

NRI(Non-Resident Indians)

Various Tax and Regulatory Considerations

RESIDENTIAL STATUS AND SCOPE OF WORK



Residential Status

Indian Income-tax Act, 1961

An individual is considered to be a resident of India, if he satisfies either of the following conditions:

- # Stay in India is for at least 182 days during the financial year (FY)
- # Stay in India is for at least 60 days during the FY and at least 365 days during 4 preceding FYs

The second condition provided above shall not apply where:

- # Indian citizen leaving India for the purpose of employment
- # Indian citizen leaving India as a member of foreign crew of an Indian ship
- # Indian citizen or person of Indian origin coming to India for visit

Further, where the Indian citizen or person of Indian origin coming to India for visit and has an Indian sourced income exceeding INR 15 Lakh during the FY shall qualify as a resident if:

- # Stay in India is for at least 182 days during the FY
- # Stay in India is for at least 120 days during the FY and at least 365 days during 4 preceding FYs

Further, an individual, being a citizen of India, having Indian sourced income exceeding INR 15 Lakhs during the FY shall be deemed to be resident in India in that FY, if he is not liable to tax in any other country/ territory by reason of his domicile or residence or any other criteria

Residential Status

FEMA Act, 1999

A person shall qualify as a resident if he resides in India for more than 182 days during the course of the preceding FY but does not include:

- # A person who leaves India/ stays outside India, in either case:
 - # Taking up employment outside India
 - # Carrying on business or vocation outside India
 - # For any other purpose which indicate his intention to stay outside India for an uncertain period

- # A person who comes to India/ stays in India, in either case, otherwise than:
 - # Taking up employment in India
 - # Carrying on business or vocation in India
 - # For any other purpose which indicate his intention to stay in India for an uncertain period

Scope of Tax

Particulars	Resident Ordinarily Resident	Resident Not Ordinarily Resident	Non Resident
Income received in India whether or not accrued in India	Yes	Yes	Yes
Income deemed to be received in India	Yes	Yes	Yes
Income accruing or arising in India whether or not received in India	Yes	Yes	Yes
Income deemed to accrue or arise in India	Yes	Yes	Yes
Income received and accrued outside India from business controlled in India	Yes	Yes	No
Income received accrued outside India from business/ profession controlled outside India	Yes	No	No
Any income (other than business/ profession received accrued outside India)	Yes	No	No
Income earned in earlier years brought in India	No	No	No

OTHER CONSIDERATIONS



Special Provisions

Assets Required in Foreign Exchange

- # Long-term capital gains (LTCG) earned by NRI on sale/ redemption of the following assets acquired/ purchased with/ subscribed to in, convertible foreign exchange shall be chargeable to tax at 10%*
- # Shares in an Indian company
- # Debentures issued by/ deposits made with an Indian company which is not a private company
- # Security of the Central Government or any other assets as the Central Government may specify
- # No deduction in respect of any expenditure/ allowance shall be allowed under any provision of this Act
- # Indexation benefit shall not be allowed while computing LTCG
- # Any income from the aforementioned assets acquired in foreign exchange and LTCG earned by NRI on sale/ redemption of any assets other than the aforementioned assets shall be chargeable to tax at 20%*

Special Provisions (TDS)

- # Any person responsible for paying to a non-resident other than income chargeable under the head 'Salaries' shall be responsible to deduct tax at source (TDS) at the rates in force, at the earlier of:
 - # Time of credit of such income to the account of the payee; or
 - # Time of payment thereof in cash or by the issue of a cheque or draft or by any other mode

Special Provisions (TDS)

Nature of income	Tax rate
Investment income	20%
LTCG under section (u/s) 115E of the Act	10%
LTCG u/s 112A of the Act	10%
LTCG under any other head	20%
Short term capital gains u/s 111A of the Act	15%
Interest payable on money taken on loan in foreign currency (other than interest u/s 194LB and 194LC of the Act)	20%
Royalty Income	10%
Proceeds for fees for technical services	10%
Proceeds from fees for technical services billed to the government or an Indian concern	10%
Dividend income	20%
Any other income (such as winnings from horse races, lotteries, crossword puzzles)	30%

FOREIGN EXCHANGE



Permissible Investments

Purchase/ sale of capital instruments of a listed company on recognised stock change in India on repatriable basis

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Purchase, hold, or sell Indian Depository Receipts (IDRs) of companies resident outside India and issued in the Indian capital market

Acquire immovable property in India other than an agricultural land or farm house or plantation property

Types of Accounts

NRI can open, hold and maintain following types of accounts with an authorized dealer in India i.e. a bank authorized to deal in foreign exchange.

Foreign Currency Non Resident (Bank) Account – FCNR (B) Account

Non-Resident (External) Rupee Account – NRE Account

Non-Resident (Ordinary) Rupee Account – NRO Account



Types of Accounts (Salient Features)

Particulars	FCNR (B) Account	NRE Account	NRO Account
Joint account of two or more NRIs	Permitted	Permitted	Permitted
Joint account with another person resident in India	Not permitted	Not permitted	Permitted
Currency in which account is denominated	Pound Sterling/ US Dollar/ Japanese Yen/ Euro	Indian Rupees	Indian Rupees
Repatriable – Principal	Freely repatriable	Freely repatriable	Not repatriable (except current income like rent, dividend, pension etc. and remittances indicated under "Repatriation of NRO Funds")
Repatriable – Interest	Freely repatriable	Freely repatriable	Freely repatriable
Foreign currency risk	Account holder is protected against changes in INR value vis-à-vis the currency in which the account is denominated.	Account holder is exposed to the fluctuations in the value of INR.	Account holder is exposed to the fluctuations, in the value of INR to the extent of interest amount.

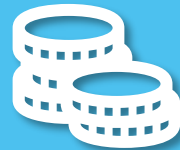
Types of Accounts

Repatriation of NRO Funds

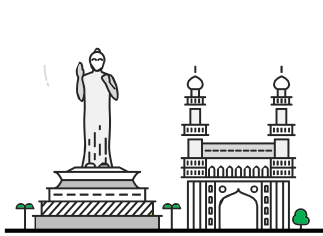
Authorized Dealer Banks can allow remittance up to USD 1 million, of balances in NRO accounts/ of sale proceeds of assets on production of an undertaking by the remitter together with a certificate issued by a Chartered Accountant



AD Banks can allow repatriation of sale proceeds of immovable property by NRIs even if the immovable property was held by the NRIs for less than 10 years provided the cumulative period of holding of the immovable property in India and retention of the sale proceeds of the property in the NRO Account is not less than 10 years

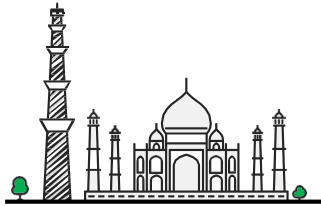


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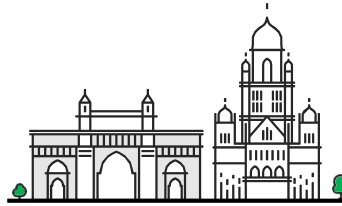
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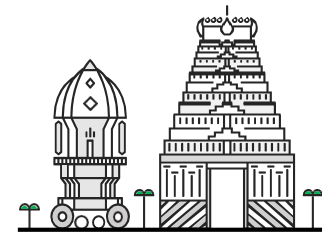
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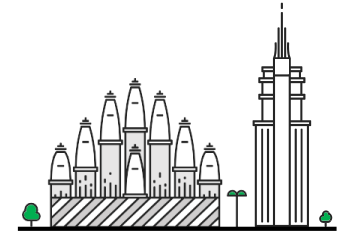
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Tirupati: H. No: 6-154/1, Syamala Nilayam, Near Water Tank, Akkarampalli, Tirupathi, Andhra Pradesh

Kurnool: #21, Top Floor, Skandanshi Vyapaar, New Bus Stand Road, Kurnool 518 003, Andhra Pradesh



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