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INVESTMENT OPPORTUNITY IN FOREIGN EQUITY

- ❖ **Regulatory aspects of investment in Foreign Markets**
- ❖ **Tax aspects of investment in Foreign Markets**
- ❖ **Accounting for Foreign Equity investments**



Regulatory aspects of investment in Foreign Markets



Regulatory aspects of investment in Foreign Markets

Is it legal for a **resident** Indian to invest in Foreign Equity through **direct stocks, stock portfolios & ETFs?**

RBI/FED/2017-18/3

FED Master Direction No. 7/2015-16

- ✓ As per the Liberalised Remittance Scheme (LRS) of the Reserve Bank of India (RBI) can be made for making investments abroad- acquisition and holding shares.
- ✓ Remittances of USD 2,50,000 per resident individuals per year can be made under the above scheme of RBI.
- ✓ Remittances beyond Rs. 7 lakhs will attract a TCS (Tax Collection at Source) of 20% on amounts exceeding the limit. This can be adjusted against other tax liabilities or refunded after filing of Income Tax Return of the sender.
- ✓ The remittances can be made very conveniently without any specific approvals through banking channels in India.

Regulatory aspects of investment in Foreign Markets

Is it possible for a **NRI** to invest in Foreign Equity through direct stocks, stock portfolios & ETFs or mutual funds?

RBI/FED/2015-16/8

FED Master Direction No. 13/2015-16

- ✓ Any Non-Resident Indian (NRI) across the globe can invest in U.S.A based stocks by linking any international bank account or the NRE (Non-Resident External) account with any Indian bank.
- ✓ Remittances for investment up to USD 1 million per individual per year can be made through the NRO account linked to such investments.
- ✓ Investment can be made in mutual funds in seamless manner by linking NRE/NRO account like other resident Indians.



Tax aspects of investment in Foreign Markets



Tax aspects of investment in Foreign Markets

- ✓ **Taxation rates for various incomes for resident Indian in India & U.S.A. from investment in direct stocks & stock portfolios.**

Type of Income	Rate of tax in India	Rate of tax in U.S.A.
1. Short term capital gains on sale of foreign shares. (When holding period is less than 24 months)	Slab rates of income tax	No Tax for non-U.S. tax residents
2. Long term capital gains on sale of foreign shares (When holding period is more than 24 months)	20% (With indexation benefit)	
3. Dividend from U.S. shares. (As per Double Taxation Avoidance Agreement – DTAA of India with U.S.A. – Form 10F, tax residency certificate & self declaration)	Slab rates of income tax	25%

Tax aspects of investment in Foreign Markets

- ✓ The foreign incomes and the following details of Foreign Assets (stocks/stock portfolios) have to be disclosed in the Income Tax Return for the relevant financial year as per the rate of exchange stated for a individual who is Resident & Ordinarily Resident under the Income Tax Act:
1. Date of investment
 2. Name & Address of the entity in which financial interest is held.
 3. Value of Investment
 4. Peak Value
 5. Closing value
 6. Total gross amount paid
 7. Total gross proceeds

Tax aspects of investment in Foreign Markets

- ✓ **Taxation rates for various incomes for resident Indian in India & U.S.A. from investment in foreign equity based mutual funds & ETFs in India.**

Type of Income	Rate of tax in India	Rate of tax outside India.
1. <u>Short term capital gains</u> on sale of units of mutual fund. (When holding period is less than 36 months)	Slab rates of income tax	<u>No Tax</u> as the transaction of purchase & sale of units has taken place in India.
2. <u>Long term capital gains</u> on sale of units of mutual fund. (When holding period is more than 36 months)	20% (With indexation benefit)	
3. <u>Dividend</u> from units of mutual fund.	Slab rates of income tax	

Tax aspects of investment in Foreign Markets

Taxation of US Equity Investments	
OPTION – I	
Exchange rate at the time of investment INR V/s. US\$	82
Investment in stock “A” for US\$ 100	100
Sale consideration of stock “A” for US\$ 112	112
Net gain US\$	12
Exchange rate at the time of sale INR V/s. US\$	84
Net Capital Gain in US\$ terms (Rs.) US\$ 12 X Rs. 84 Exchange Rate	1008

Tax aspects of investment in Foreign Markets

Taxation of US Equity Investments

OPTION – I

- ✓ If the stock is held for less than 2 years, short term capital gain – taxation at slab rates.
- ✓ If the stock is held for more than 2 years, long term capital gain tax @20%, with indexation.
- ✓ If US\$ are converted in INR Rs 200 gain on currency, taxed as “Income from other sources” as & when the US\$ are converted to INR. This will have to be determined by the respective client.
- ✓ This is the method by which we will provide the tax calculation details to the clients.

Tax aspects of investment in Foreign Markets

Taxation of US Equity Investments	
OPTION – II	
Exchange rate at the time of investment INR V/s. US\$	82
Investment in stock “A” for US\$ 100	100
Sale consideration of stock “A” for US\$ 112	112
Exchange rate at the time of sale INR V/s. US\$	84
Capital Gain	1208
Sale consideration	
US\$ 112 X Rs. 84 = Rs. 9408	
Less	
Cost price	
US\$ 100 X Rs. 82 = Rs. 8200	
Net Capital Gain	= Rs. 1,208

Tax aspects of investment in Foreign Markets

Taxation of US Equity Investments

OPTION – II

- ✓ If the stock is held for less than 2 years, short term capital gain – taxation at slab rates.
- ✓ If the stock is held for more than 2 years, long term capital gain tax @20%, with indexation.
- ✓ Calculation of capital gain by this method has to be done by client themselves.

Tax aspects of investment in Foreign Markets

Important tax compliances

- ✓ Kindly note that as per Indian Income Tax Act, if any Indian Resident has made investment in Foreign Countries, he/she has to to mandatory file Indian Income Tax Return and disclose foreign assets held details in Indian Income Tax Return.
- ✓ We have attached following annexures which are helpful to file your Indian Income Tax Return
 - ✓ Annexure I - Summary of US Equity Investment Income, Expenditure and TDS
 - ✓ Form 67 - Foreign Income Tax Credit to be claimed
 - ✓ Schedule FSI - Details of Income from Outside India and Tax Relief
 - ✓ Schedule TR - Summary of tax relief claimed for taxes paid outside India
 - ✓ Schedule FA - Foreign Assets held during the year.

Tax aspects of investment in Foreign Markets

- ✓ **Taxation rates** for various incomes for **Non-Resident** other than USA in India & U.S.A. tax resident from investment in foreign equity investment in **direct stocks, stock portfolios & ETFs.**

Type of Income	Rate of tax in country of tax residency	Rate of tax in U.S.A.
1. Capital gains on sale of foreign shares.	As per rates of income tax in the country of tax residency	No Tax for non-U.S. tax residents
2. Dividend from U.S. shares. (As per Double Taxation Avoidance Agreement – DTAA of U.S.A. with respective country, if available – Form 10F, tax residency certificate & self declaration)		As prescribed under respective countries DTAA agreement.

Tax aspects of investment in Foreign Markets

- ✓ Taxation for various incomes for Non-Residents (as per Indian Income Tax Act) in from investment in direct stocks, stock portfolios & ETFs in India.
- ✓ There is no income which 'accrues or arises or is received' in India during such year. Hence the same is not liable to tax in India for Non-Residents based on following judicial rulings.
 - a) Arvind Singh Chauhan, Gwalior vs Income Tax Officer Ward 1(2), Gwalior, ITAT Agra - I.T.A. No.: 319 and 320/Agr/2013
"The law is trite that 'receipt' of income, for this purpose, refers to the first occasion when assessee gets the money in his own control - real or constructive. What is material is the receipt of income in its character as income, and not what happens subsequently once the income, in its character as such is received by the assessee or his agent."

Tax aspects of investment in Foreign Markets

b) Commissioner Of Income-Tax vs A.P. Kalyanakrishnan Madras High Court - 1992 195 ITR 534 Mad

“What is contemplated under section 5(1)(a) of the Act is the first occasion when the assessee gets the money by way of pension under his control”

c) H.N.J. Dady vs Fourth Income-tax Officer ITAT Bombay Bench [1987] 22 ITD 532 (BOM.)

“Once it is received by the party entitled to it in respect of any subsequent dealing with the said amount, it cannot be said to be received as income on that occasion”

Tax aspects of investment in Foreign Markets

- ✓ **Taxation rates for various incomes for Non-Resident Indian (NRI) in India & U.S.A. from investment in foreign equity based mutual funds in India.**

Type of Income	Rate of tax in India	Rate of tax in outside India.
1. <u>Short term capital gains</u> on sale of units of mutual fund. (When holding period is less than 36 months)	Slab rates of income tax	This income needs to be disclosed in the country of residence. Tax treatment should be done accordingly.
2. <u>Long term capital gains</u> on sale of units of mutual fund. (When holding period is more than 36 months)	10% (Without indexation benefit)	
3. <u>Dividend</u> from units of mutual fund.	Slab rates of income tax	

Tax aspects of investment in Foreign Markets

- ✓ **Taxation rates** for U.S.A tax resident from investment in foreign equity investment in **direct stocks, stock portfolios & ETFs.**

Type of Income	Rate of tax in U.S.A.
1. <u>Capital gains</u> on sale of shares.	Taxation needs to be ascertained as per the tax laws of respective country.
2. <u>Dividend</u> from shares.	



Accounting for Foreign Equity investments



Accounting for Foreign Equity investments

Detailed Accounting Entries

Date	Particulars		US \$	Debit	Credit
18/06/2020	US EQUITY INVESTMENT A/C TO BANK A/C (Being US \$ 1340.00 @Rs. 79.06/\$ invested in US Equity - Vested Finance, amount transferred in US \$ under Liberlised Remittance Scheme)	DR CR	1,340.00	1,05,937.72	1,05,937.72
03/07/2020	BANK A/C TO US EQUITY INVESTMENT A/C (Being US \$ 89.15 @Rs. 72.28/\$ remitted in US Equity - Vested Finance, amount received back in Indian Rupees)	DR CR	89.15	6,443.76	6,443.76
16/07/2020	US EQUITY INVESTMENT A/C TO BANK A/c (Being US \$ 4535.00 @Rs. 79.95/\$ invested in US Equity - Vested Finance, amount transferred in US \$ under Liberlised Remittance Scheme)	DR CR	4,535.00	3,48,963.57	3,48,963.57
05/11/2020	US EQUITY INVESTMENT A/C TO BANK A/c TO TCS COLLECTED A/c (Being US \$ 6625.00 @Rs. 79.06/\$ invested in US Equity - Vested Finance, amount transferred in US \$ under Liberlised Remittance Scheme)	DR CR DR	6,625.00	5,04,155.41 14214.44	5,18,369.85
11/12/2020	US EQUITY INVESTMENT A/C TO BANK A/c TO TCS COLLECTED A/c (Being US \$ 2700.00 @Rs. 75.55/\$ invested in US Equity - Vested Finance, amount transferred in US \$ under Liberlised Remittance Scheme)	DR CR DR	2,700.00	2,03,974.74 10,096.65	2,14,071.39

Accounting for Foreign Equity investments

Detailed Accounting Entries

Date	Particulars		US \$	Debit	Credit
31/03/2021	US EQUITY INVESTMENT A/C TO US DIVIDEND INCOME A/C (Being Total Dividend received on US Equity Investment during the year as per Annexure I)	DR CR	30.06	2203.11	2203.11
31/03/2021	US EQUITY INVESTMENT A/C TO US BONUS INCOME A/C (Being Total Bonus received on US Equity Investment during the year as per Annexure I)	DR CR	10.00	730.41	730.41
31/03/2021	US EQUITY INVESTMENT A/C TO US INTEREST INCOME A/C (Being Total Interest received on US Equity Investment during the year as per Annexure I)	DR CR	0.81	59.86	59.86
31/03/2021	US EQUITY INVESTMENT A/C TO US SHORT TERM CAPITAL GAIN A/C (Being Total Short Term Capital Gan received on US Equity Investment during the year as per Annexure I)	DR CR	7.11	537.07	537.07

Accounting for Foreign Equity investments

Detailed Accounting Entries

Date	Particulars		US \$	Debit	Credit
31/03/2021	INCOME TAX RECEIVABLE FROM US EQUITY INVESTMENT A/C TO US EQUITY INVESTMENT A/C	DR CR	6.11	448.00	448.00
	(Being Total Tax Receivable from US Equity Investment during the year as per Annexure I)				
31/03/2021	US EQUITY ACCOUNT MAINTENANCE FEES TO US EQUITY INVESTMENT A/C	DR CR	92.37	6,746.78	6,746.78
	(Being Total Transaction charges paid for US Equity Investment during the year as per Annexure I)				
	This entry to be done when US\$ has been withdrawal and deposited in India Rupees				
31/03/2021	FOREX RATE DIFFERENCE TO US EQUITY INVESTMENT A/C	DR CR		604.26	604.26
	(Being Forex Rate Difference Rs. $(\$89.15 \times 79.058 \text{Rs./\$ (Avg Rate)})$ - Rs. $(\$89.15 \times \text{Rs.}72.28/\$)$ = Rs. 7,048.02 - Rs. 6,443.76 = Rs. 604.26				