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Lower TDS Certificate Process



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#9 CRM Sowbhagya, Near Spice Garden, #35/1B Varthur Main Road, Marathahalli, Bangalore-37
Phone: India: +91 81233 01122, USA: +1 (404)9234567, Email: service@agarwalestates.com

Lower Tax Deduction for Non-Residents on sale of the property

KEY: “Knowledge Empowers You!” to make informed decisions.

As a part of our **KEY** series, we believe in sharing information from our Wisdom and Subject-Matter Expertise gained while serving more than 1000 customers since 2012.

- 1. Applicability:** Section 197 of the Income Tax Act, 1961, provides for the facility of NIL or LOWER Deduction of tax at source. The Assessee/Deductee concerned may apply for a certificate for NIL or Lower Deduction of TDS on their capital gains in Form 13. The manner in which the TDS is required to be deducted by a NRI has been explained in detail below:
- 2. Amount on which the TDS is required to be deducted:** The TDS on sale of property by NRI is required to be deducted under section 195 and is ideally required to be deducted on capital gains. This computation of Capital Gains should be done by the IT officer. The seller can file an application in FORM 13 with the IT department and request them to compute capital gain. The IT department will compute the capital gain of the seller and will issue a certificate for NIL/lower tax deduction depending on the capital gains arising on the sale of the property. In case this certificate is not obtained by the seller from the IT department, the TDS should be deducted on the total sale value of the property and not on the capital gains. Sample FORM 13 below.

TDS Centralised Processing Cell | **TRACES** TDS Reconciliation Analysis and Correction Enabling System | **Department of India Income Tax Department**

Form 13
[See rules 28 and 37G]

Application by a person for a certificate under sections 197 and/or 206C(9) of the Income-tax Act, 1961, for no deduction/ collection of tax or deduction/ collection of tax at a lower rate

To:
The Assessing Officer
Sir,

I, **Mr. S. S. S. S.**, do hereby request that a certificate may be issued to the person responsible for paying me the incomes/sans, authorizing him not to deduct/collect income-tax at lower rate, at the time of payment to me of such incomes/sans to me. The details are specified in Annexure I.

2. The particulars of my income and other relevant details are as under:

(i) Status: **Individual**
(ii) Residential status: **Non Resident**
(iii) Permanent Account No.: **KARNATAKA**
(iv) Email Id: **Bangalore**
(v) Mobile Number: **KARNATAKA**
State: **Bangalore**
District: **Bangalore**

Note: Jurisdictional A.O. will be assigned on the basis of State & District given by taxpayer in Original application of Form-13

(vi) Details of existing liability under Income-tax Act, 1961 and Wealth-tax Act, 1957:

Assessment Year (i)	Amount payable in respect of advance-tax (Rs.) (ii)	Amount payable for self-assessment tax (Rs.) (iii)	Amount for which notice of demand under section 156 has been served but not paid (Rs.) (iv)	Amount payable as deduction in collector which had become due but not paid (Rs.) (v)	Amount payable under the Wealth-tax Act, 1957 (Rs.) (vi)
2022-23	0	0	0	0	0

(vii) Previous year to which the payments relate: **2022-23**
(viii) Estimated total income of the previous year referred to in (vii): **60000**
(ix) Total tax including interest payable on the income in (viii): **0**
(x) Details of income claimed to be exempt and not included in the total income in (viii): **0**
(xi) Details of payment of advance-tax and tax already deducted/collected, if any, for the previous year referred to in (vii) till date. (If the date of Application is on or after 1st April for which financial year certificate is sought)

Nature of prepaid tax	Amount of Tax Paid (Rs.)
Advance Tax	0
TDS	0
TCS	0

(xii) Declaration for exemption under section 10, section 11 or section 12 for certain entities covered under Income Tax Rule 28AB or not: **Not Applicable**
(xiii) Where return of income for any of the four previous year preceding to the previous year referred to in (vii) has not been filed: **Not Applicable**
(xiv) Where return of income for any of the four previous year has been filed in paper form: **Not Applicable**

Annexure-I (No Lower Deductions)
(See Section 192, 194C, 194D, 194E, 194F, 194G, 194H)

Sl. No.	Tax deduction and collection Account No. (TAN) (i)	Tax deduction and collection Account Name (ii)	Section under which tax is to be deducted (iii)	Nature of Payment (iv)	Estimated amount of Income-tax to be deducted (Rs.) (v)	Requested rate of deduction (vi)
1	CHNS1553962		192	Long-term capital gains referred to in section 115B(1)(ii) or of sub-section (1) of section 115B	3500000	0.00

I, **Mr. S. S. S. S.**, do hereby declare that to the best of my knowledge and belief what is stated above is correct, complete and truly stated. I declare that the income/sans referred to in this form are not includible in the total income of any other person under sections 60 to 64 of the Income-tax Act, 1961. I further declare that what is stated in this application is correct. I further declare that I am making application in my capacity as Self and I am also competent to make this application and verify it. I am holding permanent account number **ACCPG327226**.

Date: **19-Jul-2022**
Place: **Pune**

3. Rate of TDS: The TDS is required to be deducted whenever any payment is made to the NRI for purchase of property. Even if any advance is being paid for purchase of property – TDS is required to be deducted.

Particulars	Less Than 50 Lacs	50 Lacs To 1 Crore	Above 1 Crore
Long term capital gain tax	20%	20%	20%
Surcharge	NIL	10% of above	15% of above
Education cess	4% of above	4% of above	4% of above
Applicable TDS Rate	20.80%	22.88%	23.92 %

4. Documents required to apply for a lower TDS certificate:

- Passport copy / OCI Proof
- PAN, Aadhar Card, Email ID, Mobile No., Seller's Indian Address.
- Number of Days of Stay in India in the Last 5 years as per Passport Stamping
- Sale Deed, (First purchase)/ Agreement to Sell/ Construction Agreement
- If received Gift, provide Gift deed.
- Proof of payments made for purchase, Housing loan certificate, Receipts from builder, Bank statements/ledger.
- Brokerage paid receipt
- Proof for Improvements made.
Sale agreement. (present Sale)
- TAN of buyer , PAN and Address, Mobile, Email ID
- Power of Attorney - CA, and Power of Attorney of Authorised representative (if any)
- Past 3 years Income Tax returns (Affidavit for non filing of IT if IT not filed)
- Guidance Value Proof.
- Computation
- Indemnity Bond and Declaration Letter
- Any other income in India during last 3 years.
- Brokerage receipt for present sale.
- Income tax and Traces login ID and password.

5. Timeline: Ideally, all TDS certificates are obtained within 2-6 weeks of submission of documents to the IT department. Although, we have come across cases wherein it took almost two months to get the certificate, which is quite rare. Sample TDS Certificate for reference below:



Office of INTL. TAXATION WARD 2(1),

BMTC BUILDING, 80 FEET ROAD, 6TH BLOCK, NEAR KHB GAMES VILLAGE, KORAMANGALA, BENGALURU.

Ref No. : 197(1)_206C(9)/ADMPN9570B/2022-23/1

Date : 18-Aug-2022

Subject: Certificate u/s 197 for PAN : A/

Deductor(s) with TAN/PAN (as per column 3) is/are hereby authorized to make payment or credit the amount under section (as per column 5 of the table below) to the extent (as per column 7) after deducting tax at the rate (as per column 8, excluding education cess Surcharge as applicable) to, or as the case may be to the account of MI, 501, Bengaluru, KARNATAKA, Pincode- 560076 (PAN-ADMPN9570B). As per details below:

Sr.No. (1)	Certificate Number (2)	TAN/PAN (3)	TAN/PAN Name (4)	Section (5)	Nature of payment (6)	Amount (Rs.) (7)	Certificate Rate (%) (8)	Valid from Date (9)	Valid till date (as per the original certificate) (10)	Valid till (Cancellation Date) (11)	Remarks
1	1AB0822FVMP	MI	21	195	long-term capital gains not being long-term capital gains referred to in clauses (33) and (36) of section 10	7500000	3.05	17-Aug-2022	31-Mar-2023		
2	1AB0822FVQ	PI	21	195	long-term capital gains not being long-term capital gains referred to in clauses (33) and (36) of section 10	7500000	3.05	17-Aug-2022	31-Mar-2023		

Certificate(s) is/are non-transferable and valid for applicant PAN -ADMPN9570B for sums which are to be received or receivable, whichever is earlier between the period as per column 9 and 10, unless it is cancelled by the undersigned under intimation to respective TAN(s)/ PAN(s) before that date.

AVINASH KUMAR SRIVASTAVA
INTL. TAXATION WARD 2(1),

*****This is an electronically generated certificate, therefore does not require any signature*****

Disclaimer: The Notice/Letter/Order/Request No./Communication Reference No. mentioned above may be treated as DIN for the purpose of procedure for issuance of Notice/Letter/Order/Summons/ Correspondence prescribed by Circular No. 19 /2019 dated August 14, 2019.

6. COST INVOLVED (High level guidance)

- Rs 20,000/- Certification Fees by Tax Consultant, and out of Pocket Expenses ranging from Rs 15,000-25,000/-
- Total Expenses Rs 45-50,000/- per Assessee
- In Case of Joint Assesses- Rs 35,000/- for the Certification Fees and Out of Pocket Expenses Rs. 30,000-50,000/- Totaling to Rs 85,000/- (Up to 2 Assessee)

7. Physical Requirement of the Assessee: The Assessee is not required to be present in India to apply for the certificate.

8. TDS Payment and TAN Number: The buyer should have a TAN No. for deduction of TDS. TAN No. is mandatory when a property is purchased from a Non-Resident Indian. TAN No. stands for Tax Deduction and Collection Account No. and is different from a PAN No. Only the buyer is required to have this TAN No. and not the seller. In case the buyer does not have the TAN No., he should apply for the same before deduction of TDS. It is important to note here that in case there are 2 buyers, both of them would be required to apply for a TAN No.

9. TDS Return/Filing: The TDS so deducted by the buyer shall be deposited with the Income Tax Dept within 7 days from the end of the month/quarter in which the TDS has been deducted. For example: If TDS is deducted in the month of September, then the TDS should be deposited with the Income Tax Dept on or before 7th October. This TDS is required to be deposited along with Challan No. / ITNS 281 and can be deposited online as well as through various bank branches.

After the TDS is deposited, the buyer is required to furnish a TDS Return. This TDS Return is required to be furnished in **Form 27Q** and is required to be furnished separately for each quarter in which the TDS has been deducted. This TDS Return is required to be deposited within 15 days from the end of the quarter in which the TDS has been deducted. After the deposit of TDS and filing of TDS Return, the buyer is also required to furnish Form 16A to the seller of property.

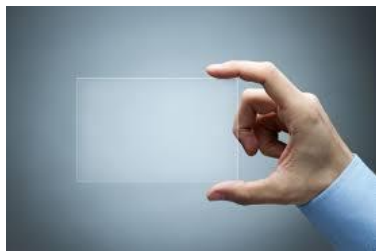
We are here to empower you with Knowledge and provide a neutral and unbiased view.

We would like to extend our gratitude to [CA Hemanshu Bahety](#) for their valuable inputs to prepare this document. You can reach out to him at [Phone/ WhatsApp: +91 9903133862/ 9831054784](#) Email ID: hbahetyco@gmail.com

Disclaimer: Above document is prepared based on our experience and inputs by few taxation experts. It may help you to understand the overall process. We are not at all responsible in case of any error. Please consult a tax professional.

Agarwal Estates Unique Differentiator

Agarwal Estates, One Stop, All Solutions - Real Estate services venture, utilizes the promoter's extensive experience in process implementation, service delivery and standard methodologies to suit the requirements of the real estate market in India. This has helped us in delivering high quality services - on time - and also enabled us to successfully launch the concept of: **All we need is Your Autograph! ®**



TRANSPARENCY is the CORE VALUE of Agarwal Estates

Being a **transparent** organization, we empower our customers through our revolutionary concept and key initiative called as **KEY (Knowledge Empowers You)**. We share all the information with customers to enable them to make informed decisions. We have been constantly getting acknowledged by our existing customers about the **Knowledge** we share with them.

Agarwal Estates provides end-to-end solutions:

- **Real estate advisory:** Overseas investments, buy-back options, Flexible investment amount, etc.
- **Buy/sell/rent property:** Understanding your needs and providing the right solutions
- **Property and tenant management:** Peace of mind, guaranteed rent
- **Home loans:** Free consultancy, awareness about hidden charges, maximum savings
- **Home décor & interiors:** Six weeks completion for a standard 3 BHK starting at Rs 3+ lakhs
- **Allied services:** Property tax, Electric meter transfer, Vastu, etc.

ONE STOP, ALL SOLUTIONS - REAL ESTATE SERVICES



Agarwal Estates aspires to empower customers with the **right knowledge** to enable them to make the **right decisions** at the **right time**.



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India: +91 70900 11220, USA: +1 (404)923 4567, Email: service@agarwalestates.com