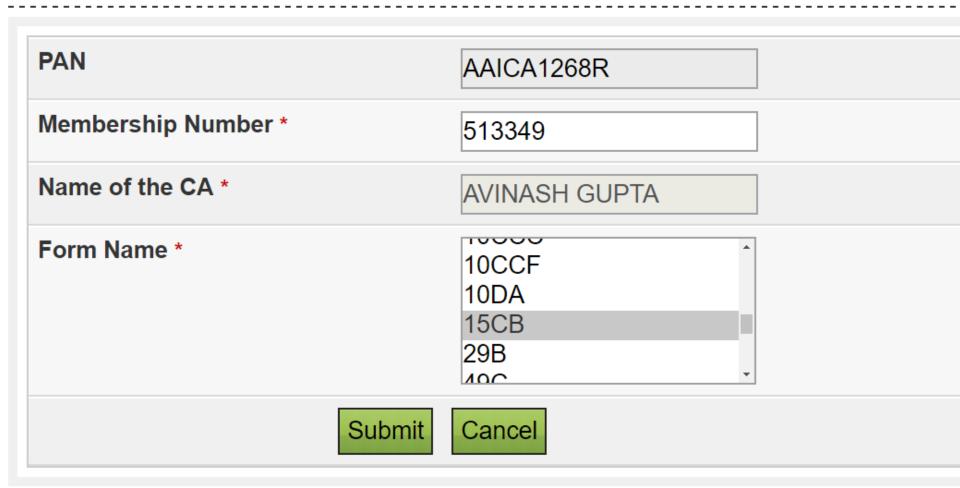




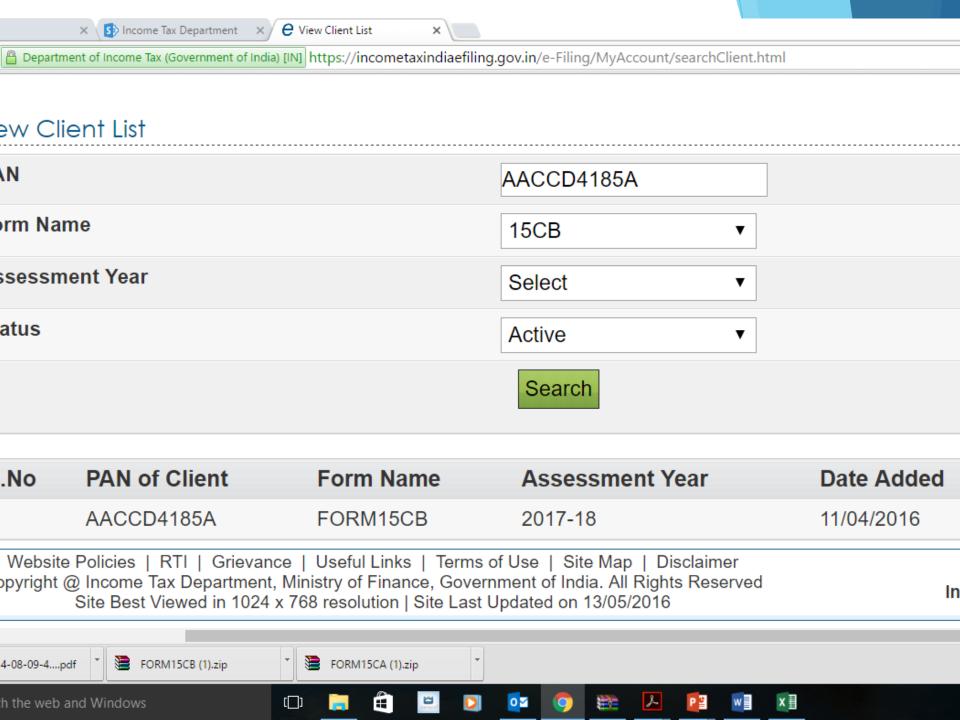




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Country



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FORM NO. 15CB

(See rule 37BB)

Certificate of an accountant

We		* have	examined the ag	reem	ent (wherev	er applica	able) t	etween	M/s		*	Name of the	Remitter		*
with	PAN/TAN		*	and	M/s	,	*	Name of tl	he Beneficia	ary	* re	quiring the	above rer	nittance as	S
well	as the rele	vant document	ts and books of a	ccour	nt required	for ascert	aining	the nat	ure of re	mittance a	and for	determining	g the rate	of deduct	tion
of ta	ax at source	as per provisi	ons of Charter- X	VII-B	.We hereby	certify th	e follo	wing.							
Α	Name and	address of the	beneficiary of the	e rem	ittance										
	Name of the B	Beneficiary of the r	remittance												
	Flat/Door/Buil	lding													
	Name of pren	mises/Building/Villa	ige												
	Road/ Street														
	Area/ Locality	/													
	Town/ City/ D	District													
	State														

ig Form Utility





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B Remittance Details

1 Country to which remittance is made

Country

Currency

2 Amount payable

In foreign currency

In Indian Rs

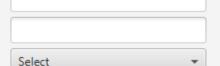
3 Name of the bank

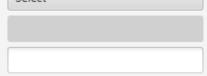
Branch of the bank

- 4 BSR Code of the bank branch (7 digit)
- 5 Proposed date of remittance
- 6 Nature of remittance as per agreement/ document

7 Please furnish the relevant purpose code as per RBI

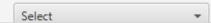












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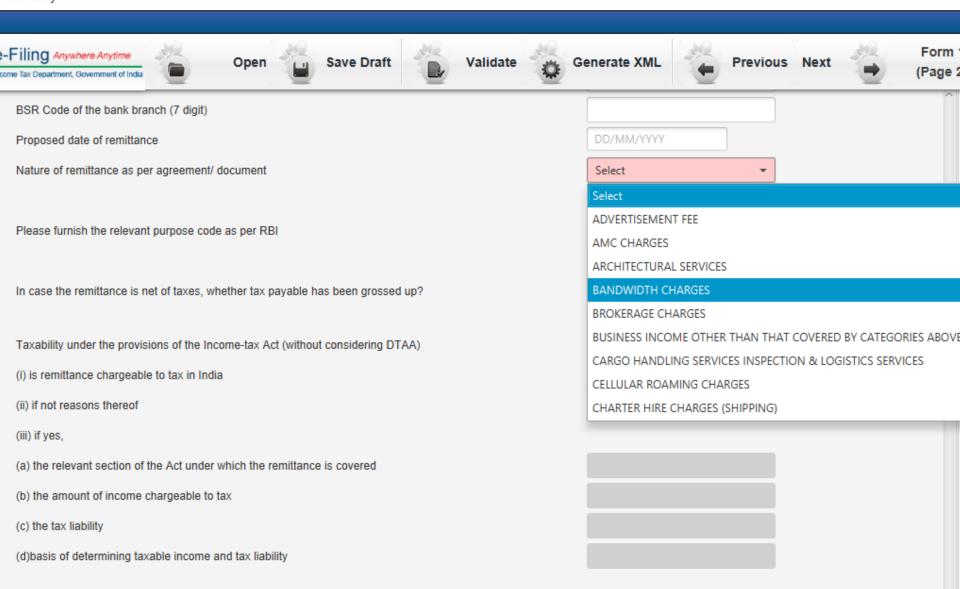








If income is chargeable to tax in India and any relief is claimed under DTAA



- Advertisement
- AMC Charges
- Architectural Services
- Bandwidth Charges
- Brokerage Charges
- Business income other than that covered in above
- Cargo Handling services inspection & Logistics services
- Cellular Roaming charges
- Charter hire charges (Shipping)

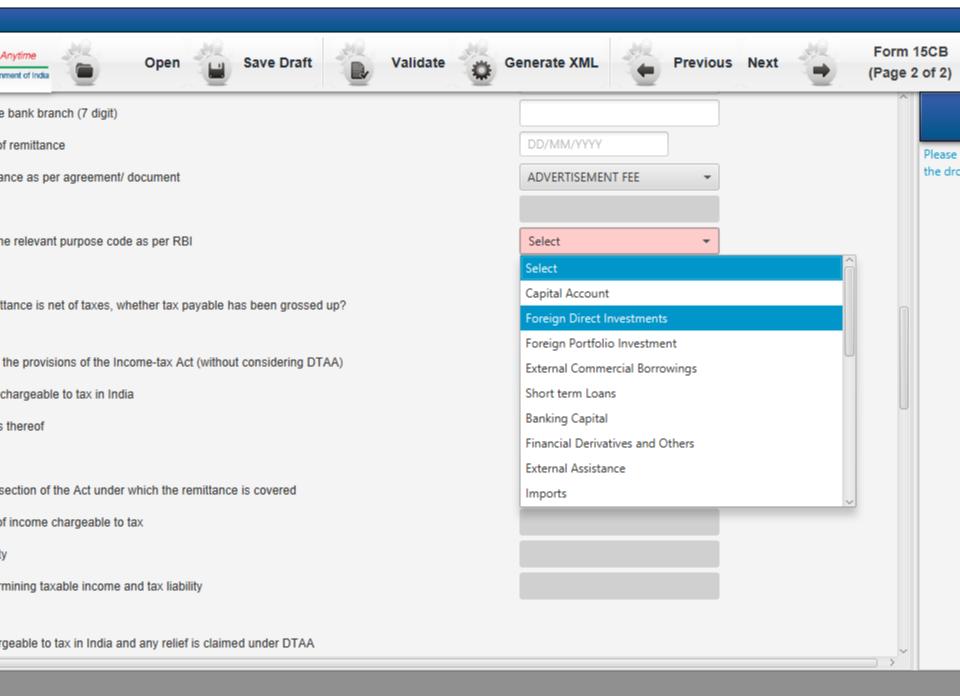
- Clearing & Forwarding charges
- Commission
- Communication charges
- Consulting services
- Designing fee
- Directors fee
- Dividend
- Drilling
- Engineering services
- Equipment Rental Charges
- Fabrication services

- Fee for technical services/Fee for included services
- Freight charges
- Income from immovable property
- ▶ Income from shipping, Inland waterways or air transport
- Installation & Commissioning services
- Insurance commissions
- Interest payment
- Investment income
- Lease payment
- Licensing fee
- Long term Capital Gain

- Membership fee
- Mobilisation charges
- Payment for software bundled with Hardware
- Payment to teacher, professor or research scholar
- Payment to sports person & Artists
- Payment to student or business apprentice
- Pensions (other than those related to Past employment)
- Processing charges
- Professional services
- Purchase of software
- R & D Charges
- Registration charges

- Reimbursement of expenses
- Repatriation of surplus fund
- Retainer ship fee
- Retention fee
- Royalty
- Sales & Marketing Services
- Seismic Data Processing
- Short term Capital Gain
- Software Licences
- Sponsorship fee
- Subscription fee
- Supervision charges

- Survey charges
- Telecasting services
- Tender fees
- Testing charges
- Training
- Warranty services
- Winning from horse races
- Winning from lotteries, crossword puzzles, card games and other games of any sort.
- Consular receipts
- Other Income/Other (not in the nature of income)



Capital Account

- S0017- Acquisition of non-produced non-financial assets (Purchase of intangible assets like patents, copy right, trademarks etc, Land acquired by government, use of natural resources)-Non-Government
- ➤ **S0019**-Acquisition of non-produced non-financial assets (Purchase of intangible assets like patents, copy right, trademarks etc, use of natural resources)-Non-Government
- > **S0026**-Capital transfer (Guarantees payments, investment Grand given by the government/international organisation, exceptionally large Non-life insurance claims)- Government
- **S0027**-Capital transfers (Guarantees payments, investment Grand given by the non-government/international organisation, exceptionally large Non-life insurance claims)- non Government

- **▶** Foreign Direct Investment
- S0003-Indian Direct Investment abroad (in branch & wholly owned subsidiary) in equity shares.
- S0004-Indian Direct Investment abroad (in subsidiaries and associates) in debt instruments.
- **S0005**-Indian Investment abroad-in real estate.
- S0006- Repatriation of foreign Direct Investment made by overseas Investors in India-in equity shares
- S0007-Repatriation of foreign Direct Investment made by overseas Investors in India-in debt instruments
- **S0008**-Repatriation of foreign Direct Investment made by overseas Investors in India-in real estate

Foreign Portfolio Investment

- ▶ S0001-Indian Portfolio Investment abroad -in equity shares.
- **S0002-**Indian Portfolio Investment abroad-in debt instruments.
- S0009- Repatriation of foreign Portfolio Investment made by overseas Investors in India-in equity shares
- S0010- Repatriation of foreign Portfolio Investment made by overseas Investors in India-in debt instruments

External Commercial Borrowing

- S0011-Loans extended to Non-Residents
- ▶ S0012- Repayment of long & medium term loans with original maturity above one year received from Non-resident.

Short term loans

S0013-Repayment of short term loans with original maturity upto one year received from Non-resident.

Banking Capital

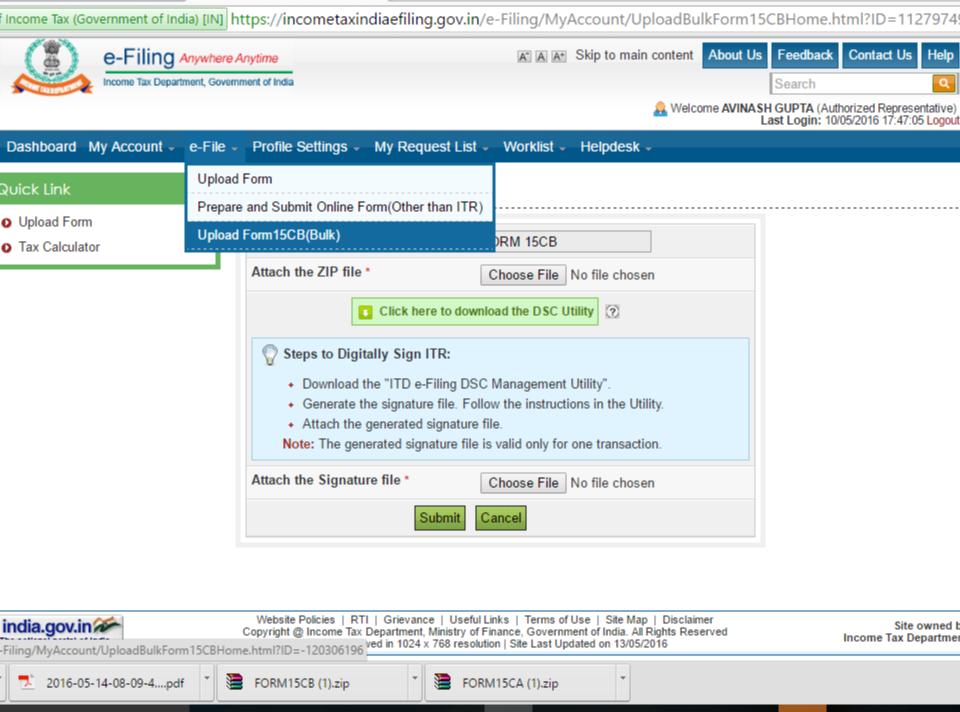
- ▶ S0014-Rpatriation of Non-resident Deposits (FCNR (B)/NR (E) RA
- S0015-Repayment of loans & overdraft taken by Ads on their own.
- ▶ S0016-Sale of a foreign currency against another foreign currency

Financial Derivatives & others

- S0020-Payments made on account of margin payments, premium payment and settlement amount etc under financial derivatives
- S0021- Payments made on account of sale of sale of share under Employee stock option
- S0022-Investment in Indian Depositories Receipts (IDRs)
- S0023-Opening of foreign currency account abroad with a bank.

External Assistance

- S0024-External Assistance extended by India. e.g. Loans and advances extended by India to Foreign governments under
- S0025-Repayments made on account of External Assistance received by India.



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e-Filed Returns/Forms

	PAN	A.Y.	ITR/Form	Filing Date	Filing Type	Filed By	Ack. No.	Status
A	ACCD4185A	2017-18	Form 15CB	11/04/2016	Original	ARCA513349	158281261110416	Successfully e-Filed
A	ACCD4185A	2017-18	Form 15CB	11/04/2016	Original	ARCA513349	158312411110416	Successfully e-Filed
A	ACCD4185A	2017-18	Form 15CB	11/04/2016	Original	ARCA513349	158311171110416	Successfully e-Filed
A	ACCD4185A	2015-16	Form 3CA	17/11/2015	Original	ARCA513349	886068251171115	Successfully e-Filed
A	ACCD4185A	2015-16	Form 3CEB	17/11/2015	Original	ARCA513349	886084361171115	Successfully e-Filed
A	ACCD4185A	2014-15	Form 3CEB	27/11/2014	Original	ARCA513349	422726861271114	Successfully e-Filed
A	ACCD4185A	2014-15	Form 3CA	26/11/2014	Original	ARCA513349	421874151261114	Successfully e-Filed
A	ACCD4185A	2013-14	Form 3CA	27/11/2013	Original	ARCA513349	840176811271113	Successfully e-Filed

Note:

- 1.The e-Filed Returns/Forms are available for download/view starting Assessement Year 2007-08.
- 2.To download/view the ITR/FORM/XML/ITR-V/ITR-V Receipt, Please click on the Acknowledgement Number.

Original

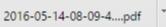
3.u/s 139(9) - Response filed against defective notice.



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AACCD4185A 2013-14 Form 3CEB







25/10/2013

FORM NO. 15CB [See rule 37BB]

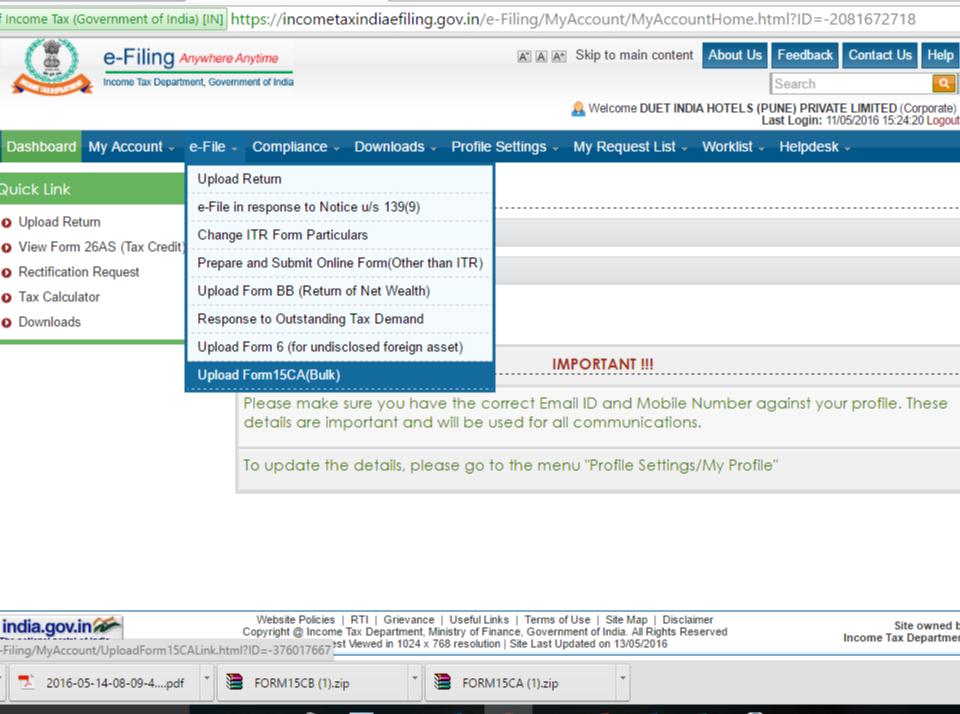
Certificate of an accountant

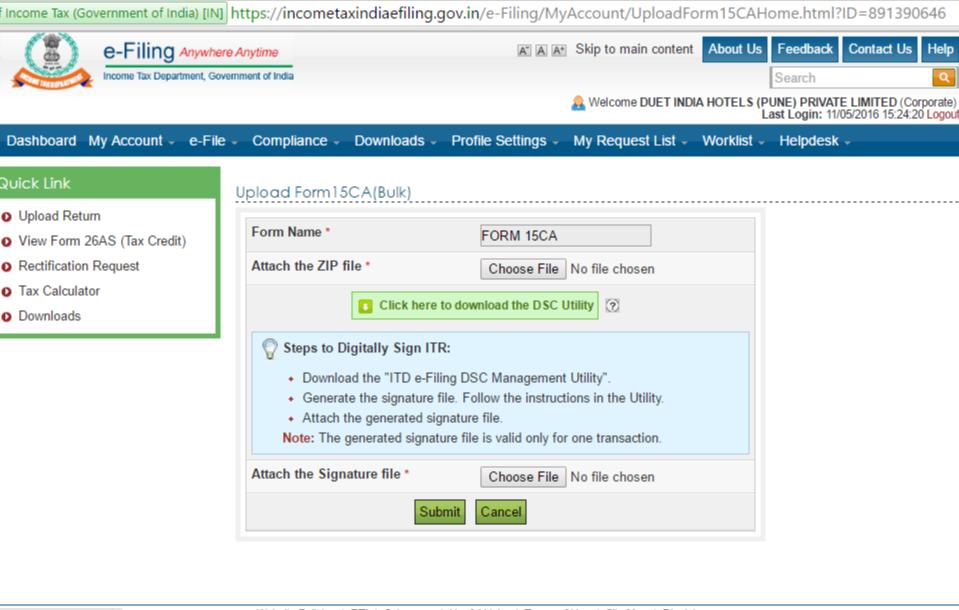
<u>I</u> have examined the agreement (wherever applicable) between <u>M/s</u> <u>DUET INDIA HOTELS (PUNE) PRIVATE LIMITED</u> with PAN/TAN <u>AACCD4185A</u> and <u>M/s</u> <u>STR GLOBAL LIMITED</u> requiring the above remittance as well as the relevant documents and books of account required for ascertaining the nature of remittance and for determining the rate of deduction of tax at source as per provisions of Chapter- XVII-B.

We hereby certify the following :-

-08-09-42-549_AACCD4185A_2017_.pdf (SECURED) - Adobe Acrobat Reader DC

A.	Name and address of the beneficiary of the remittance					
	Name of the Beneficiary of the remittance	STR GLOBAL LIMITED				
	Flat/ Door/ Block No	BLUE FIN BUILDING				
	Name of premises/ Building/ Village					
	Road/ Street	110 SOUTHWARK STREET				
	Area/ Locality	LONDON, SEI 0TA				
	Town/ City / District	LONDON				
	State	FOREIGN				
	Country	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND				
	ZipCode	999999				
В.	REMITTANCE					
1	Country to which remittance is made					



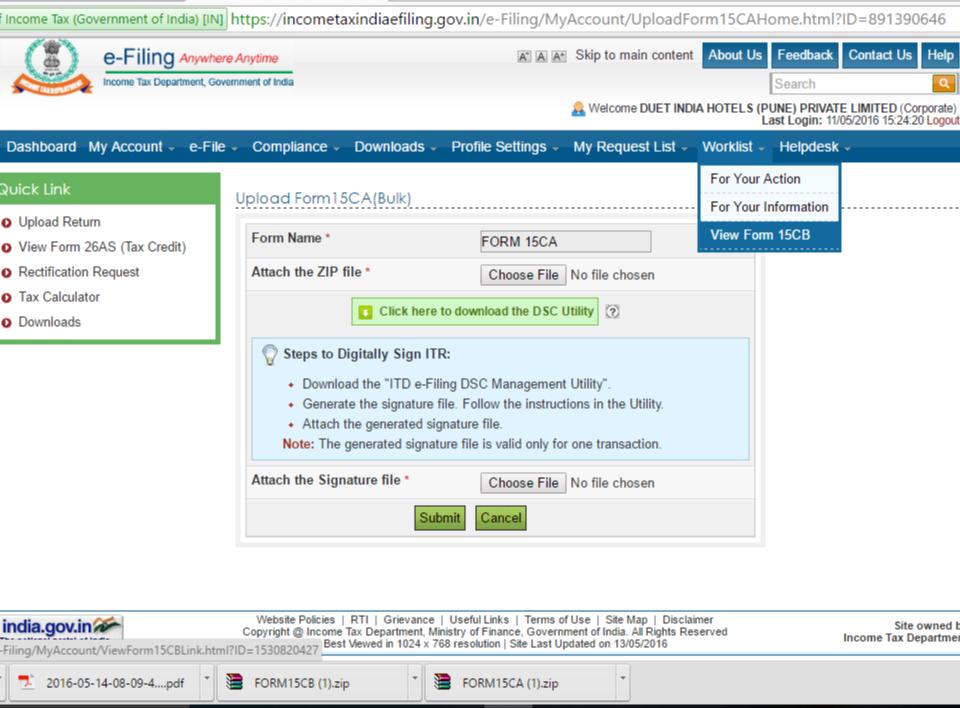


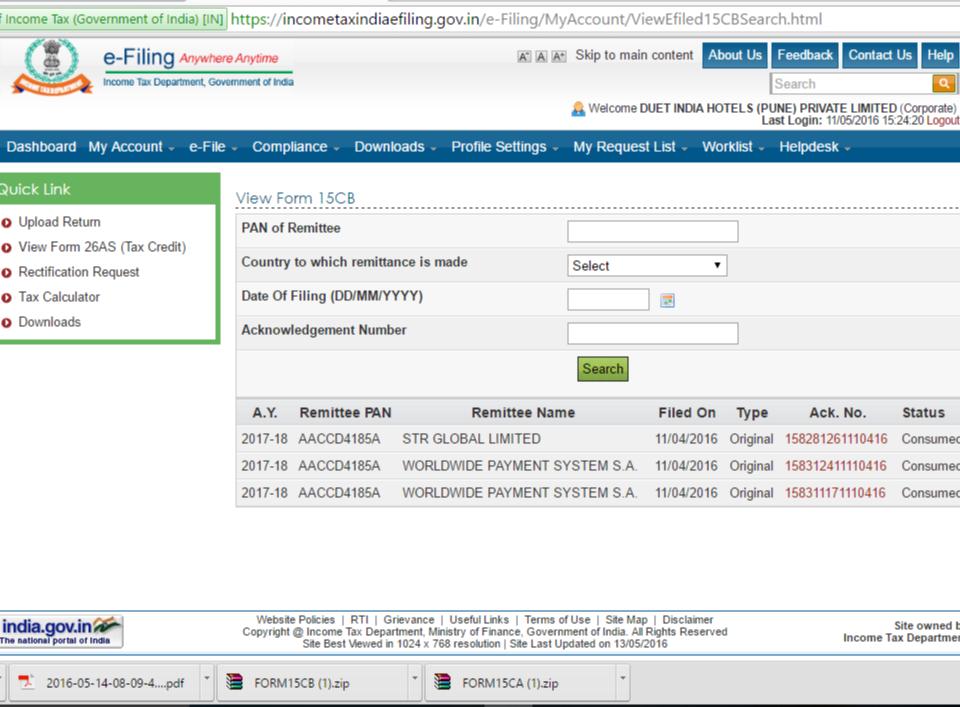


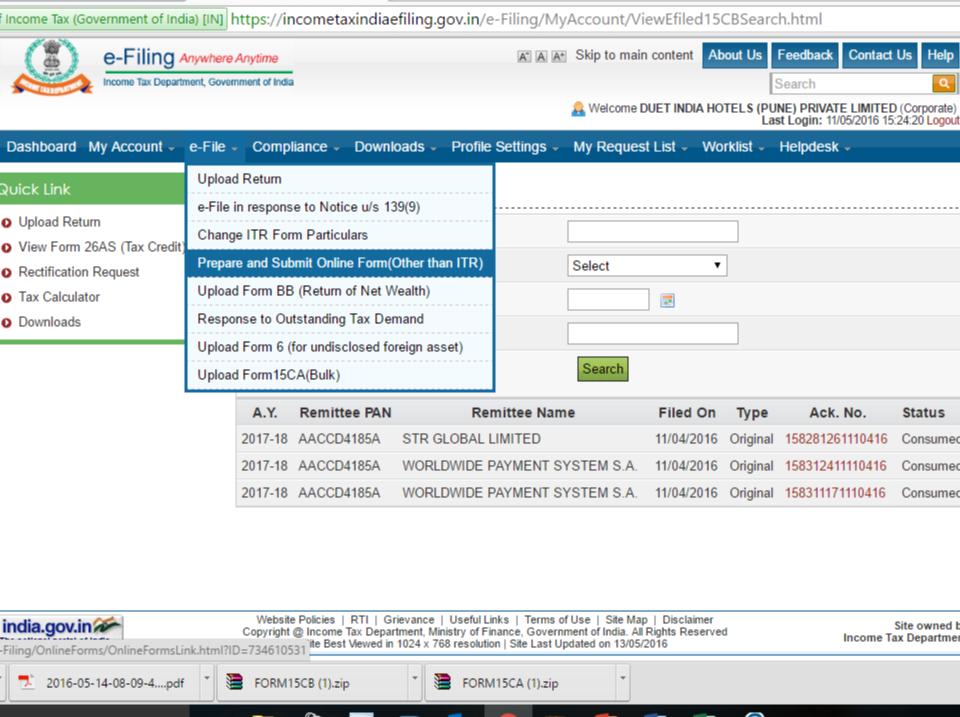
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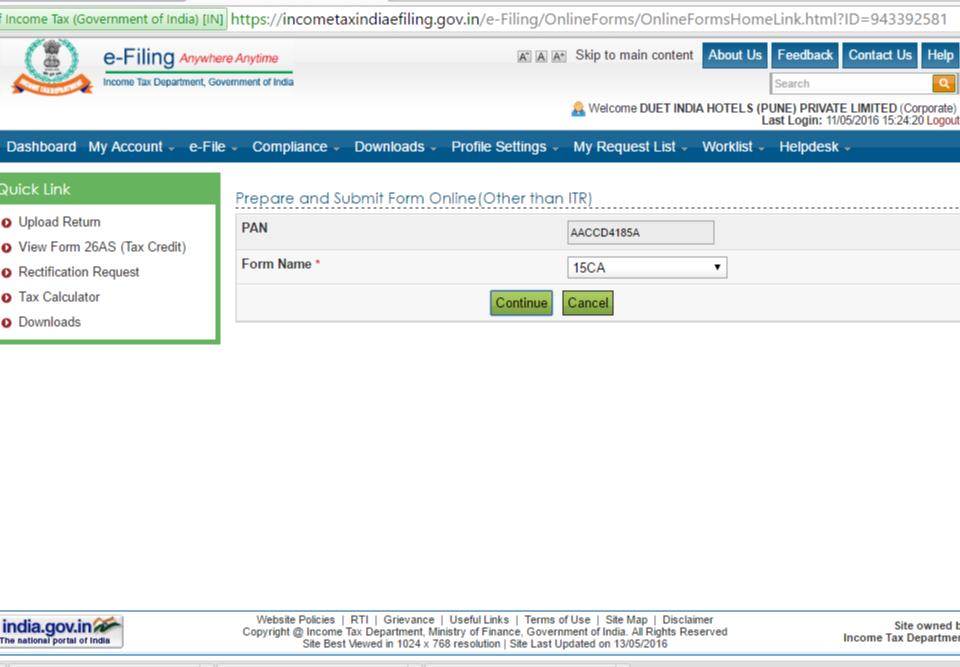
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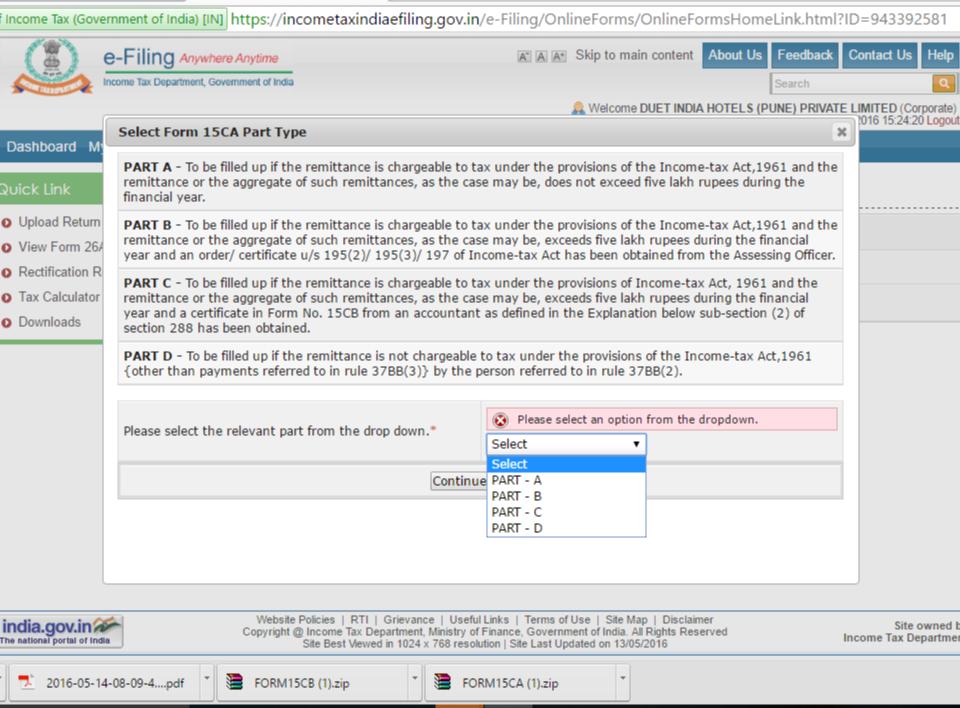


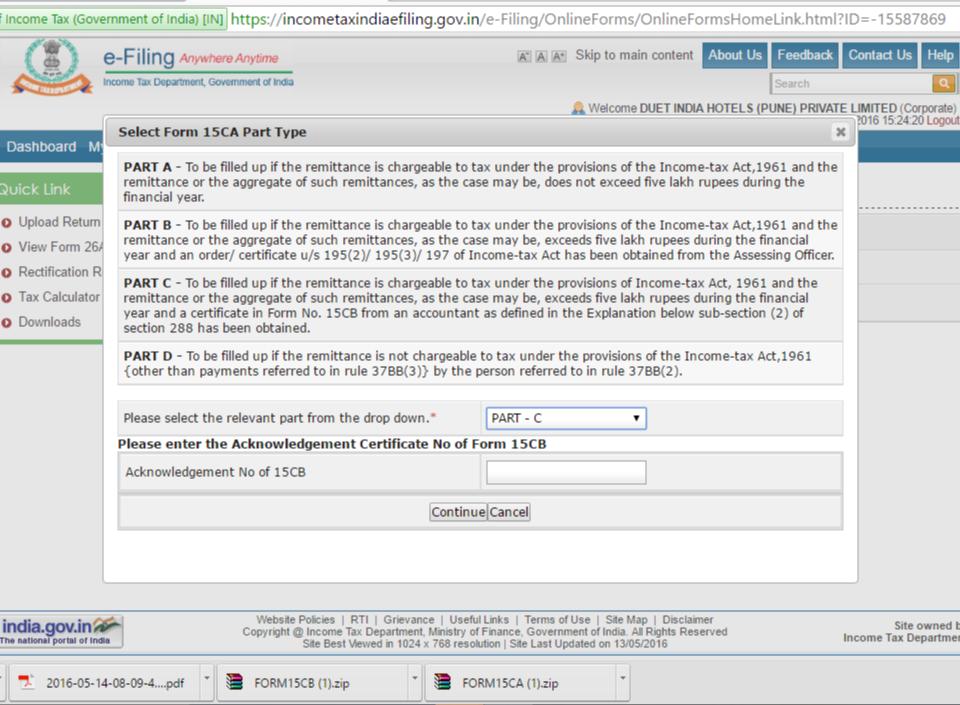


FORM15CA (1).zip

2016-05-14-08-09-4....pdf

FORM15CB (1).zip





Few Issues

- Credit Card Transaction
- Payment Getaway Transactions
- Payment made in Indian bank account of Nonresident
- Auto deduction of amount by E-commerce Operators
- Aggregation of multiple date entries (TDS deducted at various dates but payment made jointly)
 - No PAN or No DSC

Taxation of Few Transaction

- Import of Goods / Material
- Buyer's Credit
- Freight and Insurance Payments
- C & F Charges
- Commission to foreign agents
- Lab Testing Charges
- Bandwidth charges
- Reimbursement of Expenses
- Remittance of salary
- Remuneration to Foreign Directors

- E-commerce Transactions
- Payment for Software
- Conference Fee
- Exhibition Fee
- Repatriation of funds
- Sale of Immovable
- Property in India by NRIs
- Treaty vs. Domestic law · "Make available" clause in tax treaties

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