

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.**

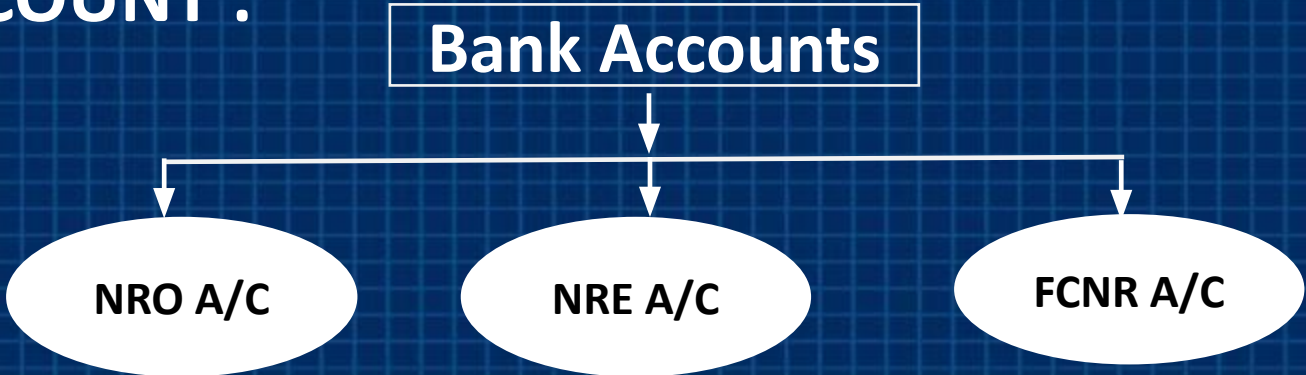
Myth: NRIs can continue holding Resident Indian bank accounts.

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.

MYTH

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.

MYTH

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

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

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

MYTH

**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 1st April to 31st March.
- ✓ Financial Year (Tax Year) in US is 1st January to 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.

but the **TRUTH** is...

How to compute taxable Income when, 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 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 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 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).

MYTH

**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)

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

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 -

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

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

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

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.**

MYTH

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...

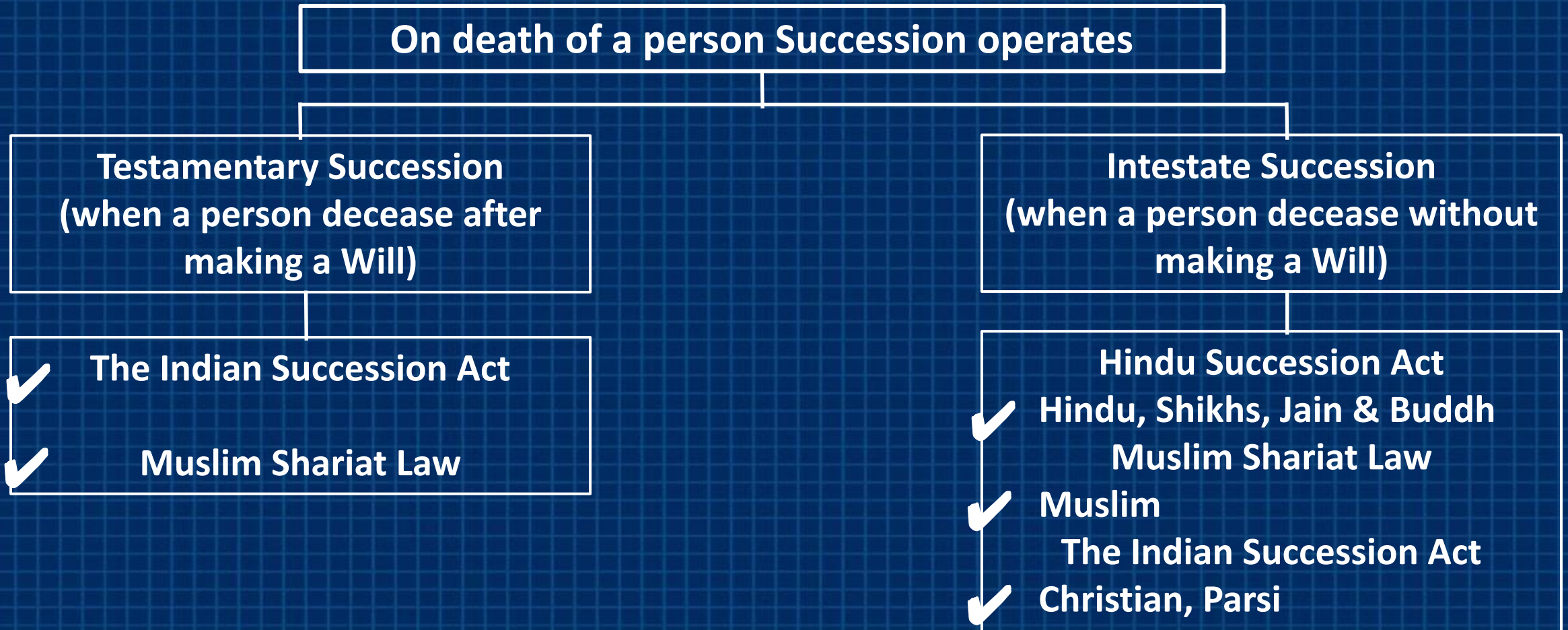
Transmission of movable and immovable assets in India happens in accordance with the laws of succession in India.

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

MYTH

**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

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>

MYTH

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.**

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- ✓ **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.

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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

**NRIs 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 .

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Mutual Funds.**

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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/-.

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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.
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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



Reliance Retail Ltd.



Seek complete details from us for investing in these companies

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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
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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

This Presentation contains personal views of the speakers Mr. Daxesh D. Kothari & Mr. Rajit D. Kothari on the subject. The speakers and the company Ashutosh Financial Services Pvt. Ltd. do not give any professional investment advice. Financial Products are subject to related risks and one should read the offer documents carefully before acting on it.

This Presentation may contain references, wherever possible, website links, regulations or other policy materials. The 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 appropriate professional advice.

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
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Thank you...

Questions ?



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Behind YMCA Club, Prahladnagar,
Ahmedabad - 380 015, Gujarat, India.

Mumbai Office:

308, Regus Business Centre, Duru House,
Juhu Tara Road, Juhu, Mumbai - 400 049,
Maharashtra, India.

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NRI TAXATION & REGULATIONS AND

NRI INVESTMENT OPPORTUNITIES – MYTHS & TRUTHS ¹⁰⁵



NRI FINANCIAL PLANNING – INVESTMENT ASPECTS



CURRENT INDIAN INVESTMENT LANDSCAPE FOR NRI



Why should an NRI invest in India?

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Growth rate of top 20 economies of the world.

Country	Growth Rate	Country	Growth Rate
Saudi Arabia	7.6 %	Iran	3.0 %
India	6.8 %	Brazil	2.8 %
Indonesia	5.3 %	South Korea	2.6 %
Netherlands	4.5 %	France	2.5 %
Spain	4.3 %	Switzerland	2.2 %
Australia	3.8 %	Mexico	2.1 %
UK	3.6 %	Japan	1.7 %
Canada	3.3 %	USA	1.6 %
China	3.2 %	Germany	1.5 %
Italy	3.2 %	Russia	-3.4 %

Source : 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/>

Why should an NRI invest in India?

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

Country	Rate as on		Country	Rate as on	
	01-01-2022	01-12-2022		01-01-2022	01-12-2022
Brazil	9.25 %	13.75 %	UK	0.25 %	3.00 %
Mexico	5.50 %	10.00 %	Australia	0.10 %	2.85 %
Russia	8.50 %	7.50 %	Switzerland	-0.75 %	0.50 %
India	4.00 %	5.90 %	Germany	0.00 %	0.00 %
Indonesia	3.50 %	5.25 %	Netherlands	0.00 %	0.00 %
Saudi Arabia	1.00 %	4.50 %	Italy	0.00 %	0.00 %
USA	0.15 %	3.75 - 4.00 %	France	0.00 %	0.00 %
Canada	0.25 %	3.75 %	Spain	0.00 %	0.00 %
China	3.80 %	3.65 %	Japan	-0.10 %	-0.10 %
South Korea	1.00 %	3.25 %			

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

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

Why should an NRI invest in India?

Stock market performance of top 20 economies of the world.

Country	% Change	Country	% Change
India – Sensex	8.25 %	Canada - S&P/TSX	-1.49 %
Brazil – BOVESPA	7.68 %	Italy - FTSE MIB	-4.87 %
Indonesia - IDX Composite	6.64 %	Germany – DAX	-4.88 %
UK - FTSE 100	6.37 %	Netherlands – AEX	-5.91 %
Spain - IBEX 35	1.90 %	Switzerland – SMI	-7.53 %
Australia - S&P/ASX 200	1.79 %	USA - S&P 500	-10.86 %
Japan - NIKKEI 225	1.70 %	China - Shanghai Composite	-11.43 %
Mexico - S&P/BMV IPC	1.49 %	South Korea – KOSPI	-15.80 %
Saudi Arabia Tadawul All Share	-0.55 %	Russia – MOEX	-44.57 %
France - CAC	-0.61 %		

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

Why should an NRI invest in India?

Depreciation of the currency against US\$, in 2022 of 20 economies of the world.

Currency	Change %	Currency	Change %
Turkey (TRY)	-40.57%	Switzerland (CHF)	-2.17%
Japan (JPY)	-19.87%	Saudi Arabia (SAR)	-0.27%
South Korea (KRW)	-10.84%	Netherland (Euro)	7.96%
Chine (CNY)	-10.52%	France (Euro)	-7.96%
South Africa (ZAR)	-9.61%	Italy (Euro)	7.96%
UK (GBP)	-9.33%	Germany (Euro)	7.96%
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India (Rupee)	-8.31%	Brazil (BRL)	8.95%
Canada (CAD)	-4.69%	Mexico (MXN)	-10.98%
Australia (AUD)	-4.26%	Russia (RUB)	17.19%

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Equity Investments for NRI

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- ✓ Strong IT backbone for corporates to expand digitally.
- ✓ Investment in Equity oriented Mutual Funds by SIP (Systematic Investment Plan) increasing month on month.

Equity Investments for NRI

Fears...

- ✓ Valuations of stocks in certain sectors are quite rich, they are discounting the future.
- ✓ Winds of global recession could also blow in certain segments, which may dampen overall growth.
- ✓ Rising interest rate & inflation may get imported in India.



Fixed Income Investments for NRI

Fixed Income Investments for NRI

✓ Interest rates in India on a rise, in sink with the global pears.

Credit quality of Indian Central Government, State Government and Corporates and bank is strong.

Long term G-Sec available at attractive rates, in comparison to bank deposits.

Mark – to – market gain expected in long term bonds as interest rate

Real Estate Investments for NRI



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NRI - FINANCIAL PLANNING – INVESTMENT ASPECTS



INVESTMENT OPPORTUNITIES FOR NRIs IN PRESENT DAY INDIA

Avenues for Equity Investments for NRI

Equity oriented Mutual Funds

- ✓ Professional fund management from global fund management companies.
- ✓ Diversification of stocks and sectors with agile fund management.
- ✓ Ease of operations – Complete digital process of investing with no requirement of Demat Account.
- ✓ Taxation only when units are transferred. Notional taxation in US under PFIC.
- ✓ Wide choice of options suited to specific needs.

Avenues for Equity Investments for NRI

Existing investment in Equity oriented Mutual Funds

- ✓ Investment in Equity Mutual Fund schemes on random basis.
- ✓ Investment in NFO (New Fund Offer) of Mutual Funds.

Prudent investing approach

- ✓ Well designed portfolio of Mutual Fund schemes with distribution across Large, Large & Mid, Flexi cap, Multi cap, Mid cap, Small cap, Value, Thematic & Sectoral funds, Foreign Funds.
- ✓ AMC (Asset Management Company) concentration should be checked.
- ✓ Quartile performance monitoring.
- ✓ Investment strategy to be planned in systematic basis over a period of time.

Avenues for Equity Investments for NRI

Equity based Portfolio Management Service (PMS)

- ✓ Investment in a portfolio of Equity Shares.
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Avenues for Equity Investments for NRI

Existing investment in Portfolio Management Service (PMS)

- ✓ Investment in PMS schemes without peer comparison.

Prudent investing approach

- ✓ Various options available such as Large Cap, Mid Cap, Multi Cap, Mid Cap, Small Cap, Value, Contra, Sectoral, Thematic.
- ✓ Performance monitoring is gaining importance.
- ✓ Diversification across PMS managers.
- ✓ Rs. 50 Lakh can be diversified in different schemes of the same PMS managers.
- ✓ Transfer of PMS within the same PMS manager if need be.

Investment in Unlisted Shares

Why should we invest in Unlisted Shares?

- ✓ “CATCH THEM YOUNG” - early mover advantage.
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Avenues for Equity Investments for NRI

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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.

Avenues for Fixed Income Investments for NRI

Existing investment in Debt oriented Mutual Funds & Bank Deposits

- ✓ Returns on Debt Mutual Fund schemes falling - YTM 3.5% to 6%.
- ✓ Credit Risk Funds are not a comfortable option for investing.
- ✓ Very low rate of return in good quality bonds – 5.4% for 5 years.

Prudent investing approach

- ✓ Investment in Top corporate FDs through family members in low tax brackets. Present Return around 7% for 5 years.
- ✓ Investment in Tax Free Bonds of 9 to 10 years residual maturity at 4.55% YTM.
- ✓ Assured returns investment oriented plans for 15 / 20 / 25 years with a return of 5.5% to 6%.

Various investment options in India for NRI – understanding its Pros & Cons

Debt based options (Fixed Income)

FDs with SBI Bank (w.e.f 22-10-2022)

Duration	NRE	NRO	FCNR			
			GBP	USD	EURO	YEN
1 year to less than 2 years	6.10%	6.10%	2.00	2.85	0.01	0.02
2 years to less than 3 years	6.25%	6.25%	2.35	3.00	0.01	0.05
3 years to less than 5 years	6.10%	6.10%	2.45	3.10	0.01	0.05
4 years to less than 5 years			2.45	3.15	0.10	0.05
5 years to 10 years	6.10%	6.10%	2.45	3.25	0.15	0.05

FDs with ICICI Bank (w.e.f 01-12-2022)

Duration	NRE	NRO	FCNR			
			GBP	USD	EURO	YEN
1 Year	6.25%	6.25%	2.00	3.35	-	-
Above 1 year to less than 2 years	6.75%	6.75%	1.50	2.50	-	-
2 years to less than 3 years	6.80%	6.80%	NA	2.50	-	-
3 years to less than 5 years	6.50%	6.50%	NA	2.50	-	-
5 years to 10 years	6.50%	6.50%	NA	2.50	-	-

Various investment options in India for NRI – understanding its Pros & Cons

Debt based options – NRO FD with NBFC (Extra 0.25% for senior citizens)

FDs with Housing Development Finance Corporation (HDFC) (w.e.f 14-11-2022)

Duration	Monthly Option	Quarterly Option	Half - Yearly Option	Annual Option	Cumulative Option
1 year to less than 2 years	6.40%	6.45%	6.50%	-	6.60%
2 years to less than 3 years	6.60%	6.65%	6.70%	6.80%	6.80%
3 years	6.65%	6.70%	6.75%	6.85%	6.85%

FDs with Bajaj Finance Ltd. (w.e.f 22-11-2022)

Period (Months)	Monthly Option	Quarterly Option	Half - Yearly Option	Annual Option	Cumulative Option
1 year to less than 2 years	6.60%	6.63%	6.69%	6.80%	6.80%
2 years to less than 3 years	7.02%	7.12%	7.12%	7.25%	7.25%
3 years	7.25%	7.36%	7.36%	7.50%	7.5%

Avenues for Fixed Income Investments for NRI

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 at 5-6% over the tenure of the policy.
- ✓ 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.

Avenues for Real Estate Investments for NRI

REITs

- ✓ First REITs (Real Estate Investment Trusts) offering successfully done, listed in April – 2019.
- ✓ Real Estate assets are offered on sale in the form of units.
- ✓ Units are listed on the stock exchange.
- ✓ Appreciation in the value of units and Income distribution per unit, are the return on investments.

Real Estate

- ✓ Investments can be in Raw Real Estate like Urban land, Agricultural land etc.
- ✓ Investment can be in Finished Real Estate like Residential buildings, Apartments, Shops, Offices etc.
- ✓ Development of infrastructure in the country, changing the Real Estate demand supply scenario.
- ✓ Reduction in the cash economy in the country, impacting the demand of Real Estate.

InvITs

- ✓ InvITS (Infrastructure Investment Trust) units offerings have been made available for public.
- ✓ Infrastructure Assets like Road, Highways, Power Assets are offered on sale in the form of units.
- ✓ Units are listed on the stock exchange.
- ✓ Appreciation in the value of units and Income distribution per unit, are the return on investments.

NRI Financial Planning – Taxation & Regulation aspects

**Non
Resident
Indians**

Tax
Deduction
at Source -
TDS

Banking

Accounting

DTAA -
Tax
Reliefs

Transfer
of
Funds

Indian
Income
Tax

**NRI
FINANCIAL
CONCLAVE
2022**

A world map with a light blue background and white outlines of continents and countries. The map is centered on the Atlantic Ocean.

CORE ISSUES FROM TAXATION PERSPECTIVE

A light blue world map with white outlines of continents and countries, serving as a background for the text.

**I am a Non Resident Indian having incomes in
India as well as outside India.
How will I be taxed?**

I am a Non Resident Indian having incomes in India as well as outside India.
How will I be taxed?

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.

I am a Non Resident Indian having incomes in India as well as outside India.
How will I be taxed?

Which Incomes of NRI are taxable in India ?

Particular	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 from business or profession accruing or arising outside India, but business controlled from India or a profession setup in India.	Taxable	Taxable	Non Taxable

I am a Non Resident Indian having incomes in India as well as outside India.
How will I be taxed?

Indian Income

Income received or accrued or arised in India.

Foreign Income

Income not received nor accrued nor arises from India.

I am a Non Resident Indian having incomes in India as well as outside India.
How will I be taxed?

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.

A world map with a light blue background and white outlines of continents and countries. A black-bordered white box is centered over the map, containing the main text.

Are there any concessional tax rates and treaty benefits available to NRI?

Are there any concessional tax rates and treaty benefits available to NRI?

Basic principle under Double Taxation Avoidance Agreement (DTAA)

The Non Resident can select the provisions or rates of taxes, whichever are beneficial under

**DTAA
or
the Income Tax Act.**

Are there any concessional tax rates and treaty benefits available to NRI?

Rates under Indian Income Tax	Type of income in India	
	Dividend	Interest
	20% + Surcharge (If applicable)	Slab rates

Rates in DTAA

S.No.	Country of tax residence	Type of income in India	
		Dividend	Interest
1	USA	25%	15%
2	UK	10%	15%
3	Australia	15%	15%
4	UAE	10%	12.50%
5	Canada	25%	15%

Are there any concessional tax rates and treaty benefits available to NRI?

S.No.	Country of tax residence	Type of income in India	
		Dividend	Interest
6	Singapore	15%	15%
7	South Africa	10%	10%
8	Tanzania	10%	10%
9	Uganda	10%	10%
10	Kenya	10%	10%
11	Sudan	10%	10%
12	Ethiopia	7.50%	10%
13	Oman	12.50%	10%
14	Saudi Arabia	5%	10%
15	Malaysia	5%	10%
16	Hong Kong	5%	10%

Are there any concessional tax rates and treaty benefits available to NRI?

Tax concessions in DTAA with U.A.E., Oman, Malaysia & African countries (Tanzania, Kenya, Uganda, South Africa, Sudan & Ethiopia)

✓ Under respective Article of DTAA with above stated countries (E.g. Article 13 of India-UAE DTAA), only capital gains on sale of immovable assets, movable assets of business (PE), and shares are liable to tax in India for persons who are Tax residents of above stated countries (E.g. stay in UAE exceeds 183 days in the relevant calendar year for the person to become a tax resident).

✓ Capital Gains on sale of Mutual Funds (Debt based or Equity based being short term or long term) and bonds cannot be subjected to tax in India for tax residents of UAE.

- *ITO (IT) 2(1) Mumbai vs. Shri Satish Beharilal Raheja ITA NO.4627/Mum/2009*
- *The Dy. Commissioner of Income-tax (International Taxation) Kochi vs. Sri.K.E.Faizal ITA No.423/Coch/2018*

Are there any concessional tax rates and treaty benefits available to NRI?

Tax concessions in DTAA

DTAAs are entered in accordance with section 90 (Double Taxation Relief) and T.D.S. on income taxable at such concessional rates is deducted as per section 195 of the act, at the *“rates in force”*.

As per section 2(37A) (iii), *“rates in force”* means the *“rate or rates of income-tax specified in an agreement entered into by the Central Government under section 90”*. This entitles deduction of tax on such incomes at concessional rates.

Hence the concessional rate mentioned in the DTAA shall also be the rate of T.D.S. (withholding tax) in India.

The concessional rates are inclusive of all surcharges and cess which is affirmed by the following judicial decisions:

1. Deputy Director of Income-tax (IT)-1(1), Kolkata v. BOC Group Ltd.
2. R.A.K. Ceramics, UAE v. Deputy Commissioner of Income Tax, International Taxation(2), Hyderabad
3. JC Decaux S.A. v. Assistant Commissioner of Income Tax, IN THE ITAT DELHI BENCH, [2020] 116 taxmann.com 408 (Delhi - Trib.)

Are there any concessional tax rates and treaty benefits available to NRI?

Special tax regime for NRI – Chapter XII-A

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

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

✓ 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.

Are there any concessional tax rates and treaty benefits available to NRI?

Special tax regime for NRI – Chapter XII-A

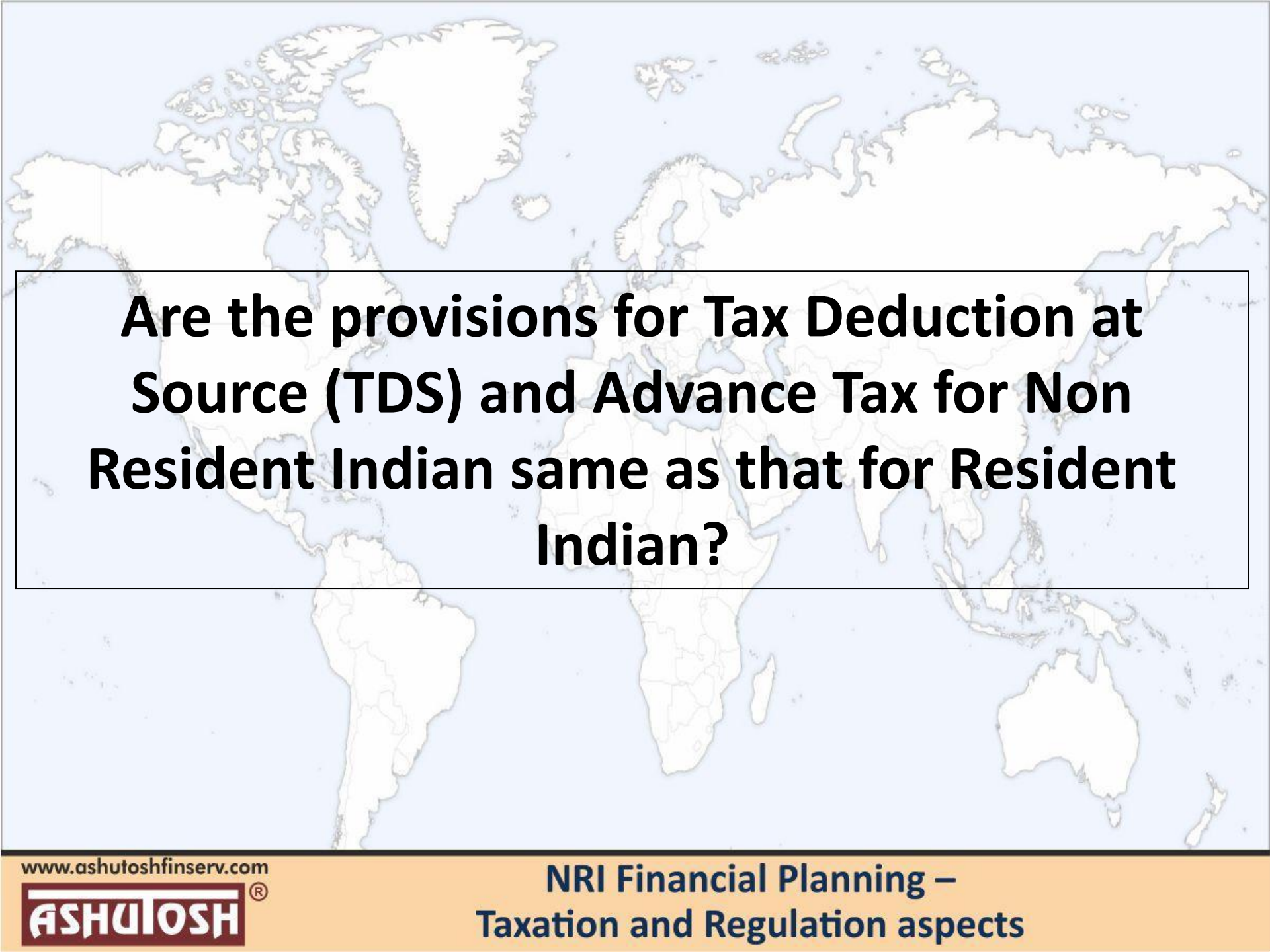
Long term capital gain not liable to taxation if (U/s. 115F) –

✓ 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.

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Are the provisions for Tax Deduction at Source (TDS) and Advance Tax for Non Resident Indian same as that for Resident Indian?

Are the provisions for Tax Deduction at Source (TDS) and Advance Tax for Non Resident Indian same as that for Resident Indian?

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 NRI, not being a company or foreign company.
- 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.”

Are the provisions for Tax Deduction at Source (TDS) and Advance Tax for Non Resident Indian same as that for Resident Indian?

Tax Deduction at source (TDS) for NRI : **Basic Provisions - Sec. 195 of the Income Tax Act.**

✓ 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.

Are the provisions for Tax Deduction at Source (TDS) and Advance Tax for Non Resident Indian same as that for Resident Indian?

Advance Tax liability for Non Resident Indians:

✓ All Non Residents whose net tax liability on the estimated net tax liability exceeds INR 10000 are liable to advance tax in four installments.

✓ Total Tax Liability :

Less: Tax Deducted at Source/Collected at source :

Payable by way of advance tax :

Installment	Percentage of estimated tax to be deposited	Due date
First	15%	15 th June
Second	45%	15 th September
Third	75%	15 th December
Fourth	100%	15 th March

Are the provisions for Tax Deduction at Source (TDS) and Advance Tax for Non Resident Indian same as that for Resident Indian?

Advance Tax installments for Non Resident Indians:

- ✓ Advance tax on taxes on capital gains are payable in immediate next installment after the capital gain arises.
- ✓ There are interest implications on late payment or short payment or non payment of advance taxes.
- ✓ Only Resident Indian Senior Citizens are exempted from payment of Advance Tax.

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How are the gains on sale of immovable assets taxed in India and what are the provisions of TDS in this regard?

How are the gains on sale of immovable assets taxed in India and what are the provisions of TDS in this regard?

Type of Income	Taxation levy for NRI *	TDS rate (withholding tax rate) *
Sale of Immovable Assets including Agricultural Land located within specified area.	Period of holding more than 2 years – Long Term Capital Gain. 20% Tax after indexation on Capital Gain. (U/s. 112)	20% on the capital gains (U/s. 195)
	Period of holding less than 2 years – Short Term Capital Gain. At slab rates. (U/s. 112)	30% (U/s. 195)

How are the gains on sale of immovable assets taxed in India and what are the provisions of TDS in this regard?

* Additional levies to the above tax rates

- For Incomes more than Rs. 50 lakh but less than Rs. 1 Cr. : Surcharge @ 10% on the total of tax.
- For Incomes more than Rs. 1 Cr but less than Rs. 2 Cr. : Surcharge @ 15% on the total of tax.
- For Incomes more than Rs. 2 Cr but less than Rs. 5 Cr. : Surcharge @ 25% on the total of tax.

How are the gains on sale of immovable assets taxed in India and what are the provisions of TDS in this regard?

* Additional levies to the above tax rates

- Incomes more than Rs.5 Cr : Surcharge @ 37% on the total of tax.
- On final tax liability, after surcharge (if applicable) : Health and Education Cess (HEC) @ 4%.
- If total income includes an income by way of dividend or income arising from transfer of capital asset being an equity share, or a unit of equity oriented fund or a unit of business trust i.e. REIT and InvIT (Chargeable to tax under the provisions of Section 111A or 112A), the rate of surcharge in respect of that part of income shall not exceed 15%.
- The additional levies on TDS shall be on the basis of payments made which are liable to tax in the above slabs. Ex- In a sale of immovable property with income of Rs. 40 lakh (HEC @ 4%) while on income of Rs. 60 lakh (Sur 10% + HEC 4%).

How are the gains on sale of immovable assets taxed in India and what are the provisions of TDS in this regard?

Judgements where TDS u/s 195 to be done on entire sale consideration

- ✓ The following two rulings clearly establish the fact that TDS on sale of immovable property of NRI has to be made on the entire sale consideration:
 - *[2012] 26 taxmann.com 6 (Bangalore - Trib.) Syed Aslam Hashmi v. Income-tax Officer, (International Taxation), Ward 2(1), Bangalore.*
 - *[2013] 38 taxmann.com 123 (Bangalore - Trib.) R. Prakash v. Income-tax Officer, International Taxation, Ward -2(1), Bangalore.*
- ✓ Comments:
 - The above two rulings are direct and straightforward on this matter as compared to the other rulings.
 - Therefore, we can conclusively establish the fact that TDS on sale of immovable property of NRI has to be made on the entire sale consideration.

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CORE ISSUES FROM REGULATION PERSPECTIVE

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How should a Non Resident Indian ideally use the different types of Bank Accounts in India?

How should a Non Resident Indian ideally use the different types of Bank Accounts in India?

Sr. No.	Type of bank account	Piece of advice
1.	NRO bank account	The account should not have any substantial balances since they are <u>non-repatriable</u> and the interest is <u>taxable</u> .
2.	NRE bank account	The account should be mapped for <u>permissible investments</u> - equity (mutual funds, shares, etc.), NPS (National Pension Scheme) as well as immovable property so that the proceeds on sale are freely repatriable. Deposits can be parked in this account on which interest is <u>tax free</u> and borrowings can be made against the same which can be invested commercial activity on which <u>interest deduction</u> can be availed against respective incomes.

How should a Non Resident Indian ideally use the different types of Bank Accounts in India?

Sr. No.	Type of bank account	Piece of advice
3.	FCNR account	<p>The account can be used to park funds if <u>unfavourable exchange rate</u> fluctuation is anticipated in form of term deposits (short term or long term) which are foreign currency denominated. Moreover, one can <u>borrow</u> in INR against the deposit.</p> <p>Deposits can be parked in this account on which interest is <u>tax free</u> and borrowings can be made against the same which can be invested commercial activity on which <u>interest deduction</u> can be availed against respective incomes.</p>
4.	RFC account	<p>The account can be utilized to park foreign funds for returning NRI in foreign currency to avoid <u>foreign currency fluctuations</u> and avail tax exemption in interest for Non-Resident and Resident But Not Ordinarily Resident persons.</p>

How should a Non Resident Indian ideally use the different types of Bank Accounts in India?

Sr. No.	Type of bank account	Piece of advice
5.	Resident savings account	The account needs to be <u>discontinued</u> to avoid <u>violation of FEMA.</u>

- ✓ It is ideal to maintain need based bank accounts and close unwanted accounts to avoid any hassle of maintenance.
- ✓ All accounts should be updated with the latest information (email address, contact number, nominations, etc.).

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Is it important to maintain Books of Accounts in India for an NRI?

Is it important to maintain Books of Accounts in India for an NRI?

- ✓ Maintain an organised track of the trail of all financial transactions – repatriable or non-repatriable.
- ✓ Real time tracking of the latest financial position – incomes, expenses, assets and liabilities.
- ✓ Assistance in filing of return of income as well as in case of tax assessments.
- ✓ Ease and convenience in case of succession of assets in events of death, incapacitation, etc.

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What are the provisions for transfer of funds outside India for an NRI?

What are the provisions for transfer of funds outside India for an NRI?

RBI/2015-16/ 384

A.P. (DIR Series) Circular No. 64/2015-16 [(1)/13(R)]4

Foreign Exchange Management (Remittance of Assets) Regulations, 2016

NRI can avail the benefit of transferring funds (other than borrowed funds) from NRO A/c to the extent of US\$ 1 million (since 2005) per person per year to NRE A/c or out of India.

Requirements :

- ✓ **Taxes due on funds supposed to be transferred should be paid.**
- ✓ **Simple procedure has to be followed for the transfer. The funds shall not be from any borrowed sources or from transfers from any other NRO accounts.**
- ✓ **Where the remittance is made in more than one instalment, the remittance of all instalments shall be made through the same authorised dealer (bank).**

What are the provisions for transfer of funds outside India for an NRI?

- ✓ A person who desires to make a remittance of assets exceeding USD 1,000,000 (US Dollar One million only) per financial year in the following cases, may apply to the Reserve Bank if the remittance is:
 1. On account of legacy, bequest or inheritance to a citizen of foreign state, resident outside India; and
 2. By a Non-Resident Indian (NRI) or Person of Indian Origin (PIO), out of the balances held in NRO accounts/ sale proceeds of assets/ the assets acquired by way of inheritance/ legacy.
- ✓ The Remitter shall have to prove that hardship will be caused to such a person if remittance from India is not made.

What are the provisions for transfer of funds outside India for an NRI?

Advantages of Fund Transfer from NRO A/c to NRE A/c or outside India:

- ✓ **NRE Account Interest is Tax Free.**
- ✓ **TDS would not be applicable on the interest income from NRE Account.**
- ✓ **The balances in the NRE Account are fully repatriable to the country of residence without any limits and formalities.**
- ✓ **Repatriation can be done at the ease of Account holder to avail the benefit of comfortable exchange rate.**

What are the provisions for transfer of funds outside India for an NRI?

- ✓ The circular of Government for transfer of funds from NRO to NRE or abroad is just relaxation given to NRI. It is not an obligation of the government to allow such transfer. However, the transfer of money from NRE to abroad is an obligation of the government.

As per Foreign Exchange Management (Non-debt Instruments) Rules, 2019 (clause 29), in case of any immovable property acquired from NRE/FCNR A/c balance or remittance, direct repatriation of sale proceeds (Subject to CA certification for payment of appropriate taxes) for NRI is allowed. However, the same is restricted to maximum two such properties in case of residential houses.

What are the provisions for transfer of funds outside India for an NRI?

Repatriation of Current Incomes

- ✓ As per section 5 of FEMA, any person can enter into Current Account transactions (as defined under section 2(j)) without seeking any prior approvals, unless restricted by RBI.
- ✓ Therefore, there is no limit (Of \$1 million or any limit) up to which Current incomes (rent, interest, business & profession income, etc.) can be transferred directly outside India or from NRO to NRE bank account by an NRI.
- ✓ Appropriate taxes must have been paid or deducted from such incomes to execute the transfer.

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**Are there any restrictions on investment in
Real Estate in India as an NRI?**

Are there any restrictions on investment in Real Estate in India as an NRI?

- ✓ NRI can acquire any number of residential houses, commercial properties, apartments, plots of land, etc.
- ✓ NRI cannot buy agriculture land / plantation property or a farm house. However, can receive the same by inheritance.
- ✓ NRI cannot engage in real estate business directly or through any partnership/company.
- ✓ NRI can enter into construction or real estate development business.

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Thank you...

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