

NON RESIDENT INDIAN (NRI) Taxation, Laws & Investment

ASHUTOSH®

Who is a NRI?

Who is a NRI?

As per Income Tax Act :

Under Section 6(1), an individual is said to be resident in India in any financial year if he satisfies any one of the following basic conditions:

- (a) He is in India in the previous year for a period of 182 days or more
or,
- (b) He is in India for a period of 60 days or more during the relevant previous year and 365 days or more during the four years preceding that previous year.

Exceptions:-

- i) An Indian citizen leaves India for employment abroad for the purpose of employment or
- ii) An Indian citizen leaving India as a member of the crew of an Indian ship, or
- iii) An Indian citizen or a person of Indian origin, who has settled abroad, comes on a visit to India.

Who is a NRI?

As per Income Tax Act :

If Resident as per IT Act, 1961

Resident and Ordinarily Resident

Resident in India in at least 9 out of 10 previous years preceding the relevant previous year;

and

In India for a period of 730 days or more during 7 years preceding the relevant previous year.

Resident but Not Ordinarily Resident

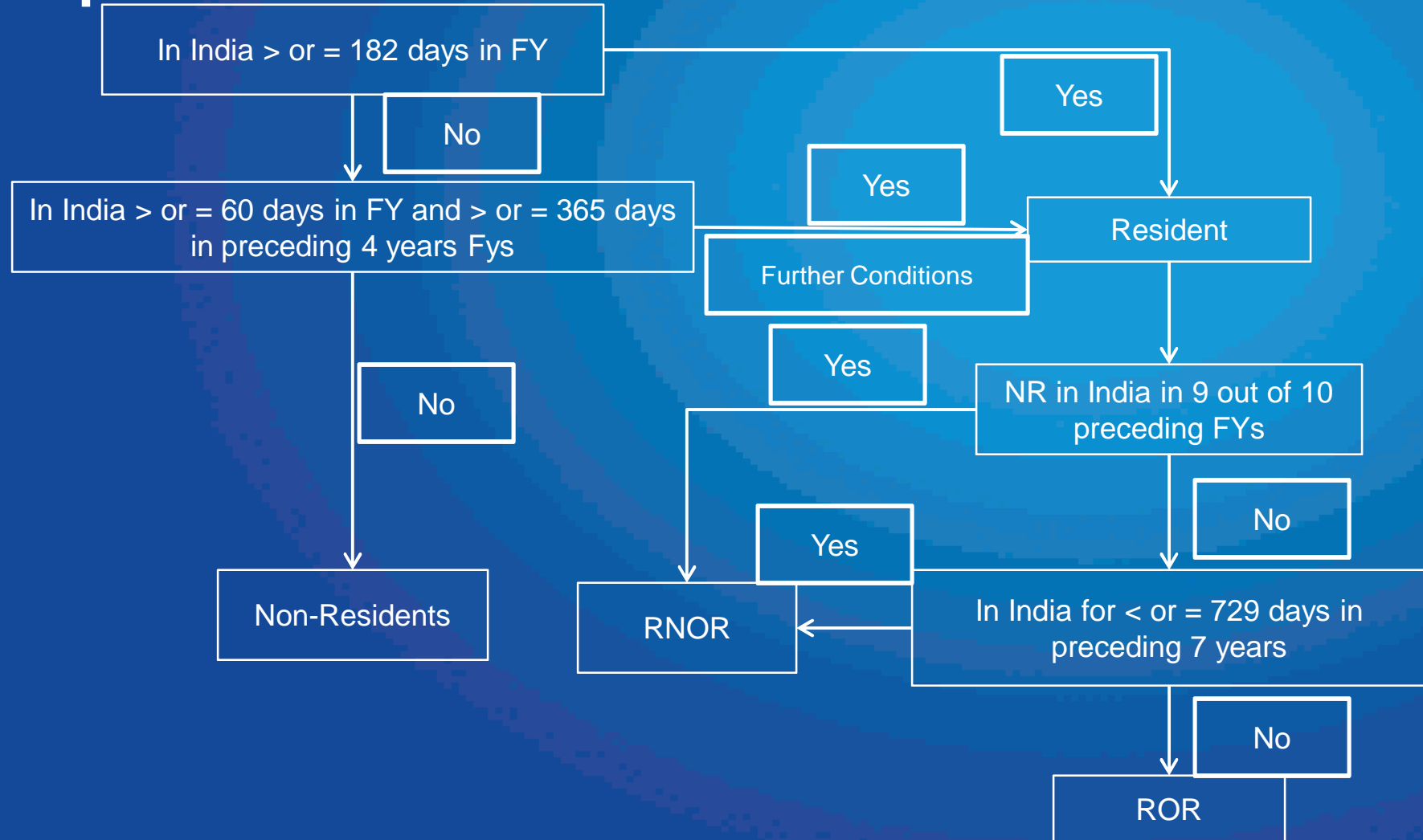
Has not been resident in India in 9 out of 10 previous years preceding the previous year;

or

Has been in India for 729 days or less in 7 immediately preceding the relevant previous year.

Who is a NRI?

As per Income Tax Act :



Who is a NRI?

As per FEMA :

A person residing in India for more than 182 days during the course of preceding financial year but does not include:-

A person who has gone out of India or who stays outside India, in either case-

for or on taking up employment outside India; or

for carrying on a business or vocation outside India; or

for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period.

A person who has come to or stay in India, in either case, otherwise than-

for or on taking up employment inside India; or

for carrying on business or vocation in India, or

for any other purpose in such circumstances as would indicate his intention to stay in India for an uncertain period.

Students going abroad are considered NRI under FEMA.

Who is a NRI?

As per Citizenship Act

1. **Citizenship by Birth :- Birth In India.**
2. **Citizenship by Descent:- Birth Outside India & parents of Indian Origin.**
3. **Citizenship by Registration:- Person Of Indian Origin returning to India.**
4. **Citizenship by Naturalisation :- Foreign Nationals who want to acquire Citizenship.**

Citizen under the Citizenship Act makes him / her eligible for passport of that country.

Who is a NRI?

Conflict between the Provisions

Residential status

- | | | |
|------------------------|----|--|
| As per IT Act | :- | based on the number of days. |
| As per FEMA | :- | on the intention of the person. |
| As per Citizenship Act | :- | based on birth & applying for citizenship. |

Who is a NRI?

Advantages / Disadvantages for becoming a Resident / Non Resident under :

- 1. Income Tax.**
- 2. FEMA.**
- 3. Citizenship Act.**

Who is a NRI?

Particulars	Overseas Citizen of India (OCI) Card (Operative)	PIO Card (In Operative)
Eligibility	<p>Following Categories of Foreign National –</p> <ol style="list-style-type: none"> 1 Citizen of India on or after 26.01.1950, or 2 Eligible to become citizen of India on 26.01.1950, or 3 Belonged to a territory that became part of India after 15.08.1947, or 4 Child or a grandchild or a great grandchild of such a citizen, or 5 Minor child of such persons mentioned above, or 6 who is a minor child and whose both parents are citizens of India or one of the parents is a citizen of India; or 7 spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India Cardholder 	<ol style="list-style-type: none"> 1 Any person who has ever held an Indian passport, or 2 The person's parents, grandparents or great grandparents were born in and were permanent residents of India and never moved Bangladesh and Pakistan, or 3 The person is the spouse of a citizen of India or of a PIO and has been so for two years or more. <p>However the scheme has been discontinued from 09.01.2015</p>
Ineligibility (Barred)	Person ever been a Citizens of Pakistan & Bangladesh	Person ever been a Citizens of Afghanistan, Bangladesh, Bhutan, China, Nepal, Pakistan and Sri Lanka.

Who is a NRI?

Particulars	Overseas Citizen of India (OCI) Card (Operative)	PIO Card (In operative)
Benefits	<ul style="list-style-type: none"> 1 Multiple entry, multi-purpose, life long visa to visit India; 2 Exemption from foreigner registration requirements for any length of stay in India; and 3 Parity with Non-Resident Indians in financial, economic and educational fields except in the acquisition of agricultural or plantation properties. 	<ul style="list-style-type: none"> 1 Visa Free Entry to India; 2 Parity with NRI in respect of facilities in financial matters; 3 Exemption from foreigner registration requirements for stay in India for less than 6 months.
Application & Validity	<p>Eligible persons to apply online. For this purpose, please log on to https://passport.gov.in/oci.</p> <p>OCI card is valid for life time i.e Perpetual.</p>	<p>No new application after 09.01.2015, all the existing holders will be deemed to be treated as OCI card Holder. However it is advisable to apply for OCI card.</p> <p>PIO card is also valid for life time .I.e Perpetual.</p>

OCI Card does not mean Dual Citizenship.

Taxation for NRI

Taxation for NRI

Basics of taxation

- ➡ Residence Rule
- ➡ Source Rule

Taxation for NRI

Double Taxation Avoidance Agreement (DTAA)

- ➡ Double Taxation Avoidance Agreement (DTAA) is agreements entered into between countries, between India and another foreign state. The basic objective is to avoid, taxation of income in both the countries (i.e. Double taxation of same income) and to promote and foster economic trade and investment between the two countries.
- ➡ India has DTAA with over 80 countries such as the US, the United Kingdom, the UAE, Canada, Australia, Saudi Arabia, Singapore and New Zealand.

Taxation for NRI

Double Taxation Avoidance Agreement (DTAA)

- ➡ Relief is granted on the basis of FTC (Foreign Tax Credit) or Exemption method as provided in the respective DTAA.
- ➡ Section 91 provides relief to tax payers who have paid tax to a country with which India has not signed a DTAA.

Taxation for NRI

Indian Income

- ➡ Income received or accrued or arised in India.

Foreign Income

- ➡ Income not received nor accrued nor arises from India.

Exceptions:-

- 1 CBDT Circular-
Income received in Indian Bank Account for Seafarers working on ships - Foreign Income.
- 2 Pramod Kumar Sapra VS ITO 87 Taxmann 98 (Del.ITAT)

Taxation for NRI

	Resident and ordinarily resident in India (R & OR)	Resident but not ordinarily resident in India (R but not OR)	Non-resident in India (NR)
Indian income	Taxable	Taxable	Taxable
Foreign Income	Taxable	Non Taxable	Non Taxable
Income of business or profession accruing or arising outside India, but business controlled in India or a profession set up in India	Taxable	Taxable	Non Taxable

Taxation for NRI

Different Financial Year in India & Abroad

For Instance.....

- ➡ Financial Year in India is 1st April to 31st March.
- ➡ Financial Year(Tax Year) in US is 1st January to 31st December.

Taxation for NRI

Different Financial Year in India & Abroad

Segregating transactions in the following form:-

- ➡ From 1st January to 31st December from the bank statement/ investment statement.
- ➡ If more transactions have been under taken, consider it from computerized accounting software.

We are clear about the income to be aggregated in US tax return.

Taxation for NRI

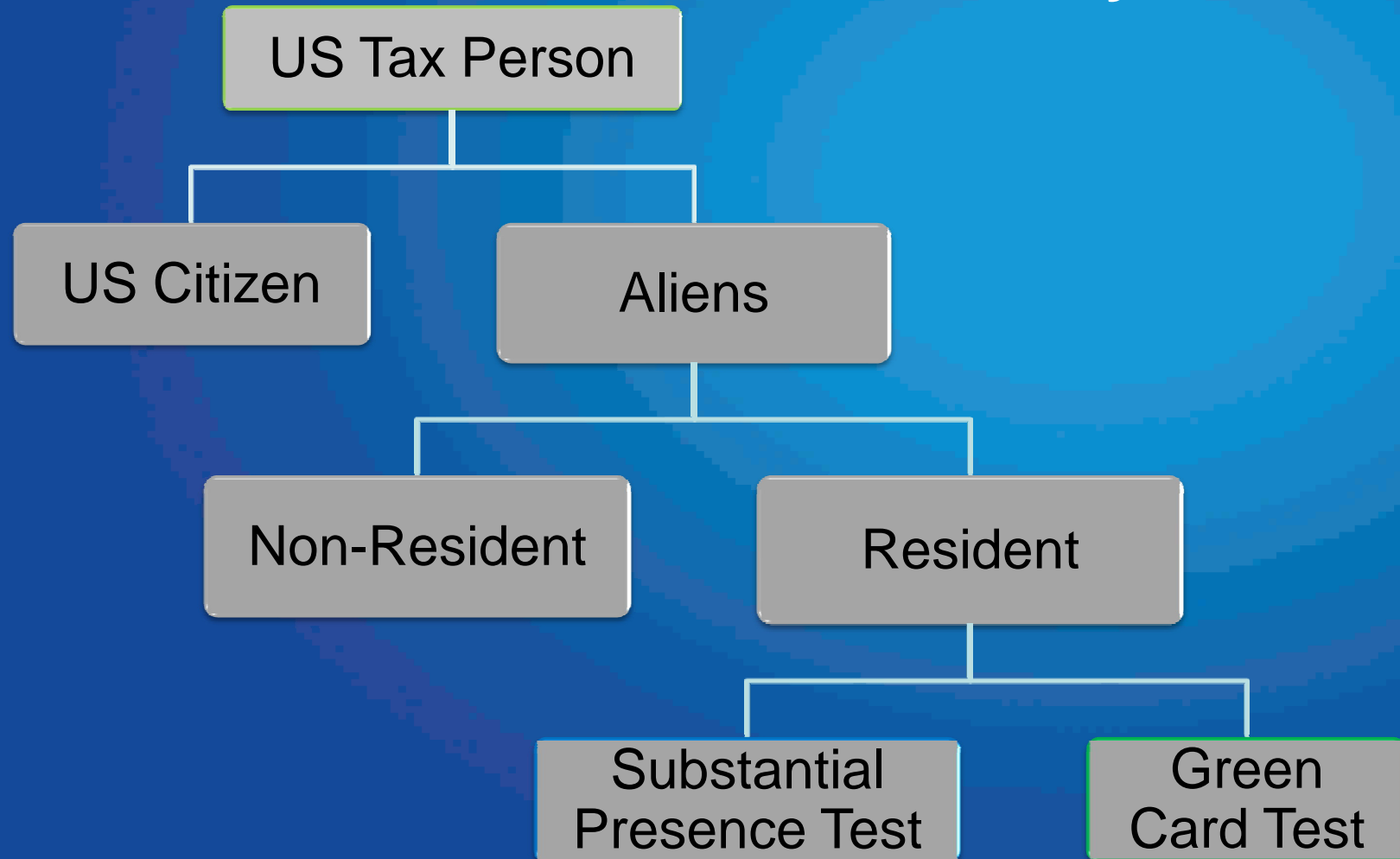
Different Financial Year in India & Abroad

Tax Credit of the incomes taxed in India:-

- ➡ For Indian incomes between 1st January to 31st March, taxes & Returns would have been filed , credit of taxes (not any interest or penalty) on that basis
- ➡ For Indian incomes between 1st April to 31st December, credit on the basis of withholding tax in India(TDS) or advance tax paid. These advance taxes should be towards final tax liability.

Taxation for NRI

Tax Resident of more than one Country



Taxation for NRI

Tax Resident of more than one Country

Resident

Green Card Test

No matter where you
live

A privilege is given by USCIS
as a Lawful Permanent
Resident

Substantial Present
Test

Based on the time
you spent in the US

At least 31 days in the current
year **AND** 183 days during last
3 years

Taxation for NRI

Tax Resident of more than one Country

Definition of Indian Tax Resident :

➡ An individual is said to be resident in India in any financial year if he satisfies any one of the following basic conditions:

- (a) He is in India in the previous year for a period of 182 days or more or,
- (b) He is in India for a period of 60 days or more during the relevant previous year and 365 days or more during the four years preceding that previous year.

Exceptions:-

- i) An Indian citizen leaves India for employment abroad for the purpose of employment or
- ii) An Indian citizen leaving India as a member of the crew of an Indian ship, or
- iii) An Indian citizen or a person of Indian origin, who has settled abroad, comes on a visit to India

Taxation for NRI

Tax Resident of More than One Country

A person can be Tax resident of both the countries:-

- ➡ A person acquires Green Card of USA (A special status accorded by a country) and Resident tax payer in India.
- ➡ A person satisfies Substantial Presence Test of US Tax Law (Length of stay in a country) makes an individual Tax resident of US and he/she would be tax resident in India also.

Taxation for NRI

Tax Resident of more than one country

Remedies:

- ➡ If an individual is an tax resident of more than one country, then the DTAA between both the countries will apply.
- ➡ The test specified in DTAA between US and India are as follows:
 - Place of Permanent Home, if not determinable , then center of vital Interest
 - If centre of vital interests cannot be determined, then habitual abode.
 - If habitual abode is not possible, then the state of nationality will be applicable.
 - If nationality is not determinable, then competent authorities of the Contracting States shall settle the question by mutual agreement.

Taxation for NRI

Tax Resident of more than one country

- ➡ As per the test mentioned in DTAA, a person will be treated as resident of one country and non resident of another country for Income tax purposes.
- ➡ When the person will be treated as resident of a country, then his global income is taxable in that country. (Residence Rule).
- ➡ The person will be treated as non resident in a country for income tax purpose and only income earned in that country will be taxable. (Source Rule)

Taxation for NRI

Tax Resident of more than one country

- ➡ The taxes paid as source rule will be available as credit in Resident Rule country either by exemption method or Foreign Tax credit Method as per DTAA of both the countries. In USA , credit can be taken by Foreign Tax credit method and in India, credit can be taken by any of the two methods.
- ➡ The residency status of an individual as per other regulations like Tax on gifts, Inheritance Tax etc will be applicable as usual.

Taxation for NRI

Taxation of Indian Income

Income	Taxability
Interest in NRO A/C	Taxable as per ordinary tax rate
Interest in NRE A/C	Exempted as per Section 10(4)
Sale of Agricultural land	Exempted u/s 10(37) subject to certain condition
Sale of plot of land	Short Term- Normal tax rate Long Term- 20%(After Indexation)
Sale of Residential House	Short Term- Normal tax rate Long Term- 20%(After Indexation)
Share in Partnership Firm	Exempted u/s 10(2A)
Dividend from mutual Fund	Exempted u/s 10(35)
Agricultural Income	Exempted u/s 10(1)

Taxation for NRI

Taxation of Indian Income

Category of Income	Tax Rates	TDS Rates(NRI)
Short Term Capital Gain		
Units of Non-equity Oriented Scheme	Taxable at normal rates of taxes applicable to the assessee	30%
Units of an Equity Oriented Scheme	15% on redemption of units where STT is payable on redemption (u/s 111 A)	15%
Long Term Capital Gain		
Listed Units of a Non-Equity Oriented Scheme	10% without Indexation OR 20% with indexation, whichever is lower (u/s 112)	20% (U/S 195)
Unlisted units of a Non – Equity Oriented Schemes	10% with no indexation	10% (U/S 115E/112)
Units of an Equity Oriented Scheme	Exempt in case of redemption of units where STT is payable on redemption (u/s 10(38))	Exempt in case of redemption of units where STT is payable on redemption (u/s 10(38))

Taxation for NRI

Special Regime – Chapter XII A

Section	Income	Tax Rate
115E	Income from Specified assets purchased in convertible foreign exchange- <ul style="list-style-type: none">• Investments Income (Except DDT paid dividend)• Long Term Capital Gains(without indexation)	20% 10%

➡ Specified assets –

- shares of an Indian company
- debentures of or deposits with a public Indian company(Includes Bank deposits)
- government securities.

➡ Proportionate exemption from capital gains on investment in specified assets or NSC within 6 months of sale of original asset, subject to lock-in of 3 years.

Taxation for NRI

Special Regime – Chapter XII A

- ➡ No return of income required to be filed if no other income & TDS is deducted.
- ➡ NRI can choose to apply or not apply these provisions on a yearly basis.
- ➡ Transitional provisions also available to returning NRIs based on declaration even on balance of NRE & FCNR A/Cs continued by returning NRI.
- ➡ No Basic Exemption is available and deductions of section 80C to 80U

Taxation for NRI

Special Rates of Taxation of Capital Gain

Section	Income	Tax Rate
111A	Short Term Capital Gains on STT paid transactions	15%
112	Long Term Capital Gains -On unlisted securities and shares (without indexation) -on others Option of 10% without indexation in case of listed securities(other than a unit) or a Zero Coupon Bond	10% 20%

Taxation for NRI

Taxation of Immovable Properties & NRI

- When an Immovable property is brought from a NRI – TDS @20.60% (LTCG) & 30.90% (STCG) should be deducted by Resident Indian from the consideration paid to NRI. Lower Tax Deduction Certificate can be obtained from A.O.
- NRI can claim following exemptions :
 - U/s 54 EC : Investment in Capital Gain Bonds.
 - U/s 54 : Exemption from capital gain in buying new house against sale of house.
 - U/s 54 F : Exemption on sale of any capital asset (Plot of Land etc) and buying a house.

Taxation for NRI

Income Tax Relief / Deductions & NRIs

➡ U/s. 80 C & 80 CCC

Deduction available upto the ceiling of Rs.1,50,000/- akin to RI's. Investment in Life Insurance, ELSS, Housing Loan, Education Fees can be made in India.

➡ Section 10(6)(vi), 10(6)(viii), 10(6)(xi), 10(7), 10(8), 10(8A), 10(8B), 10(9)

Provides for relief to NR's drawing salaries and remuneration in special cases.

- Relief to Senior Citizen and Super Senior Citizen Tax Payers not available to NRI's.
- In case of refund, NRI can quote Foreign Bank Account in return of income , if Indian bank account is not available.

Taxation for NRI

Tax Deduction at Source for NRI

Section	Nature of payment		TDS Rate
Section 192	Payment of Salary		Normal Slab Rate
Section 195	Payment of any other sum to a Non-resident		
	a)	Equity oriented Schemes - Short Term Capital Gains	15
	b)	Equity oriented Schemes – Long Term Capital Gains	NIL
	c)	Other than equity oriented Schemes - Short Term Capital Gains	30
	d)	Other than equity oriented Schemes - Long Term Capital Gain - For unlisted	10
	e)	Other than equity oriented Schemes - Long Term Capital Gain - For listed	20
	f)	Investment income from Foreign Exchange Assets	20
	g)	Any other income	30

- Education Cess @3% is applicable in all cases.

When DTAA provides lower rate of TDS , that lower rate will be applicable on production of TRC (Tax Residency Certificate).

Taxation for NRI

Residential Status & Tax Planning

- ➡ Where a NRI intends to stay beyond a period of 60 days or 182 days – divide the stay in two financial years.
- ➡ Remittance is tax free receipt U/s. 5 of Income Tax Act but if income is directly received in India then it would become taxable.
- ➡ Any person who is employed (incl. Self employed) can take advantage of the relaxed definition for Indians employed.
- ➡ Make investments in different entities in India – self, spouse, parents, children, HUF.

Taxation for NRI

Representative Assessee – Agent of Non Resident (NR)

- Section 163 of the IT Act states – agent in relation to non-resident (NR) is one who is employed by NR, having business connection with NR, from or through whom NR receives income directly or indirectly, trustee of a NR. A broker dealing with NR through NR broker is not an agent.
- An agent of NR is a representative assessee U/s. 160 of the IT Act.
- A representative assessee's liability, duties, responsibilities are at par with his own, as if it were his own assessment proceedings.

Transactions by NRI

Transactions by NRI

PAN Card In India

- ➡ Permanent Account Number (PAN) is a unique code that acts as an identification for individuals for their financial transactions.
- ➡ It is allotted by Income Tax Department.
- ➡ It is similar to Tax Identification Number (TIN) in foreign countries.
- ➡ The application for the PAN can be made by non residents by filing Form NO 49AA.

Transactions by NRI

PAN card in India

Requirements for obtaining PAN:

- ➡ It is mandatory to quote PAN for below mentioned transactions:
 - Any Financial Transaction in India.
 - Opening of an account with a Bank, Demat Account for shares.
 - Filing of Income Tax Return , if the income exceeds the minimum Taxable amount.
 - For Claiming of refund, if TDS is deducted.
 - For carry forward of losses.

Transactions by NRI

PAN Card In India:

It is not compulsorily to file income tax Return if you are holding PAN Card.

An NRI Pan card holder needs to file his return of income only if he/she has income above the taxable limit or wants to claim a refund

Transactions by NRI

Loans by NRI – on Repatriable basis

- ➡ Loan can be given by NRI to their close relative in Foreign Currency of an amount not exceeding \$ 250000
- ➡ Loans can be from remittances, NRE, FCNR A/cs in Foreign Currency.
- ➡ Minimum maturity period of loan is 1 Year.
- ➡ Loan is free of interest.

Transactions by NRI

Loans by NRI – on non Repatriable basis

- ➡ Loans can be from remittances, NRO, NRE, FCNR A/cs.
- ➡ Loan period not to exceed 3 years.
- ➡ Rate of Interest not to exceed 2% over the bank rate.
- ➡ Repayment in NRO A/c.

Transactions by NRI

Insurance & NRI

NRI's can avail insurance by paying premiums from foreign currency (repatriable funds) or from non repatriable funds.

On maturity / surrender proceeds will be paid in foreign currency in the proportion to the amount of premium paid in the foreign currency.

Transactions by NRI

Liberalized Remittance Scheme (LRS) for resident Indian to benefit NRI

A Resident Individual can avail US \$ 2,50,000 per person per year :

- ➡ Investments, Opening Bank account, buying property abroad.
- ➡ Medical Treatment abroad.
- ➡ Gift to relatives abroad.
- ➡ Maintenance of relatives abroad.
- ➡ Studies abroad.

Transactions by NRI

Transfer of NRO Funds abroad or to a NRE A/c

- ➡ NRO Funds to the extent of US \$ 1 million per person per year can be remitted abroad or transferred to NRE A/c.
- ➡ Taxes due on funds supposed to be transferred should be paid.
- ➡ Simple procedure need to be followed for the transfer.

Transactions by NRI

Important clauses of Power of Attorney to manage their affairs to be given by NRI

- To carry out all the operations of Depository Account including instruction for debit & credit to the demat account.
- To carry out operation of Government supported savings schemes with specific mention of names.
- To carry out the affairs of a Hindu Undivided Family (HUF) where the NRI is the Karta of his HUF.
- To carry out the affairs of Partnership or Proprietorship Concern.
- To carry out functions as a Director of a Company.
- To make and accept all claims under a WILL or under succession.
- To encash fixed deposits even before maturity and close bank accounts (subject to acceptance by the bank).

Transactions by NRIs

Power of Attorney (POA) – Legal formalities

For Movable properties :

- ➡ Should be notarised in India or Abroad.
- ➡ Should be stamped as per local Stamp Act, in Gujarat Rs. 100/= .

For Immovable properties :

- ➡ Should be registered with respective Registrar where the property is located in India OR

Should be executed & signed before Indian Embassy abroad and thereafter should be submitted to registrar where it will be stamped & verified by the local collector office. Giver & receiver of powers both can execute and sign out of India.

- ➡ Appropriate stamp duty has to be paid, which is Rs. 100/= for POA to close relatives and market value based stamp duty when POA given to any person other than close relative will be liable to regular stamp duty.
- ➡ Do not mention about power to collect consideration & give possession.

Transactions by NRI

Provisions & Formalities for Returning NRI

Foreign Assets:

- ➡ NRI returning to India for permanent settlement may continue to hold or own all types of foreign Assets such as foreign currency , Foreign securities , bank deposits, Immovable properties if the same were held/owned by them when he was residing abroad for unlimited amount and for unlimited period.
- ➡ They are also allowed to gift such acquired property to any relative including the person who is resident of India.

Transactions by NRI

Provisions & Formalities for Returning NRI

Foreign Assets :

- ➡ Returning NRI are also allowed to purchase and sale the above mentioned foreign assets. However the payment for such purchase is to be made from Resident Foreign Currency (RFC) account maintained with bank in India for unlimited amount and for unlimited period.
- ➡ An resident holding any foreign assets or has signing authority in any foreign account is compulsorily required to file the income tax return irrespective of the amount of taxable income. Section 139(1).

Transactions by NRI

Provisions & Formalities for Returning NRI

Procedure by NRI on Return to India:

Authorities	Action
Insurance companies, Mutual Funds, shares held in companies	Inform regarding the status of change from Non resident to Resident.
Bank Accounts	Inform regarding the status of change from Non resident to Resident and convert the various bank accounts.

Old Bank Account	New Bank Account
NRO Account	Resident Saving Account
NRE Account	Resident Savings account or Resident Foreign Currency Account(RFC) Account
FCNR Account	RFC Account

Transactions by NRI

Provisions & Formalities of Returning NRI

Taxability of Returning NRI Bank Interest Income

Account	R & OR	R but NOR	Non Resident
FCNR Account Deposit*	Taxable**	Exempt	Exempt
RFC Account	Taxable	Exempt	Exempt
NRE Account converted to Resident savings Account*	Taxable**	Taxable	Not Applicable
NRE Account converted to RFC Account*	Taxable	Exempt	Not Applicable

* NRI are allowed to hold the FCNR and NRE deposit till maturity with the same interest rate, but not as FCNR & NRE Deposits and as RI and RFC account.

**Interest is taxable in India from the date of return to India.

Transactions by NRI

Restrictions on transactions with citizen of certain countries				
Name of function	Pakistan	Bangladesh	Sri Lanka	Nepal
Does he / she become a NRI even when he / she is a <u>Person of Indian Origin</u>	No	No	Yes	Yes
Opening <u>Bank Account</u> in India	Individuals/ Entities with prior approval of RBI	Should hold a valid visa and valid residential permit	No restrictions	No restrictions
Acquiring / transfer <u>immovable property</u> in India	Not without the prior permission of the RBI Lease not exceeding five years for leased property	Not without the prior permission of the RBI Lease not exceeding five years for leased property	Not without the prior permission of the RBI Lease not exceeding five years for leased property	Not without the prior permission of the RBI Lease not exceeding five years for leased property
Investment in <u>Shares</u>	Prior approval of FIPB	Prior approval of FIPB	General permission	General permission
Investment in <u>Mutual Fund</u>	Prior approval of FIPB	Prior approval of FIPB	General permission by RBI	General permission by RBI

Investment Opportunities for NRI

Investment Opportunities for NRI

1. Equity Investments

- 
1. Direct investment in stock market.
 2. Investment through Equity oriented Mutual Funds.
 3. Investment under Portfolio Management Services (PMS).

2. Real Estate Investments

3. Fixed Income Investments

- 
1. Fixed deposit with banks.
 2. Debt based Mutual Funds.

Investment Opportunities for NRI

Equity Investments

Direct Investment in Stock Market		Equity based Mutual Fund		Equity based PMS	
1.	Only through NRO – PIS or NRE – PIS Account	1.	No requirement of any Account	1.	Operations by a Portfolio Manager through PIS Account
2.	Shares acquired as resident Indian by gift or under IPO can be held in NON PIS Account	2.	Taxation only when units transferred	2.	Tax implication on each transaction
3.	Taxation : Tax implication of each transaction Short term gain : 15% Long term gain : Tax Free	3.	Taxation : Tax implication of each transaction Short term gain : 15% Long term gain : Tax Free	3.	Taxation : Tax implication of each transaction Short term gain : 15% Long term gain : Tax Free

Investment Opportunities for NRI

Real Estate Investments

- NRI / PIO may acquire / transfer immovable property in India other than agriculture land / plantation property or a farm house out of repatriable and / or non – repatriable funds.
- The payment of purchase price, if any, should be made out of

funds received in India through normal banking channels by way of inward remittance from any place outside India or

funds held in any non-resident account maintained in accordance with the provision of the Act and the regulations made by the Reserve Bank.

Investment Opportunities for NRI

Fixed Income Investment

Various type of savings & fixed deposits accounts with banks

NRE Account :

- Remittance from abroad or other NRE or FCNR Accounts.
- Balance held in rupees but are repatriable.
- Proceeds on maturity of repatriable assets can be credited.
- Foreign exchange can be credited by NRI himself.
- The income from the account is exempted.
- Joint account with another NRI/PIO or with resident relative can be opened.

FCNR Accounts :

- Deposits in specified foreign currencies.
- Different Interest rates for holding deposits in different currency. Swap between Currencies possible.
- Transfer to NRE and vice versa possible.
- The income from the account is exempted.
- Joint account with another NRI/PIO or with resident relative can be opened.

Investment Opportunities for NRI

Fixed Income Investment

Various type of savings & fixed deposits accounts with banks

NRO Account :

- Non-repatriable rupee account.
- When Resident Indian becomes NRI his existing account changes to NRO, banks need to be informed.
- Credits and debits of Non-repatriable funds.
- The income from the account is taxable.
- Joint account with another NRI/PIO or with resident can be opened.

RFC Account :

- This account can be maintained by returning NRIs.
- This account can be opened and maintained in any convertible foreign currency.
- Credits of foreign exchange assets, NRE & FCNR balances.

Investment Opportunities for NRI

Account type	Domestic / Resident Account	Non Resident Ordinary (NRO) Account	Non Resident External (NRE) Account	Foreign Currency Non Resident (FCNR - B) Account
NRI	Not Permitted	Permitted	Permitted	Permitted
Foreign Nationals on employment in India	Permitted	Not Permitted	Not Permitted	Not Permitted
Foreign Students studying in India	Not Permitted	Permitted	Not Permitted	Not Permitted
Foreign Tourists on short visit to India	Not Permitted	Permitted	Not Permitted	Not Permitted

Investment Opportunities for NRI

Bank Rates for NRE, NRO & FCNR Deposits

as on 01/12/2017 for amount below 1 Crore - State Bank of India

Duration	NRE	NRO	FCNR	FCNR	FCNR	FCNR
			GBP	USD	EURO	YEN
1 year to 455 days	6.25	6.25	1.19	2.52	0.01	0.02
456 days to less than 2 years	6.25	6.25	1.19	2.52	0.01	0.02
24-36 Months	6.00	6.00	1.38	2.42	0.01	0.05
36-48 Months	6.00	6.00	1.50	2.53	0.01	0.05
48-60 Months	6.00	6.00	1.59	2.60	0.10	0.05
60-120 Months	6.00	6.00	1.66	2.65	0.15	0.05

Investment Opportunities for NRI

Investment in LLP and Companies

Invest in LLP and Companies can be made through Foreign Direct Investment route (FDI scheme), which includes Automatic Route or Government Route, depending upon the sector of investment.

Investment in Proprietorship and Partnership Concern

Invest in Proprietorship and Partnership Concern can be made by NRIs on non repatriable basis except agriculture & real estate.

Why India is a destination for investment in present times?

Why India is a destination for investment in present times?

**Developed Economies
Vs.
Emerging Economies**

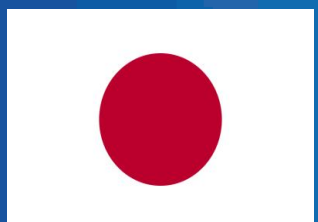
Why India is a destination for investment in present times?

Developed Economies



U. S. A.

2.30%



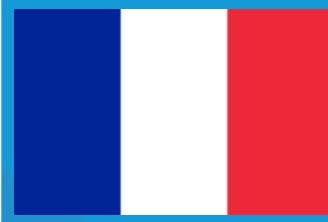
Japan

2.10%



Germany

2.80%



France

2.20%



U. K.

1.50%

Source : www.tradeingeconomics.org

Why India is a destination for investment in present times?

Major Emerging Economics India in a Sweet Spot



BRAZIL
1.40%

INDIA
6.30%

CHINA
6.80%

RUSSIA
1.80%

**SOUTH
AFRICA**
0.80%

Why India is a destination for investment in present times?

How do we participate in India Growth Story?

Why India is a destination for investment in present times?

Fixed Income Investment?

Not exactly !!

Why India is a destination for investment in present times?

Growth Assets in India

- ➡ **Real Estate.**
- ➡ **Equity Markets.**

Why India is a destination for investment in present times?

Real Estate – Prospects & Operational Comforts

- ➡ Presently stagnated and not considered as a investment option.
- ➡ Present valuation expensive.
- ➡ Cash component in transactions.
- ➡ Liquidity.
- ➡ Lack of transparency.

Why India is a destination for investment in present times?

Equity Market

- ➡ Direct Proxy to India Growth Story.
- ➡ Attractive valuations.
- ➡ India a major beneficiary of soft commodity prices.
- ➡ Transparent operations.
- ➡ Long term capital – tax free.

Why India is a destination for investment in present times?

Participating in Equity Markets through Mutual Funds

- ➡ Substantial out performance of benchmark returns.
- ➡ Diversification in equity exposure.
- ➡ Ease of operations.
- ➡ Long term capital – tax free.
- ➡ Tax effect only on transfer of units. Change in underlying assets not impacted.

Why India is a destination for investment in present times?

Participating in Equity Markets through Mutual Funds

- ➡ Make online investment at your convenient time.
- ➡ View your portfolio reports at time of your convenience.
- ➡ Log on website www.ashutoshfinserv.com

AADHAR & NRI

AADHAR & NRI

Under the The Aadhar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act 2016,

- ➡ Resident means an individual who has resided in India for a period or periods amounting in all to one hundred and eighty two days or more in the twelve months immediately preceding the date of application for enrolment;

AADHAR & NRI

- ➡ Every resident shall be entitled to obtain an Aadhar number by submitting his demographic information and biometric information by undergoing the process of enrolment.
- ➡ Hence any person of any nationality (passport of any country) can apply for Aadhar Card if he was in India for more than 182 days in 12 months preceding the date of application for Aadhar Card.

AADHAR & NRI

Under Section 139AA & Subsequent notification , all PAN holders who is a NRI under the Income Tax Act , 1961 are

- ➡ Supposed to link their Aadhar Card with PAN if they hold their Aadhar Card.
- ➡ If they do not hold a Aadhar Card they are exempted form the requirement of linking Aadhar card with the Income Tax PAN Card.

AADHAR & NRI

Response by NRI to Aadhar Linkage.

Type of Services	The different type of services for which Aadhar linking is required: PAN card, Bank Account, Insurance Policies, Investment in Mutual Funds, Post Office schemes like PPF, KVP, NSC and Mobile SIM Card.
Response	NRI/PIO are not eligible to obtain Aadhar as per Aadhar Act and hence are fully exempted to produce Aadhar for any verification. NRI/PIO need not verify their bank account, mutual fund investment, Pan card etc. If required they may inform the service provider that they being NRI/PIO are exempted from Aadhar verification.

PPF & NRI

PPF & NRI

PPF Rules (Before 03.10.2017)

- ➡ NRI are not allowed to open PPF account in India.
- ➡ If the PPF account is opened as resident status and later became NRI , they are allowed to make contribution to the account and continue that account up to maturity.
- ➡ On Maturity, the NRI have to compulsorily close the account.

PPF & NRI

New Rules (After 03.10.2017)

- ➡ NRI are not allowed to open PPF account in India.
- ➡ Now NRI are not allowed to continue the PPF account till the maturity. They are also not allowed to make contribution to the account.
- ➡ The account shall be deemed to be closed on the day on notification . i.e. 03.10.2017.

PPF & NRI

New Rules (After 03.10.2017)

- ➡ Interest on PPF up to 03.10.2017 will be as per PPF interest rate.
- ➡ Interest on PPF after 03.10.2017 till actual closure of account will be at post office savings bank rate.

PPF & NRI

Action Plan for Existing Account Holders:

- ➡ Close the account and withdraw the amount from the existing account.
- ➡ The amount from PPF account will be credited to the NRO Account .
- ➡ The amount from NRO account is to be transferred to NRE account by submitting the form 15CA, 15CB to the bank . The maximum limit for transfer is one million \$ per year.

PPF & NRI

Action Plan for Existing Account Holders:

- ➡ Invest the amount through NRE account in different investment opportunities like Mutual Fund, NRE Deposits etc for earning better return.

New Rules applicable to NRI , as defined under which Law ?

Definition of NRI as per FEMA ACT should be applicable.

Understanding on FBAR, FATCA & CRS

Understanding on FBAR, FATCA & CRS

FBAR (Report of Foreign Bank and Financial Accounts)

United States Persons are required to File Form 114 if :

- ➡ the United States person had a Financial Interest in or signature authority over at least one financial account located outside the United States and
- ➡ the aggregate value of all foreign financial accounts exceeded US \$ 10000 at any time during the calendar year reported.

Understanding on FBAR, FATCA & CRS

FATCA (Foreign Account Tax Compliance Act)

- ➡ FATCA targets tax non – compliance by US tax payers with Foreign Accounts.
- ➡ FATCA requires US Tax payers to file Form 8938 on Foreign Financial Assets.
- ➡ FATCA requires Foreign Financial Institutions (FFI's) to report to the IRS, information about financial accounts held by US tax payers.

Understanding on FBAR, FATCA & CRS

FATCA Compliance by Indian (FFI's)

- **Determination date for FATCA : 30th June, 2014.**
- **All new accounts opened after the determination date.**
- **Pre existing accounts electronic search of information in the system.**
- **High value accounts (US\$ 1 mn +) paper record search + inquiry of Relationship Manager, additional requirement.**
- **Closed accounts also subject to the above process.**

Understanding on FBAR, FATCA & CRS

	FATCA	FBAR
	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)
Reporting <u>Threshold</u> (Total Value of Assets)	\$50,000 on the last day of the tax year or \$75,000 at any time during the tax year (higher threshold amounts apply to married individuals filing jointly and individuals living abroad)	\$10,000 at any time during the calendar year
What is <u>Reported</u> ?	Maximum value of specified foreign financial assets, which include financial accounts with foreign financial institutions <u>and certain other foreign non-account</u> investment assets	<u>Financial interest</u> : you are the owner of record or holder of legal title; the owner of record or holder of legal title is your agent or representative; you have a sufficient interest in the entity that is the owner of record or holder of legal title. <u>Signature authority</u> : you have authority to control the disposition of the assets in the account by direct communication with the financial institution maintaining the account. See instructions for further details.
Where to <u>File</u> ?	File <u>with income tax return</u> pursuant to instructions for filing the return	File electronically through FinCEN's BSA E-Filing System . The FBAR is not filed with a federal tax return.

Understanding on FBAR, FATCA & CRS

Types of Foreign Assets and Whether They are Reportable		
	FATCA	FBAR
Financial (deposit and custodial) accounts held at foreign financial institutions	Yes	Yes
Foreign stock or securities held in a financial account at a foreign financial institution	The account itself is subject to reporting, but the contents of the account do not have to be separately reported	The account itself is subject to reporting, but the contents of the account do not have to be separately reported
Foreign partnership interests	Yes	No
Foreign mutual funds	Yes	Yes
Foreign-issued life insurance or annuity contract with a cash-value	Yes	Yes
Foreign <u>real estate</u> held directly	No	No
Foreign real estate held through a foreign entity	No, but the foreign entity itself is a specified foreign financial asset and its maximum value includes the value of the real estate	No
Foreign currency held directly	No	No
<u>Precious Metals</u> held directly	No	No
Personal property, held directly, such <u>as art, antiques, jewelry, cars</u> and other collectibles	No	No

Understanding on FBAR, FATCA & CRS

CRS – Common Reporting System

- ➡ FATCA version of OECD (Organisation for Economic Co-operation & Development) countries.
- ➡ Platform to exchange financial information in respect of residents of 112 countries.
- ➡ Countries include – India, United Kingdom, UAE, Singapore, Hong Kong, China, Australia, Canada, Germany, Switzerland etc.
- ➡ Determination date : 31st December 2015.

Understanding on FBAR, FATCA & CRS

CRS – Common Reporting System

CRS has a broader scope than FATCA

- ➡ All Accounts supposed to be reported (without minimum balance exclusion).
- ➡ Income to be reported under CRS over & above the accounts and investments.
- ➡ Transactions with all entities are to be reported. FI with local client base, retirement funds etc. not exempted in CRS.

Understanding on FBAR, FATCA & CRS

FBAR, FATCA & CRS Planning from Indian context

- ➡ Assets in the name of close (trusted) Resident Indians.
- ➡ A specific WILL to protect the interest of NRI's.
- ➡ Assets held by HUF. Are they taxable in Foreign country? Should they be reported in foreign country?
- ➡ Take benefit of voluntary compliance scheme. It has to be done before detection.
- ➡ US version of voluntary compliance scheme – wilful & non wilful incompliance differently treated.

Disclaimer

This Presentation aims to tell the General Views and Laws related to Non Resident Indians (NRIs).

This Presentation may contain references, website links, regulations or other policy materials. This Information provided is only intended to be a general summary. All information in this presentation, including charts, examples and other website references, may be used for any purpose only after Professional advice.

This Presentation is the personal view of Speaker Mr. Daxesh D. Kothari on NRI Laws, which should not be relied or acted upon without due Professional advice

Thank You...

Questions ?



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NRI – Taxation, Laws & Investment