

INCOME-TAX RULES, 2026 · SECTION 159(8) · RULE 75

FORM NO. 41

Frequently Asked Questions

Non-Resident Tax Residency Declaration | Simple Language Guide

Quick Reference: Old vs New Nomenclature

Old Form Name (IT Rules 1962)	New Form Name (IT Rules 2026)	Old Section (IT Act 1961)	New Section (IT Act 2025)
Form 10F	Form 41	90(5) / 90A(5)	159(8)

A

The Basics — What, Who, and Why

Q1

What is Form 41?

Ans

Form 41 is a self-declaration form required under Section 159(8) of the Income-tax Act, 2025 (previously known as Form 10F under the old rules). It is used by non-residents to formally declare their tax residency status and claim benefits under India's Double Taxation Avoidance Agreements (DTAAs) — which are treaties India has with other countries to ensure the same income is not taxed twice.

 **Note:** In simple terms: it is your official declaration to the Indian tax department saying 'I live in [Country X], I have proof of it, and I should be taxed under the India–[Country X] treaty rules, not the full Indian tax rate.'

Q2

Who needs to file Form 41?

Ans

Form 41 must be filed by any non-resident — individual or entity — who:

- Earns income from India (such as dividends, interest, royalties, capital gains, or fees) and wants to pay tax at the lower DTAA rate instead of the standard Indian income tax rate.

 **Note:** This covers foreign individuals, foreign companies, funds, trusts, and other overseas entities with any Indian income source.

Q3

Is filing Form 41 mandatory?

Ans

Yes, absolutely. Without a validly filed Form 41:

- The Indian payer (company or individual paying dividend) must deduct TDS at the full applicable Indian rate — which is typically much higher than DTAA rates.
- If you want to claim DTAA benefit, it will not be possible without this form.

 **Note:** There is no workaround. DTAA benefits are only available if Form 41 is on record for the period. Based on TRC validity, Form 41 will be generated for the period.

B

Timing — When to File

Q4 Is there a deadline to file Form 41?**Ans**

There is no fixed calendar deadline (like a specific date) for filing Form 41. However, the timing is event-driven, not annual:

- When you want TDS deducted at a lower DTAA rate: file before the income payment happens, so the Indian payer can apply the correct rate.
- When claiming a DTAA benefit: file before or at the start of the financial year.

 **Note:** Do not wait until after the payment. Filing retroactively — after TDS has already been deducted at the higher rate — may not give you relief automatically.

Q5 How many times can Form 41 be filed in a year?**Ans**

Form 41 must be filed once per tax year (April 1 to March 31). It covers your non-resident status for the entire Tax year.

If you receive income from India across multiple transactions in the same year, one Form 41 filing is sufficient — you do not need to file a separate form for each transaction.

C Documents — What You Need**Q6 What documents are needed to file Form 41?****Ans**

Only two key items are required:

- Tax Residency Certificate (TRC): Issued by the tax authority of your home country. It must be valid for the Indian Tax year in which you are claiming benefits. This is uploaded directly with the form.
- Tax Identification Number (TIN): Your tax ID number is registered in your home country. This is entered on the form itself.

Q7 What if I don't have an Indian PAN?**Ans**

You can still file Form 41 without a PAN.

The Income Tax e-Filing portal has a dedicated registration category for non-residents without a PAN. Once registered under this category, you can log in and submit Form 41 using OTP verification sent to your mobile number and email address.

 **Note:** Having a PAN is recommended if you have regular India income, but it is not a prerequisite for filing Form 41.

Q8 Do I need to provide proof of tax payment?**Ans**

No. Form 41 does not require any proof of tax payment.

It is a residency and identity declaration — you are declaring where you are a tax resident and providing your TRC as evidence. Tax payment records are not part of this form.

D Filing Process — How to Submit

Q9 Can Form 41 be filed offline (on paper)?

Ans No. Form 41 can only be submitted online through the Income Tax e-Filing portal (www.incometax.gov.in).
There is no physical or paper-based filing option. Everything — registration, form filling, TRC upload, and verification — happens on the portal.

Q10 What is the step-by-step process for filing Form 41?

Ans Follow these steps:

Step	Action	What to Do
1	Register on Portal	Go to the Income Tax e-Filing portal. If you don't have a PAN, register under the special non-resident (without PAN) category.
2	Log In & Open Form 41	After registration, log in and navigate to Form 41 under the filing section.
3	Fill in Your Details	Enter your name, address, country of incorporation, TIN, and the period for which you are a non-resident.
4	Upload TRC	Attach your Tax Residency Certificate (TRC) issued by your home country's tax authority — this is mandatory.
5	Verify & Submit	Verify using DSC, or OTP (for non-PAN registrants), then submit.
6	Save Acknowledgement	Once submitted, download and save the Acknowledgement Number — this is your proof of filing.

Q11 Can I edit or change Form 41 after it has been submitted?

Ans No. Once Form 41 is submitted and an Acknowledgement Number is generated, it cannot be edited. This is why it is critical to double-check all details — especially your name, address, TIN, country, and the dates of your residency period — before hitting submit.

 **Note:** If you made an error, you may need to file a fresh Form 41 for the applicable period and seek clarification from the tax authority for the period in question.

Q12 How is Form 41 verified before submission?

Ans You can verify your Form 41 submission through any of the following methods:

- Digital Signature Certificate (DSC) — if you have one registered.
- OTP — available for non-residents who registered on the portal without a PAN; the OTP is sent to your registered mobile number and email.

E Personal Details — Common Questions**Q13 Do I need to provide my Aadhaar number?**

Ans No. Aadhaar is no longer required when filling in personal details on Form 41.

 **Note:** This is particularly relevant for non-residents, most of whom would not have an Aadhaar number.

Q14 Is a mobile number mandatory?

Ans It is not strictly mandatory, but it is strongly recommended.

Providing a mobile number ensures faster communication and verification from the Income Tax department. For non-PAN registrants, the mobile number is used for OTP-based verification — making it functionally essential in that case.

F Consequences — What Happens Without It?

Q15 Why does Form 41 matter? What if I don't file it?

Ans Without a valid, electronically filed Form 41 (with TRC attached), you lose your DTAA benefits entirely. The consequences:

- The Indian company or person paying you must deduct TDS at the full Indian tax rate (which can be significantly higher than the DTAA rate).
- You may face additional demand notices and interest if TDS was under-deducted due to assumed DTAA benefit without Form 41 on file.

 **Note:** In short: no Form 41 = no DTAA benefit = higher taxes and potential penalties.

Quick Summary — Form 41 at a Glance

What is it? A self-declaration of non-resident tax status to claim DTAA benefits in India.

Who files it? Any non-resident individual or entity earning income from India.

When to file? Before or at the time of claiming DTAA benefit — event-driven, not a fixed date.

Key document needed? Tax Residency Certificate (TRC) from your home country's tax authority.

Can you file offline? No — online only, via the Income Tax e-Filing portal.

Can you edit after filing? No — double-check before submitting.

What if you skip it? Full Indian tax rates apply. No DTAA benefit. Possible penalties.

This FAQ is based on the official Form 41 FAQ document and the Form 41 template issued under Rule 75 of the Income-tax Rules, 2026.

Form No. 41 · Rule 75 · Section 159(8) · Income-tax Act, 2025