

# **NRI Taxation & Regulations and NRI Investment Opportunities**

 **MYTHS & TRUTHS**

# **NRI TAXATION & REGULATIONS MYTHS & TRUTHS**



# MYTH

**There is a single law in India which governs the financial matters of Non Resident Indians (NRIs).**



**Myth: There is a single law in India which governs the financial matters of Non Resident Indians (NRIs).**

but the **TRUTH** is...

Law	Basics of determination	Impact of the law
Income Tax Act	Number of days of stay in India.	Taxability of Indian income & Foreign income.
Foreign Exchange Management Act (FEMA)	Number of days of residing and the conduct & intention of the person.	Banking & Investments in India.
Citizenship Act	Holding of citizenship of India or any other country.	Fundamental rights as a citizen of a country.
Overseas Citizen of India (OCI), Citizenship Act	Satisfying conclusive tests of claiming OCI eligibility.	Several privileges to a foreign national in India.



MYTH

**NRIs can continue holding  
Resident Indian bank accounts.**



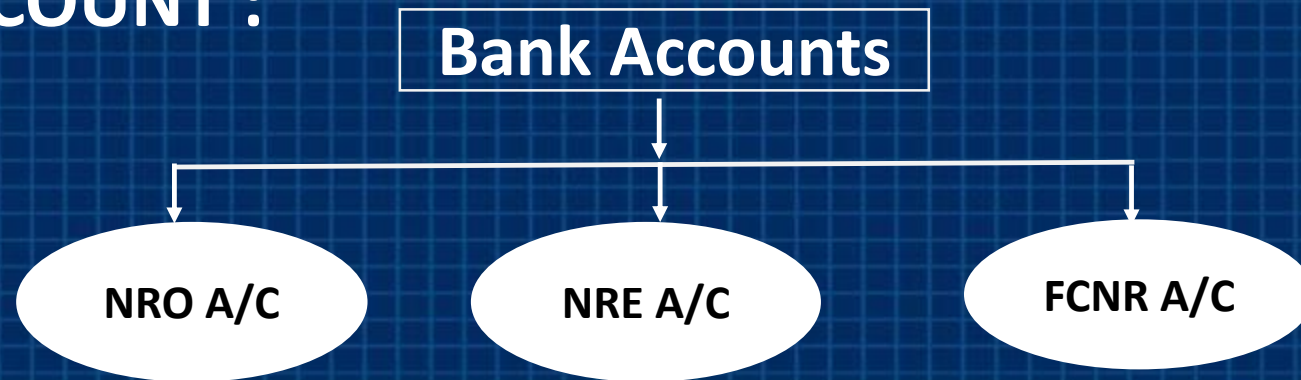
**Myth: NRIs can continue holding  
Resident Indian bank accounts.**

but the **TRUTH** is...

## INTRODUCTION

- ✓ NRI are not allowed to keep Resident Indian savings account in India under FEMA.
- ✓ Either the resident savings account is to be closed or converted in NRO account.

## TYPES OF BANK ACCOUNT :





# MYTH

**NRIs returning back to India need not carry out any formalities for their financial affairs in India.**



**Myth: NRIs returning back to India need not carry out any formalities for their financial affairs in India.**

but the **TRUTH** is...

Authorities	Action
Insurance companies, Mutual Funds, shares held in companies	Inform regarding the change of status from Non resident to Resident.
Bank Accounts	Inform regarding the change of status 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
Old Bank Deposits	New Bank Deposits
NRO/NRE/FCNR Term deposits	Can be continued till maturity at the contracted rate of interest or can be converted into RFC term deposits.



MYTH

**Authority and responsibility of a  
Power of Attorney Holder of an NRI are limited.**



**Myth: Authority and responsibility of a Power of Attorney Holder off an NRI are limited.**

but the **TRUTH** is...

- ✓ The authority of an NRI are far & wide. It can have powers to manage moveable assets and also immovable assets.
- ✓ Broad powers can be granted under PoA
  - The document of PoA should be thoughtfully drafted in accordance with the facts of the case rather than following a draft format.
  - Appropriate formalities for PoA of movable & immovable assets should be followed.
- ✓ PoA holder is a representative assessee under the Income Tax Act. Liabilities and duties of a PoA holder are at par with the assessee (NRI).



**MYTH**

**Repatriation of funds by NRIs from India is  
subject to restrictions and permissions from  
RBI / Government.**



**Myth: Repatriation of funds by NRIs from India is subject to restrictions and permissions of RBI/government.**

but the **TRUTH** is...

- ✓ NRI can avail the benefit of transferring funds (other than borrowed funds) from NRO A/c to the extent of US\$ 1 million per person per year to NRE A/c or out of India.
- ✓ A person who desires to make a remittance of amount exceeding US\$ 1 million per financial year may apply to the Reserve Bank of India for a special permission.
- ✓ Where immovable assets are acquired from balances of NRE / FCNR Account/remittance from abroad, sale proceeds thereof, can be repatriated outside India. In case of, residential houses, maximum two such properties.
- ✓ Current Incomes (Current Account Transactions) like interest, rent, business & professional incomes etc. can be remitted outside India or NRE Account without any limit.



The word "MYTH" is written in a hand-drawn, sketchy font with black outlines and some internal shading, giving it a rough, artistic appearance. It is centered within a white rectangular box.

**There are several legal restrictions for NRIs to start any business venture in India.**



**Myth: There are several legal restrictions for NRIs to start any business venture in India.**

but the **TRUTH** is...

- ✓ NRIs can start business in capacity as a Proprietor or in form of Partnership of LLP.
  - Business of these entities should not be in prohibited sectors like agriculture/plantation activities or real estate business or construction of farm houses.
- ✓ NRI can start a business in company form.
  - Companies should be in business activities which are under automatic route of FDI or after obtaining appropriate approvals.



The word "MYTH" is written in a hand-drawn, sketchy font. The letters are black with white outlines, giving it a rough, artistic appearance. It is centered at the top of the slide.

**There are many limitations in receiving  
loans from NRI.**



**Myth: There are many limitations in receiving loans from NRI.**

but the **TRUTH** is...

## **Tabular presentation for loans by NRI to Resident Indian**

<b>Particulars</b>	<b>Relatives</b>	<b>Others</b>
<b>Loan in Indian Rupees on Non-Repatriable Basis</b>	<b>Permitted</b>	<b>Permitted</b>
<b>Loans in Foreign Currency on Repatriable Basis</b>	<b>Permitted</b>	<b>Not Permitted</b>



MYTH

**Gifts from Non Residents is  
subject to numerous restrictions.**



**Myth: Gifts from Non Residents is subject to numerous restrictions.**

but the **TRUTH** is...

## Gift implications by NRI/OCI to Residents

Assets	Permissibility under FEMA		Liability under Income tax	
	Gift from Relative	Gift from Non Relative	Gift from Relative	Gift from Non Relative
	Relative as per section 2(77) of the Companies Act, 2013.		Relative as per section 56 of the Income Tax Act, 1961.	
Monetary funds through banking channels in foreign currency or Indian rupees	Yes*	Yes	None	Taxable under section 56(2)(x) in the hands of recipient
Any Immovable Property in India	Yes	Yes	None	Taxable under section 56(2)(x) in the hands of recipient

\*Subject to fulfilment of compliance under the Foreign Contribution (Regulation) Rules, 2011



The word "MYTH" is written in a hand-drawn, sketchy font with black outlines and some internal hatching, giving it a rough, artistic appearance. It is centered at the top of the slide.

**Transmission of Assets  
in favour of Non Residents is a complex process.**



**Myth: Transmission of Assets in favour of Non Residents is a complex process.**

but the **TRUTH** is...

- ✓ When the successor of the asset is an NRI, he/she shall be entitled to transmission in the same manner, terms & conditions as he/she is entitled to invest in that type of asset.
- ✓ For e.g., when the NRI is unable to invest in a particular company due sectoral caps on repatriable basis, the transmission of shares of that company will not take place to any NRI on such terms.
- ✓ The exception to the above principle :
  - Agriculture land, plantation and farm house can be transmitted in favour of an NRI.



MYTH

**Being an NRI, I need not disclose  
my Indian income in my country of residence.**



**Myth: Being an NRI, I need not disclose my Indian income in my country of residence.**

but the **TRUTH** is...

## **Double Taxation Avoidance Agreement (DTAA)**

### **Basic of Taxation**

**(When income from more than one country)**

#### **Residence Rule**

Under this rule, the country can tax persons if they are residents or domiciled in the country, regardless of the source of income. The principle of residence – based taxation of income envisages the taxation of global income.

#### **Source Rule**

Under this rule, the taxation is at the source country where the income is generated. The principle behind source based taxation is to pay taxes in the country which provides opportunity for generation of that income.



MYTH

**NRIs are doubly taxed - in India  
as well as country of residence.**



**Myth: NRIs are doubly taxed - in India as well as country of residence.**

but the **TRUTH** is...

## **Double Taxation Avoidance Agreement(DTAA)**

**What is a Double Taxation Avoidance Agreement (DTAA)?**

- ✓ **Double Taxation Avoidance Agreement (DTAA) is an agreement entered into between countries, with the basic objective 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 94 countries such as the US, the United Kingdom, the UAE, Canada, Australia, Saudi Arabia, Singapore and New Zealand, Kenya, Tanzania, South Africa, Sudan etc.**



# MYTH

**I am a Green Card holder predominantly staying in India, hence not liable to any US tax compliance.**



**Myth: I am a Green Card holder predominantly staying in India, hence not liable to any US tax compliance.**

but the **TRUTH** is...

- ✓ A Green Card holder becomes a US Tax Resident, no matter where he/she lives.
- ✓ A Green Card holder predominantly staying in India becomes an Indian tax resident also.
- ✓ If an individual is an tax resident of more than one country, then TIE BREAKER RULE in 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.



**Myth: I am a Green Card holder predominantly staying in India, hence not liable to any US tax compliance.**

but the **TRUTH** is...

**Tax Resident of more than one country :**  
**Compliance to be done in each respective countries for application of TIE BREAKER RULE, when a person “Tax Resident” of two countries at the same time.**

Particular	Disclosure to be made
If person <u>adjudged to be tax resident of India</u> and non resident of U.S.A.	In <u>India</u> – <u>Global</u> Income Taxable In <u>USA</u> – <u>Source</u> Income Taxable (While filling return in USA along with Tax Return Form 1040 NR + Form 8833 Treaty – Based Return Position Disclosure to be filed and apply on Form no. 10FA and to obtain Tax Residency Certificate from India on Form 10FB – Only if <u>U.S.A. sourced income crosses standard deduction plus exemption.</u> )
If person <u>adjudged to be tax resident of U.S.A.</u> and non resident of India	In <u>USA</u> – <u>Global</u> Income Taxable In <u>India</u> – <u>Source</u> Income Taxable (Tax Residency Certificate to be obtained from USA by applying on Form 8802 and obtain Tax Residency Certification Form No. 6166 and submit it to Income Tax Department along with Income Tax Return in India)



MYTH

**Indian Mutual Funds are taxed in the US  
on the sale / redemption of such investment.**



**Myth: Indian Mutual Funds are taxed in the US on the sale / redemption of such investment.**

but the **TRUTH** is...

- ✓ **Indian Mutual Funds are subject to PFIC (Passive Foreign Investment Company) regulations in USA.**
- ✓ **Indian Mutual Funds are taxed on the notional appreciation from the value on the date of purchase or value on the start of the year (1st January) to end of the year (31st December).**



# MYTH

**There is no effective way to mitigate the anomaly arising out of different accounting years between different jurisdictions for the disclosure of incomes and assets.**



**Myth:** There is no effective way to mitigate the anomaly arising out of different accounting years between different jurisdictions for the disclosure of incomes and assets.

but the **TRUTH** is...

**How to compute taxable Income when, different financial year in India & abroad ?**

**For Instance...**

- ✓ Financial Year in India is 1<sup>st</sup> April to 31<sup>st</sup> March.
- ✓ Financial Year (Tax Year) in US is 1<sup>st</sup> January to 31<sup>st</sup> December.



**Myth:** There is no effective way to mitigate the anomaly arising out of different accounting years between different jurisdictions for the disclosure of incomes and assets.

but the **TRUTH** is...

**How to compute taxable Income when, different financial year in India & abroad ?**

**Segregating transactions in the following form :**

- ✓ From 1<sup>st</sup> January to 31<sup>st</sup> December from the bank statement / investment statement.
- ✓ If more transactions have been undertaken, pass entries in computerized accounting software, then segregate it on start & end date basis.
- ✓ We are clear about the income to be aggregated in US tax return.



**Myth:** There is no effective way to mitigate the anomaly arising out of different accounting years between different jurisdictions for the disclosure of incomes and assets.

but the **TRUTH** is...

**How to compute taxable Income when, different financial year in India & abroad ?**

**Tax Credit of the incomes taxed in India :**

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



**Myth:** There is no effective way to mitigate the anomaly arising out of different accounting years between different jurisdictions for the disclosure of incomes and assets.

but the **TRUTH** is...

## Data to be supplied for US tax compliance :

- ✓ Details of all the different types of incomes, date wise, as per respective financial year.
- ✓ Name & Address of the source of income.
- ✓ Conversion of each income in respective foreign currencies as per prescribed reference rates.
- ✓ Tax withheld (TDS) / Advance Tax (Prepaid Taxes).
- ✓ Finally tax liability on that income and tax paid on the income for which credit is to be claimed.



**Myth:** There is no effective way to mitigate the anomaly arising out of different accounting years between different jurisdictions for the disclosure of incomes and assets.

but the **TRUTH** is...

## Data supplied for US tax compliance :

- ✓ Details of assets held at the end of the respective year in respective currencies.
- ✓ Details of investments made during the respective year in respective currencies.
- ✓ Closing balance of Mutual Fund units at the end of the year, for USA, in prescribed format (Form 8621).





**The provisions of TDS are the same  
for Resident and Non Resident Indians.**



**Myth: The provisions of TDS are the same for Resident and Non Resident Indians.**

but the **TRUTH** is...

## **Tax Deduction at source (TDS) for NRI :**

### **Basic Provisions - Sec. 195 of the Income Tax Act.**

✓ **Sec. 195 (1) : Any person responsible for paying to a Non Resident...any other sum chargeable under the provision of this Act...deduct income tax thereon at the rates in force.**

- **Payer** : Any person.
- **Payee** : An Non Resident.
- **Payment** : Any sum, other than salaries chargeable under the provision of Income Tax Act.
- **Rate of TDS** : At the prescribed rates of tax

**Section 195 does not apply to sums paid to Non Residents which are exempt from tax, as it applies to only “any sum chargeable to tax.”**



**Myth: The provisions of TDS are the same for Resident and Non Resident Indians.**

but the **TRUTH** is...

## **Relief from higher rate of TDS for NRI**

✓ **Sec. 195 (2) :**

**Application by Payer (no prescribed format) for determination of such sum on which TDS to be deducted. Rejection is appealable.**

✓ **Sec. 195 (3) :**

**Application by Payee for NIL TDS.**

✓ **Sec. 197 :**

**It can be obtained by the payee (Form No. 13) for lower or Nil TDS, for TDS to be made U/s 195. Rejection is not appealable.**



# MYTH

**The amount on which TDS is supposed to be deducted is the same for Resident and Non Resident Indian.**



**Myth:** The amount on which TDS is supposed to be deducted is the same for Resident and Non Resident Indian.

but the **TRUTH** is...

## **Taxation of various Indian Incomes & TDS for NRI**

### **Our opinion for the amount on which tax is to be deducted u/s 195(1)**

<b>Sr. No.</b>	<b>Type of Asset sale</b>	<b>Provision for tax deduction</b>	<b>Deductor</b>
<b>01</b>	<b>Immovable property</b>	<u>Entire sale consideration</u> unless lower tax deduction certificate is obtained u/s 197 or 195(2).	<b>Property seller</b>
<b>02</b>	<b>Equity shares</b>		<b>Share broker</b>
	<b>i) If purchase details are unavailable with broker</b>	<u>Entire sale consideration</u> as a short term capital gain.	
	<b>ii) If purchase details are available with broker</b>	On the portion of the <u>capital gains</u> as a long or short term capital gain, as the case may be.	
<b>03</b>	<b>Equity mutual funds</b>	On the portion of the <u>capital gains</u> as a long or short term capital gain, as the case may be.	<b>Asset Management Company</b>



MYTH

**There are no concessional tax provisions for NRIs.**



**Myth: There are no concessional tax provisions for NRIs.**

but the **TRUTH** is...

## **Taxation of various Indian Incomes & TDS for NRI**

### **Special tax regime for NRI – Chapter XII-A**

**Tax rates of Income from Specified assets purchased in convertible foreign exchange under section 115E -**

<b>Income from Specified assets</b>	<b>Tax Rate</b>
• <b>Investments Income</b>	<b>20%</b>
• <b>Long Term Capital Gains (without indexation)</b>	<b>10%</b>

**Meaning of Specified assets under the regime (section 115C) –**

- **Shares of an Indian company**
- **Debentures of or deposits with a Public Limited Indian company (Includes Bank/NBFC deposits as per AAR New Delhi ruling of V. Ravi Narayanan [2008] 168 Taxman 65)**
- **Government Securities.**



**Myth: There are no concessional tax provisions for NRIs.**

but the **TRUTH** is...

## **Taxation of various Indian Incomes & TDS for NRI**

### **Special tax regime for NRI – Chapter XII-A**

#### **Long term capital gain not liable to taxation if (U/s. 115F)**

- ✓ **Consideration on sale of specified assets (acquired from Convertible Foreign Exchange) invested in new specified assets within 6 months.**
- ✓ **New specified assets has to be held for 3 years.**
- ✓ **Loan cannot be availed against such “new specified assets.”**
- ✓ **If consideration is partially invested, proportionate deduction is allowable.**



# MYTH

**There is no provisions which would give NRI relief from foreign currency fluctuations.**



**Myth: There is no provisions which would give NRI relief for foreign currency fluctuations.**

but the **TRUTH** is...

## **Taxation of various Indian Incomes & TDS for NRI**

**Computation of capital gain on sale of unlisted shares and debentures of Indian company (Proviso 1 to Section 48 & rule 115A) for foreign currency fluctuations.**

- ✓ **No indexation allowed because benefit of Foreign Currency Fluctuations is allowed.**
- ✓ **Mandatory manner of computation for all Non Residents (not just NRI) who have invested in foreign currency.**
- ✓ **Applicable only on the sale of Unlisted Shares & Debentures acquired in foreign exchange.**
- ✓ **The above method is applicable for short term as well as long term capital gains calculations.**



# MYTH

**NRI will be required to file income tax returns every year if PAN is obtained in India.**



**Myth: I will be required to file income tax returns every year if I obtain PAN in India.**

but the **TRUTH** is...

## Who is required to file Income Tax return in India?

1. Person whose income exceeds Rs. 2.5 lakhs in India (before giving effect of deductions under Chapter VI-A and certain capital gains exemptions).
2. Person who wants to claim refund of any taxes which have been withheld (TDS deducted).
3. Following categories of persons irrespective of the income:
  - i. Deposited an amount exceeding Rs.1 crore in current accounts by any mode during the year.
  - ii. The deposit in one or more savings bank account of the person, in aggregate, is rupees fifty lakh or more during the previous year.
  - iii. If his total sales, turnover or gross receipts, as the case may be, in the business exceeds sixty lakh rupees during the previous year; or
  - iv. If his total gross receipts in profession exceeds ten lakh rupees during the previous year; or
  - v. If the aggregate of tax deducted at source and tax collected at source during the previous year, in the case of the person, is twenty-five thousand rupees or more (fifty thousand in case of senior citizen); or
  - vi. Has incurred electricity expenditure in aggregate exceeding Rs.1 lakh during the year.
  - vii. Incurred an expenditure exceeding Rs. 2 lakh on travel out of India from Indian bank account during the year for himself or any other person.



MYTH

**It would not be possible for NRI to lawfully plan their tax affairs in India.**



**Myth: It would not be possible for NRI to lawfully plan their tax affairs in India.**

but the **TRUTH** is...

## **Tax Planning for NRI in India**

- ✓ **Deduction for investments U/s. 80C maximum of Rs. 1,50,000.**
  - Life Insurance Premium
  - Repayment of Housing Loan
  - Equity Linked Savings Scheme of Mutual Fund (ELSS)
  - 5 Year Bank FD
  - PPF (In existing A/c)
- ✓ **Deduction for Health Insurance U/s. 80 D.**
  - Maximum of Rs. 25,000 for age below 60 Years and Rs. 50,000 for age above 60 Years **PLUS** additional Rs. 50,000 for Senior Citizen Parents.
- ✓ **Deduction for donation U/s. 80G – 50%/100% of sum donated, maximum upto 10% of Gross Total Income.**
- ✓ **Deduction U/s. 80TTA on interest earned on Savings Bank Account (NRO A/c) maximum of Rs. 10,000.**



**Myth: It would not be possible for NRI to lawfully plan their tax affairs in India.**

but the **TRUTH** is...

## **Tax Planning for NRI in India**

- ✓ **Deduction U/s. 24 is available on interest paid on Housing Loan against Income from House Property. Loss under this head can be claimed, maximum of Rs. 2,00,000 against other incomes in the year of income.**
- ✓ **If an NRI intends to stay for a long period in India, in order to ensure that he does not become a resident, he can split stay in two financial years.**



**Myth: It would not be possible for NRI to lawfully plan their tax affairs in India.**

but the **TRUTH** is...

## **Tax Planning for NRI in India**

### **Capital gain related exemptions**

<b>Sr. No.</b>	<b>Exemption</b>	<b>Relevant Provision</b>
<b>01</b>	<b>Investment of Capital gain in Capital Gain Bonds to the extent of Rs. 50 Lakhs - gain from land &amp; building</b>	<b>54EC</b>
<b>02</b>	<b>Investment of capital gain in residential house on sale of a residential house</b>	<b>54</b>
<b>03</b>	<b>Investment of consideration in residential house on sale of any other asset other than residential house</b>	<b>54F</b>



**Myth: It would not be possible for NRI to lawfully plan their tax affairs in India.**

but the **TRUTH** is...

## **Tax Planning for NRI in India**

**Following receipts in cash or kind are tax free U/s. 56 (2) of the Income Tax Act:**

- 1. Any amount to the extent of Rs 50,000**
- 2. From following persons without any upper limit:**  
In case of an individual :
  - A. Spouse of the individual.**
  - B. Brother or Sister of the individual.**
  - C. Brother or Sister of the spouse of the individual.**
  - D. Brother or Sister of either of the parents of the individual.**
  - E. Any lineal ascendant or descendant of the individual.**
  - F. Any lineal ascendant or descendant of the spouse of an individual.**Spouse of the person referred to in items (B) to (F).
- 3. On the occasion of the marriage of an individual.**
- 4. Under a Will or by way of inheritance.**



**Myth: It would not be possible for NRI to lawfully plan their tax affairs in India.**

but the **TRUTH** is...

## **Tax Planning for NRI in India**

- ✓ **Non Resident should receive his incomes abroad, and then remit such incomes credited in the foreign accounts, to India. If the incomes are received in India, they become taxable in India.**
- ✓ **All incomes exempt under Income Tax in India such as proceeds of insurance policy u/s 10(10D), interest on NRE account u/s 10(4), capital gain exemptions u/s 54/54EC/54F, etc. shall be taxable in the respective country of tax residence.**



**Myth: It would not be possible for NRI to lawfully plan their tax affairs in India.**

but the **TRUTH** is...

## **Tax Planning for NRI in India**

- ✓ Interest on NRO A/c (Savings or Fixed Deposits) is taxable. An NRI can transfer his NRO A/c balances, within the limit of 1 Million US\$, per person per year to NRE A/c / FCNR deposits and make the interest income tax free.
- ✓ HUF (Hindu Undivided Family) are recognized as a separate legal entity under Indian Tax laws. Income of HUF is not the income of an individual.
- ✓ Utility of HUF as an entity for investments can be looked into for planning the tax liability abroad. NRO Bank A/c of HUF can be opened, if all the members are NRI to take advantage of separate income tax head.



MYTH

**There is a lot of bureaucracy in the Indian Tax administrative system.**



**Myth: There is a lot of bureaucracy in the Indian Tax administrative system.**

but the **TRUTH** is...

**Absolute change on the Tax compliance front:**

- ✓ All filings with the Income Tax Authorities are E-filing. Complete change on the Tax compliance front.
- ✓ Scrutiny of all Filings, Assessments, Appeals, are faceless.
- ✓ All financial transactions are mapped with Permanent Account Number (PAN).



**Myth: There is a lot of bureaucracy in the Indian Tax administrative system.**

but the **TRUTH** is...

**Absolute change on the Tax compliance front:**

- ✓ **No scope of any personal interaction with / by any Income Tax authorities for any reasons.**
- ✓ **Functioning of the Income Tax Department undergoes major changes.  
A landmark reform going unnoticed.**
- ✓ **A march towards ending a parallel economy and making India a cashless & compliant economy.**





**Transmission of Assets of NRI in India happens in accordance with the laws of succession in respect of their home country.**



**Myth:** Transmission of Assets of NRI in India happens in accordance with the laws of succession in respect of their home country.

but the **TRUTH** is...

**Transmission of movable and immovable assets in India happens in accordance with the laws of succession in India.**



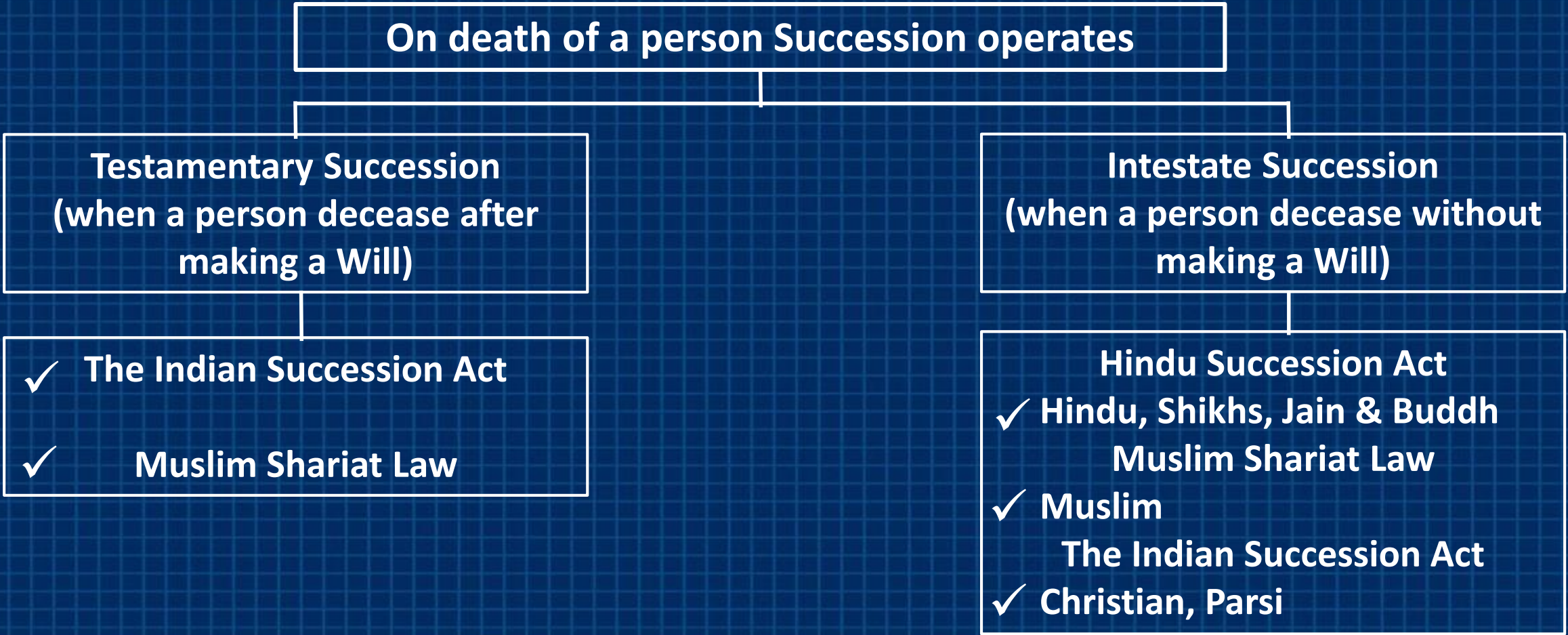
# MYTH

**The laws of succession are the same for NRI dying after executing a Will or without executing a Will.**



Myth: The laws of succession are the same for NRI dying after executing a Will or without executing a Will.

but the **TRUTH** is...





**MYTH**

**Nomination is enough to ensure appropriate succession of financial investments of NRI in India.**



Myth: Nomination is enough to ensure appropriate succession of financial investments of NRI in India.

but the **TRUTH** is...

## Effects of Nomination

- ✓ On death of the holder of such assets transmission of assets needs to be done in favour of the nominee.
- ✓ Nominee is not the owner of the assets, he is merely a custodian. The real owner of the asset is the one who is the owner under the laws of succession as per the Testamentary Succession (where Will is made) or Intestate Succession (where Will is not made).



MYTH

**NRI needs to be present in India to execute his valid Will in respect of his Indian Assets.**



**Myth: A NRI need to be present in India to execute his valid Will in respect of his Indian Assets.**

but the **TRUTH** is...

- ✓ **The Will can be validly prepared outside India. It should have the essentials of a valid Will.**
- ✓ **Ideally should be signed by the testator and two witnesses in presence of Notary Public in foreign country.**
- ✓ **Declarations of both the witnesses should be executed before Notary Public affirming that they acted as witness to the Will.**



# **NRI INVESTMENT OPPORTUNITIES MYTHS & TRUTHS**





**NRIs should invest in India only  
because of their  
affection towards the motherland.**



**MYTH: NRIs should invest in India only because of their affection towards the motherland.**

but the **TRUTH** is...

**Growth rate of top 20 economies of the world in the year 2022.**

Country	Growth Rate	Country	Growth Rate
Saudi Arabia	7.60%	Iran	3.00%
India	6.80%	Brazil	2.80%
Indonesia	5.30%	South Korea	2.60%
Netherlands	4.50%	France	2.50%
Spain	4.30%	Switzerland	2.20%
Australia	3.80%	Mexico	2.10%
UK	3.60%	Japan	1.70%
Canada	3.30%	USA	1.60%
China	3.20%	Germany	1.50%
Italy	3.20%	Russia	-3.40%

Source : [https://www.imf.org/external/datamapper/NGDP\\_RPCH@WEO/OEMDC/ADVEC/WEOWORLD](https://www.imf.org/external/datamapper/NGDP_RPCH@WEO/OEMDC/ADVEC/WEOWORLD)

Source : <https://ceoworld.biz/2022/03/31/economy-rankings-largest-countries-by-gdp-2022/>



**MYTH: NRIs should invest in India only because of their affection towards the motherland.**

but the **TRUTH** is...

### Change in Interest Rates in top 20 economies of the world.

Country	01-01-2022	15-12-2022	Country	01-01-2022	15-12-2022
Brazil	9.25%	13.75%	South Korea	1.00%	3.25%
Mexico	5.50%	10.00%	Australia	0.10%	3.10%
Russia	8.50%	7.50%	Switzerland	-0.75%	1.00%
India	4.00%	6.25%	Germany	0.00%	0.00%
Indonesia	3.50%	5.25%	Netherlands	0.00%	0.00%
Saudi Arabia	1.00%	5.00%	Italy	0.00%	0.00%
USA	0.15%	4.25%	France	0.00%	0.00%
Canada	0.25%	4.25%	Spain	0.00%	0.00%
China	3.80%	3.65%	Japan	-0.10%	-0.10%
UK	0.25%	3.50%			

Source : <https://www.cbrates.com/>

Source : <https://www.cbrates.com/centralbanks.htm#b>



**MYTH: NRIs should invest in India only because of their affection towards the motherland.**

but the **TRUTH** is...

**Stock market performance of top 20 economies of the world  
(Change from 15-12-2021 to 15-12-2022 - last one year).**

Country	% Change	Country	% Change
India – Sensex	6.73%	Netherlands – AEX	-7.74%
UK - FTSE 100	2.71%	Germany – DAX	-8.60%
Indonesia - IDX Composite	2.38%	Saudi Arabia Tadawul All Share	-9.03%
Spain - IBEX 35	-0.89%	Italy - FTSE MIB	-9.27%
Australia - S&P/ASX 200	-1.25%	Switzerland – SMI	-13.69%
Mexico - S&P/BMV IPC	-2.60%	China - Sanghai Composite	-13.78%
Japan - NIKKEI 225	-3.49%	USA - S&P 500	-14.42%
Canada - S&P/TSX	-4.09%	South Korea – KOSPI	-21.47%
Brazil – BOVESPA	-4.23%	Russia - MOEX	-43.38%
France - CAC 40	-5.14%		

Source : <https://in.investing.com/indices/major-indices/performance>



**MYTH: NRIs should invest in India only because of their affection towards the motherland.**

but the **TRUTH** is...

**Depreciation of the currency against US\$ of 20 economies of the world  
(Change from 15-12-2021 to 15-12-2022 - last one year).**

Currency	Change %	Currency	Change %
Turkey (TRY)	-26.03%	Italy (Euro)	-6.20%
Japan (JPY)	-20.82%	France (Euro)	-6.20%
South Korea (KRW)	-11.31%	Netherland (Euro)	-6.20%
Chine (CNY)	-9.52%	Switzerland (CHF)	-0.36%
South Africa (ZAR)	-9.51%	Saudi Arabia (SAR)	-0.23%
Indonesia (IDR)	-8.97%	Spain (Euro)	5.84%
India (Rupee)	-8.52%	Mexico (MXN)	5.99%
Australia (AUD)	-6.95%	Brazil (BRL)	6.47%
Canada (CAD)	-6.45%	UK (GBP)	8.20%
Germany (Euro)	-6.20%	Russia (RUB)	12.04%

Source : <https://in.investing.com/currencies>





**Indian economy is also facing slowdown  
similar to the other  
emerging & developed markets.**



**MYTH: Indian economy is also facing slowdown similar to the other emerging & developed markets.**

but the **TRUTH** is...

- ✓ Strong economic outlook – oasis in the ocean of despair.
- ✓ Manufacturing in India on a revival path.
  - China's relations with the world.
  - Stop – Start of Chinese economy.
  - China plus one approach in global supply chain.



**MYTH: Indian economy is also facing slowdown similar to the other emerging & developed markets.**

but the **TRUTH** is...

- ✓ Services – major contributor to India's growth.
  - ITES – suffering on account of winds of recession.
  - Contact oriented services – strong pickup.
- ✓ Capital investments by Government & Private Sector increasing.
- ✓ Government finances in a good shape with record tax collections of Direct Taxes (Income Tax) and Indirect Taxes (GST) with increasing tax compliances by taxpayers.
- ✓ National interest oriented external political relations. For instance, procuring cheap Russian oil and still have healthy relations with the west.



**MYTH: Indian economy is also facing slowdown similar to the other emerging & developed markets.**

but the **TRUTH** is...

- ✓ **Effective handling of Covid – medically with financial prudence.**
- ✓ **Robust IT backbone for corporates to expand digitally.**
- ✓ **Strong confidence of local investors - Investment in Equity oriented Mutual Funds by SIP (Systematic Investment Plan) increasing month on month.**
- ✓ **India emerging as a preferred investment destination in comparison to other emerging and developed markets.**
- ✓ **Greater allocations by global passive and active funds resulting in organic inflows to Indian equity markets.**



MYTH

**Fixed Income Investment in India for NRIs  
implies investing in NRE/NRO deposits.**



**MYTH: Fixed Income Investment in India for NRIs implies investing in NRE/NRO deposits.**

but the **TRUTH** is...

## Investment in Target Maturity Funds

- ✓ A category of Debt Based Mutual Funds backed by reputed Asset Management Companies
- ✓ Target YTM (Yield to Maturity) of approximately 7%+ with underlying investment in government of India securities with investment horizon of 7 years.
- ✓ High chances of mark to market gains in few years in the falling interest rate environment.
- ✓ Taxation at concessional rate of 10% for long term gains (holding period exceeds 3 years) for NRI.



**MYTH: Fixed Income Investment in India for NRIs implies investing in NRE/NRO deposits.**

but the **TRUTH** is...

## Investment in FCNR Bank Deposits

- ✓ Deposits can be parked in foreign currency in form of FCNR (Foreign Currency Non Resident) with any banks.
- ✓ In case of anticipation of any foreign currency fluctuation, FCNR deposits can be placed, the interest on which is tax free.
- ✓ Funds in INR can be borrowed against such NRE or FCNR deposits which can be invested in equity markets or any commercial venture.



**MYTH: Fixed Income Investment in India for NRIs implies investing in NRE/NRO deposits.**

but the **TRUTH** is...

## Investment in Corporate Deposits

- ✓ Investment can be made in corporate fixed deposits of reputed companies through NRO bank account which can fetch better returns as compared to normal bank deposits.
- ✓ Suitable for NRI not having significant taxable incomes in India since they can earn greater return on investment.



**MYTH: Fixed Income Investment in India for NRIs implies investing in NRE/NRO deposits.**

but the **TRUTH** is...

## Investment in Guaranteed Return Insurance Plan

- ✓ Premium is paid for a term of 5, 10, 15 installments and maturity proceeds are received after a term in a fixed pre-decided manner.
- ✓ The guaranteed payment is in a manner that the IRR (Internal Rate of Return) turns up to 6% + over the tenure of the policy depending on the age of the investor.
- ✓ The life cover of the insured extends up to beginning of the maturity proceeds.
- ✓ The insurance premium paid is eligible for deduction under section 80C of the Income Tax Act up to Rs. 1.50 lakhs per year and the maturity proceeds are also tax-free in India.



MYTH

**NRI should always invest in  
Indian real estate.**



**MYTH: NRIs should always invest in Indian real estate.**

but the **TRUTH** is...

- ✓ Liquidity and management of Real Estate continues to be a challenge.
- ✓ Process of investment, disinvestment and remittance of proceeds requires efforts and time.
- ✓ Next generation of most NRIs is not keen to relocate to India and manage the immovable properties.
- ✓ Real Estate for self use of NRI planning or may be required to relocate to India on need basis.
- ✓ Hence, Real Estate is not a preferred route of investment vis-à-vis financial assets for NRI.



# MYTH

**NRIs in the developed markets should always be prepared for the depreciation of the Indian Rupee.**



**MYTH: NRIs in the developed markets should always be prepared for the depreciation of the Indian Rupee.**

but the **TRUTH** is...

Comparison of Inflation in major economies globally					
Country	2018	2019	2020	2021	2022
United States (US)	2.40%	1.80%	1.20%	4.70%	7.10%
United Kingdom (UK)	2.50%	1.80%	0.90%	2.60%	10.70%
Canada	2.30%	1.90%	0.70%	3.40%	6.90%
Australia	1.90%	1.60%	0.90%	2.80%	7.30%
India	3.40%	4.80%	6.20%	5.50%	5.88%

Data Source: <https://www.imf.org/external/datamapper/PCPIPCH@WEO/WEOWORLD/VEN>



# MYTH

**It is always advantageous for NRIs to avail life insurance in their home country rather than India.**



**MYTH:** It is always advantageous for NRIs to avail life insurance in their home country rather than India.

but the **TRUTH** is...

## Insurance in India for NRI

- ✓ Pure Life cover: Life insurance plans for NRI in India are competitive and attractive in terms of cost and provide life cover for longer tenures as compared to the plans outside India.
- ✓ Investment cum insurance: The insurance plans coupled with investments deliver assured tax free returns for very long & flexible tenures depending on the needs along with life insurance cover.
- ✓ Estate Planning tool: Lifelong insurance plans can also be used for passing an asset to the successors of the NRI .



MYTH

**NRIs can participate in India growth story  
only through investing in listed shares and  
Mutual Funds.**



**MYTH: NRIs can participate in India growth story only through investing in listed shares and Mutual Funds.**

but the **TRUTH** is...

### Equity based Portfolio Management Service (PMS)

- ✓ Investment in a portfolio of Equity Shares.
- ✓ Diversification of stocks.
- ✓ Taxation when shares are transferred. No notional tax in US.
- ✓ Choice of portfolio options and also choice of fund manager is available as per specific needs.
- ✓ PMS portfolio unimpacted by inflow & outflow of other investors.
- ✓ Limited regulatory restrictions on fund management.
- ✓ Minimum investment size Rs. 50,00,000/-.



**MYTH: NRIs can participate in India growth story only through investing in listed shares and Mutual Funds.**

but the **TRUTH** is...

## Investment in Unlisted Shares

**Why should we invest in Unlisted Shares?**

- ✓ **“CATCH THEM YOUNG” - early mover advantage.**
- ✓ **The returns on such stock would be multi-bagger.**
- ✓ **When the come for IPO the success story is evident & visible to the world at large.**



**MYTH: NRIs can participate in India growth story only through investing in listed shares and Mutual Funds.**

but the **TRUTH** is...

## **Investment in Unlisted Shares**

**Parameters for stock selection when investment directly in specific stock.**

- ✓ **Promoter.**
- ✓ **Track Record.**
- ✓ **Business activity – Futuristic.**
- ✓ **MOAT – Competitive advantage available.**
- ✓ **Possibility of value unlocking – chances of going for IPO.**
- ✓ **Comfort in longer holding period – For delay in IPO.**



**MYTH: NRIs can participate in India growth story only through investing in listed shares and Mutual Funds.**

but the **TRUTH** is...

## Stocks of top Indian unlisted companies with bright future available



National Stock Exchange



**TATA** TECHNOLOGIES



Reliance Retail Ltd.



*Seek complete details from us for investing in these companies*



**MYTH: NRIs can participate in India growth story only through investing in listed shares and Mutual Funds.**

but the **TRUTH** is...

## Investment in Alternative Investment Fund (AIF)

- ✓ Structured way of investment in Listed, Unlisted Stocks, Fixed Income & Derivatives.
- ✓ Worthwhile avenue for investing in unlisted stocks due to availability of other product options in case other investments.
- ✓ Investment in unlisted stocks by highly experienced Fund Managers connected with industry.
- ✓ AIF managed by institution of high repute.
- ✓ Minimum investment size is Rs. 1 Cr.
- ✓ Payable normally in tranches.
- ✓ Investment period could be 5 + 1 + 1 years.



**MYTH: NRIs can participate in India growth story only through investing in listed shares and Mutual Funds.**

but the **TRUTH** is...

## Investment in Alternative Investment Fund (AIF)

- ✓ Investment in Unlisted Stocks, through AIF, can address the major concerns of investor such as:
  - Which unlisted companies to invest in?  
Their business, future, promoters, chances of IPO, etc.
  - What price to pay for unlisted stock?  
Comparison with Indian & Global peers, adopting well analyzed valuation model.



MYTH

**NRI's can invest in Indian real estate market only by physically buying real estate properties.**



**MYTH: NRIs can invest in Indian real estate market only by physically buying real estate properties.**

but the **TRUTH** is...

## Investment in REITs (Real Estate Investment Trusts)

- ✓ Financial instrument with an exposure into class quality real estate projects.
- ✓ Real Estate assets are offered on sale in the form of units listed on stock exchange ensuring liquidity.
- ✓ Appreciation in the value of units with Rental Income, are the return on investments.
- ✓ Rationalized Taxation at unitholder level.



MYTH

**Taxation & Repatriation of Investment  
proceeds for an NRI in India is a  
complex & tedious process.**



**MYTH: Taxation & Repatriation of Investment proceeds for an NRI in India is a complex & tedious process.**

but the **TRUTH** is...

## **Taxation for NRI in India**

- ✓ **Flat rate** of taxation & TDS for gains on most financial investments.
- ✓ **Lower TDS certificate** available from authorities upon application.
- ✓ **Income Tax compliances** and **assessments** completely faceless.



**MYTH: Taxation & Repatriation of Investment proceeds for an NRI in India is a complex & tedious process.**

but the **TRUTH** is...

## Repatriation for NRI in India

- ✓ Repatriation of sale proceeds from financial & real estate assets acquired from foreign origin funds seamlessly possible.
- ✓ Repatriation of other funds possible under the USD 1 million per person per year regulation of RBI for the NRI.



# MYTH

**NRIs need to physically visit India to invest  
and transact in Indian  
financial markets as well as real estate.**



**MYTH: NRIs need to physically visit India to invest and transact in Indian financial markets as well as real estate.**

but the **TRUTH** is...

- ✓ Banking operations – End to end transactions can conveniently happen from anywhere across the globe digitally.
- ✓ Financial Investments - All investment related transactions in Mutual Funds, PMS, stocks, other securities, etc. can also take place digitally.
- ✓ Real Estate - Buying and selling of real estate can also be executed outside India. Selling may require additional formalities depending on the respective state law.
- ✓ Income Tax Compliances - All Income Tax compliances, assessments, etc. are digital now, removing the need to physically visit the tax department.



# MYTH

**All NRI investments in India today are happening in accordance with the basic principles of investing – Asset Allocation, Risk Mitigation, Capital Protection & Goal oriented dynamic investing.**



**MYTH:** All NRI investments in India today are happening in accordance with the basic principles of investing – Asset Allocation, Risk Mitigation, Capital Protection & Goal oriented dynamic investing.

but the **TRUTH** is...

## Basic principles of investing for NRI

- ✓ Asset Allocation – Appropriate balance across major asset classes of Real Estate, Equity, & Fixed Income as per risk profile and financial goals.
- ✓ Risk Mitigation – Currency risk, country risk, or asset class risk should be analyzed and effectively mitigated through adoption of appropriate investment strategy.
- ✓ Capital Protection – Invested capital should be preserved with planning through adequate allocation in fixed income investments and investment incomes invested into growth oriented investments.
- ✓ Goal oriented planning – Dynamic & agile planning should be followed depending on the financial goals with India at the relevant stages in life.



# Disclaimer

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## NRI Financial Conclave 2022 - Season 6

Dates	Topics
19/11/2022 Virtual Presentation (Zoom & YouTube)	NRI Financial Planning - Taxation & Regulation aspects (English Language)
03/12/2022 Virtual Presentation (Zoom & YouTube)	NRI Financial Planning - Investment aspects (English Language)
18/12/2022 Physical Event (AHMEDABAD)	NRI Taxation & Regulations - Myths & Truths (Gujarati language) NRI Investment opportunities - Myths & Truths (Gujarati language)
23/12/2022 Physical Event (MUMBAI)	NRI Taxation & Regulations - Myths & Truths (English language) NRI Investment opportunities - Myths & Truths (English language)
25/12/2022 Physical Event (RAJKOT)	NRI Taxation & Regulations - Myths & Truths (Gujarati language) NRI Investment opportunities - Myths & Truths (Gujarati language)

**Registration required | Registration Timing : 10:00 AM to 7:30 PM**  
**Email: [nris1@ashutoshfinserv.com](mailto:nris1@ashutoshfinserv.com) | Mo.: +91 70435 93388 / +91 72288 48181**



# Thank you...

# Questions ?



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## NRI TAXATION & REGULATIONS AND NRI INVESTMENT OPPORTUNITIES – MYTHS & TRUTHS