

## FORM NO. 129

[See rule 214]

**Application by a person for a certificate under section 395(2) and 400(3) for determination of appropriate proportion of sum (other than salary) payable to non-resident, chargeable to tax in case of the recipient.**

**Part A: Particulars of the payer and payee**

Particulars of the payer		
1.	Name	<i>(refer Note 1)</i>
2.	Address	<i>(refer Note 2)</i>
3.	Permanent Account Number	
4.	Tax Deduction and Collection Account Number	
5.	Status	<i>(refer Note 3)</i>
6.	Residential Status	<i>(refer Note 4)</i>
7.	Email id	
8.	Contact Number	Country Code      Number
Particulars of the payee		
9.	Name	<i>(refer Note 1)</i>
10.	Permanent Account Number (if available)	<i>(refer Note 5)</i>
11.	Tax Identification Number of recipient in the country of Residence	<i>(refer Note 6)</i>
12.	Address in India (if applicable)	<i>(refer Note 2)</i>
13.	Name of country of residence	<i>(drop down)</i>
14.	Address of recipient in country of Residence	<i>(refer Note 2)</i>
15.	Email id	
16.	Contact number	Country Code      Number

**Part B: Particulars of transaction**

1.	Country to which remittance is to be made	<i>(drop down)</i>		
2.	Details of remittances <i>(select one or more)</i>			
		Nature of remittance		Amount to be remitted
				Proposed date of payment (dd/mm/yyyy)
			In foreign currency	In ₹
	<input type="checkbox"/>	Royalty		
	<input type="checkbox"/>	Fees for technical services		
	<input type="checkbox"/>	Dividend		
	<input type="checkbox"/>	Interest		
	<input type="checkbox"/>	Business income		
	<input type="checkbox"/>	Capital gains		
	<input type="checkbox"/>	Any other (please specify)		
3.	Tax year for which certificate is requested			
4.	In case the payment is net of taxes, whether tax payable, if any would be grossed up as per section 393(10)?			<i>Yes/No</i>
5.	Details of previous certificates obtained under section 395(2) for the same transaction <input type="checkbox"/>		Certificate Number	Date of issuance of certificate
6.	Tax payable on estimated income of the tax year of the recipient, (if available)			
7.	Details of prepaid taxes for the tax year of the recipient, (if available)		Advance Tax	
			TDS	
			TCS	
8.	Details of existing liabilities of the recipient under the Act and Income tax Act, 1961 (43 of 1961) (as it existed prior to its repeal), (if available)		Tax year	Amount of liability
9.	Whether Double Taxation Avoidance Agreement ("DTAA") is applicable or not  (If yes, fill up Part-D. If no, fill up Part-C)			<i>Yes/No</i>
<b>Part -C Taxability under the provisions of the Act (if DTAA not applicable)</b>				
(i)	Is payment chargeable to tax in India as per the provisions of the Act			<i>Yes/No</i>
(ii)	If not taxable, reasons thereof			<i>(refer Row No. 7 of Part E)</i>
(iii)	If yes, please furnish following details:			
	<b>A. If the payment is on account of business income, please indicate:</b>			
	(a) Nature of business			

(b) Description of the business connection in India	
(c) Amount of income chargeable to tax	<i>(refer Row No. 8 of Part E)</i>
(d) Relevant section of the Act under which the payment is chargeable to tax	
(d) Rate at which tax is required to be deducted	
(e) Tax liability on the chargeable income	

**B. If payment is on account of Capital Gains, please indicate:**

(a) Nature of asset and its location							
(b) Amount of long-term capital gains	Date of sale of asset	Total sale consideration	Date of acquisition	Total cost of acquisition	Cost of improvement, if any	LTCG	
(c) Amount of short-term capital gains	Date of sale of asset	Total sale consideration	Date of acquisition	Total cost of acquisition	Cost of improvement, if any	STCG	
(d) Relevant section of the Act under which the payment is chargeable to tax							
(e) Rate at which tax is required to be deducted							
(f) Tax liability on the chargeable income							

**C. In case the payment is on account of Royalty, please indicate:**

(a) Nature of Royalty payment <i>(select one)</i>	Consideration for— <input type="checkbox"/> (i) the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property <input type="checkbox"/> (ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property <input type="checkbox"/> (iii) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property <input type="checkbox"/> (iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill <input type="checkbox"/> (v) the use or right to use any industrial, commercial or scientific equipment but not including the amounts referred to in <u>section 61</u> <input type="checkbox"/> (vi) the transfer of all or any rights (including the granting of a licence) in
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	respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting <input type="checkbox"/> (vii) the rendering of any services in connection with the activities referred to in (i) to (vi) above
(b) Amount of income chargeable to tax	<i>(refer Row No. 8 of Part E)</i>
(c) the relevant section of the Act under which the payment is chargeable to tax	
(d) Rate at which tax is required to be deducted	
(e) Tax liability on the chargeable income	
<b>D. If payment is on account of Fee for Technical Services (FTS), please indicate:</b>	
(a) Nature of Payment <i>(select one)</i>	Consideration for the rendering of any— <input type="checkbox"/> managerial services <input type="checkbox"/> technical services <input type="checkbox"/> consultancy services
(b) Amount of income chargeable to tax	<i>(refer Row No. 8 of Part E)</i>
(c) Relevant section of the Act under which the payment is chargeable to tax	
(d) Rate at which tax is required to be deducted	
(e) Tax liability on the chargeable income	
<b>E. In case of Interest income</b>	
(a) Nature of interest income	

(b) Please indicate	
(i) Whether conditions of section 393(2)(Table: Sl. No.5) are satisfied?	<i>Yes/No</i>
(ii) Whether conditions of sections 393(2)(Table: Sl. No. 6 and 7) and 393(4) (Table: Sl. No. 13) are satisfied?	<i>Yes/No</i>
(iii) Whether conditions of section 393(2) (Table: Sl. No. 2, 3 and 4) are satisfied?	<i>Yes/No</i>
(iv) Loan Registration Number (LRN) as given by Reserve Bank of India	
(c) Amount of interest income chargeable to tax	<i>(refer Row No. 8 of Part E)</i>
(d) The relevant section of the Act under which the payment is chargeable to tax	

	(e) Rate at which tax is required to be deducted	
	(f) Tax liability on the chargeable income	
<b>F. In case of other payment not covered by items A to E, above</b>		
	(a) Please specify the nature of payment	
	(b) Amount of income chargeable to tax	<i>(refer Row No. 8 of Part E)</i>
	(c) The relevant section of the Act under which the payment is chargeable to tax	
	(d) Rate at which tax is required to be deducted	
	(e) Tax liability on the chargeable income	
<b>Part- D Taxability under the Double Taxation Avoidance Agreement (DTAA)</b>		
(i)	Please specify applicable DTAA	
(ii)	Whether copy of Tax Residency Certificate and Form No. 41 enclosed	<i>Yes/No</i>
<b>A. If the payment is on account of business income, please indicate:</b>		
	(a) Whether such business income is liable to tax in India under the DTAA	<i>Yes/No</i>
	(b) If no, the reasons for the same	<i>(refer Row No. 7 of Part E)</i>
	(c) If yes, nature of permanent establishment in India	
	(d) Amount of income chargeable to tax	<i>(refer Row No. 8 of Part E)</i>
	(e) Article of relevant DTAA under which the payment is chargeable to tax	
	(e) Rate at which tax is required to be deducted as per DTAA	
	(f) Tax liability on the chargeable income	

<b>B. In case the payment is on account of capital gains, please indicate:</b>							
	(a) Whether such capital gains are liable to tax in India under the DTAA	<i>Yes/No</i>					
	(b) If no, the reasons for the same	<i>(refer Row No. 7 of Part E)</i>					
	(c) if yes, then provide—						
	(i) Nature of asset and its location						
	(ii) Amount of long-term capital gains	Date of sale of asset	Total sale consideration	Date of acquisition	Total cost of acquisition	Cost of improvement, if any	LTCG

(iii) Amount of short-term capital gains	Date of sale of asset	Total sale consideration	Date of acquisition	Total cost of acquisition	Cost of improvement, if any	STCG
(iv) Article of relevant DTAA under which the payment is chargeable to tax						
(v) Rate at which tax is required to be deducted						
(vi) Tax liability on the chargeable amount based on (v) above						
<b>C. In case the payment is on account of Royalty, please indicate:</b>						
(a) Is the recipient the beneficial owner of the royalty paid or to be paid						
(b) Whether such royalty is attributable to permanent establishment in India	<i>Yes/No</i>					
(c) Whether such royalty is liable to tax in India under the DTAA	<i>Yes/No</i>					
(d) if no, provide reasons for the same along with the nature of payment	<i>(refer Row No. 7 of Part E)</i>					
(e) if yes, then state						
(i) Nature of Royalty payment						
(ii) Amount of income chargeable to tax	<i>(refer Row. No. 8 of Part E)</i>					
(iii) Rate at which tax is required to be deducted						
(iv) Tax liability on the chargeable amount based on (iii) above						
<b>D. In case the payment is on account of Fee for Technical Services (FTS), please indicate</b>						
(a) Is the recipient the beneficial owner of the FTS paid or to be paid						
(b) Whether such FTS is attributable to permanent establishment in India	<i>Yes/No</i>					
(c) Whether such fee for technical service is liable to tax in India under the DTAA	<i>Yes/No</i>					
(d) If FTS is not taxable in India under the DTAA, then state	<i>(refer Row No. 7 of Part E)</i>					
(i) nature of payment						
(ii) whether there is "Make Available" clause in the DTAA						

	(iii) if there is a claim for “Make Available” clause, whether such clause in FTS article is sought to be included in the DTAA through Most Favored Nation Clause?	
	(iv) if answer to (iii) above is yes, whether notification regarding “Make Available” clause issued by Government of India	<i>Yes/No</i>
	(v) If there is “Make available” clause explain how that requirement is not satisfied	
	(vi) If there is no “Make available” clause explain how the payment is not FTS	
	(e) if FTS is taxable in India under the DTAA, then state	
	(i) Nature of fee for technical services	
	(ii) Amount of income chargeable to tax	<i>(refer Row No. 8 of Part E)</i>
	(iii) Rate at which tax is required to be deducted	
	(iv) Tax liability on the chargeable amount based on (iii) above	
<b>E. In case of Interest income</b>		
	(a) Is the recipient the beneficial owner of the interest income paid or to be paid	<i>Yes/No</i>
	(b) Whether such interest income is attributable to permanent establishment in India	<i>Yes/No</i>
	(c) Whether such interest is liable to tax in India?	<i>Yes/No</i>
	(d) if no, give reasons along with nature of interest payment	<i>(refer Row No. 7 of Part E)</i>
	(e) if yes, then state,	
	(i) Nature of interest income	
	(ii) Amount of income chargeable to tax	<i>(refer Row No. 8 of Part E)</i>
	(iii) Rate at which tax is required to be deducted	
	(iv) Tax liability on the chargeable amount based on (iii) above	

<b>F. In case of other payment not covered by items A to E</b>		
	(a) Please specify the nature of payment	

	(b) Whether taxable in India as per DTAA?	<i>Yes/No</i>
	(c) If not taxable, please furnish brief reasons thereof, specifying relevant article of DTAA	<i>(refer Row No. 7 of Part E)</i>
	(d) If yes, (i) specify relevant Article of DTAA and the rate of TDS in terms of relevant Article of the applicable DTAA	
	(ii) Amount of income chargeable to tax	<i>(refer Row No. 8 of Part E)</i>
	(iii) Rate at which tax is required to be deducted	
	(iv) Tax liability on the chargeable amount based on (iii) above	

**PART – E**

## Attachments

Description of relevant documents attached	Attachment
1. Relevant documents such as contract for sale of goods and/or provisions for services (if any), computation of capital gains, share purchase agreement, bank payment, details of cost of acquisition, contract note (if any), share certificate (if any), etc.	
2. Details of assessed/returned/estimated income of payee of preceding four tax years, if available	
3. Computation of estimated income chargeable to tax and Tax Liability of the tax year.	
4. Copy of Tax Residency Certificate and Form No. 41	
5. Documents in support of claim of applicability of sections 393(2) (Table: Sl. No.5)/393(2) (Table: Sl. No. 6 and 7) and 393(4) (Table: Sl. No. 5 and 13)/393(2) (Table: Sl. No. 2,3 and 4)	
6. Note on business connection in India	
7. Detailed note on reasons why the payment is not taxable in India as per the Act or as per the relevant DTAA, as the case may be	
8. Detailed note on how the amount chargeable to tax (out of total amount of payment) has been determined along with its working and supporting documents, if any	
9. Any other documents you wish to furnish in support of your claim	

**DECLARATION**

I, .....(full name), having PAN ..... in the capacity as (designation)..... of ..... (name of the payer) declare that the information given above is true and correct and no relevant information has been concealed.

Place: .....

Signature of the Authorised Signatory

Date: .....

Name:

Designation:

**Notes:**

1. In case of individual, the first, middle and last name shall be provided in full without any abbreviations with the appropriate title (Mr./Mrs./Ms.). In any other case also, name shall be provided in full.
2. The address shall contain Flat/Door/Block number, Name of the premises, Road/Street/Lane, Area/locality, Town/City/District, State, Pin/ZIP Code.
3. Fill 'person' status as (i) Individual (ii) Hindu undivided family (iii) Company (iv) Firm (v) Association of persons, whether incorporated or not (vi) Body of individuals, whether incorporated or not (vii) Local Authority (viii) Artificial Juridical Person (ix) Government (x) Trust
4. Fill 'residential status' as (i) Resident (ii) Non-resident (iii) Resident but not ordinarily resident.
5. In case of non-availability of PAN, provisions of section 397(2)(c) read with provisions of rule 217 shall be applicable.
6. Tax Identification Number of the payee (recipient) in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the payee is identified by the Government of that country or the specified territory of which he claims to be a resident.
7. Some of the information in the form would be pre-filled to the extent possible.
8. Amounts to be filled in ₹ unless otherwise provided.