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**Benefits available to Non- Residents [AY 2026-27]****1. Who is a Non-Resident?**

Section 2(30) defines non-resident as a person who is not a resident. Section 6 lays down the test of residency for different taxpayers as under:

**A. Individual**

An individual is said to be non-resident in India if he is not a resident in India.

To determine the residential status of an individual, the first step is to ascertain whether he is resident or non-resident. If he turns to be a resident, then the next step is to ascertain whether he is resident and ordinarily resident or is a resident but not ordinarily resident.

Step 1 given below will ascertain whether the individual is resident or non-resident; and step 2 will ascertain whether he is ordinarily resident or not ordinarily resident. Step 2 is to be performed only if the individual turns to be a resident in India.

**Step 1: Determining whether resident or non-resident**

Under the Income-tax Law, an individual will be treated as a resident in India for a year if he satisfies any of the following conditions:

- 1) He is in India for a period of 182 days or more in that year; or
- 2) He is in India for a period of 60 days or more in the year and for a period of 365 days or more in immediately preceding 4 years.

However, in respect of an Indian citizen and a person of Indian origin who visits India during the year, the period of 60 days as mentioned in (2) above shall be substituted with 182 days. The similar concession is provided to the Indian citizen who leaves India in any previous year as a crew member or for the purpose of employment outside India.

The Finance Act, 2020, w.e.f., Assessment Year 2021-22 has amended the above exception to provide that the period of 60 days as mentioned in (2) above shall be substituted with 120 days, if an Indian citizen or a person of Indian origin whose total income, other than income from foreign sources, exceeds Rs. 15 lakhs during the previous year. Income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).

**Note:** The Finance Act, 2020 has introduced new section 6(1A) to the Income-tax Act, 1961. The new provision provides that an Indian citizen shall be deemed to be resident in India only if his total income, other than income from foreign sources, exceeds Rs. 15 lakhs during the previous year. For this provision, income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).

However, such individual shall be deemed to be Indian resident only when he is not liable to tax in any country or jurisdiction by reason of his domicile or residence or any other criteria of similar nature.

Thus, from Assessment Year 2021-22, an Indian Citizen earning total income in excess of Rs. 15 lakhs (other than from foreign sources) shall be deemed to be resident in India if he is not liable to pay tax in any country.

If an individual does not satisfy any of the above conditions then he will be treated as non-resident in India.

**Step 2: Determining whether resident and ordinarily resident or resident but not ordinarily resident**

A resident individual will be treated as resident but not ordinarily resident in India during the year if he satisfies the following conditions:

- 1) He is non-resident in India in 9 out of last 10 years immediately preceding the relevant year; or
- 2) His stay in India is for 729 days or less in last 7 years immediately preceding the relevant year.

However, w.e.f., Assessment Year 2021-22, the Finance Act, 2020 has inserted the following two more situations wherein a resident person is deemed to be 'Not Ordinarily Resident' in India:

- a) An Indian Citizen or a person of Indian origin whose total income (other than income from foreign sources) exceeds Rs. 15 lakhs during the previous year and who has been in India for a period of 120 days or more but less than 182 days;
- b) An Indian Citizen who is deemed to be resident in India as per new section 6(1A).

A resident individual satisfies one of the aforesaid conditions will be treated as resident but not ordinarily resident.

In short, following test will determine the residential status of an individual:

1. If the individual satisfies any one or both the conditions specified at step 1 and satisfies none of the conditions specified at step 2, then he will become resident and ordinarily resident in India.
2. If the individual satisfies any one or both the conditions specified at step 1 and satisfies any of the conditions specified at step 2, then he will become resident but not ordinarily resident in India.
3. If the individual satisfies none of the conditions specified at step one, then he will become non-resident.

**Note:**

"Liable to tax" in relation to a person and with reference to a country means that there is an income-tax liability on such person under the law of that country for the time being in force. It shall include a person who has subsequently been exempted from such liability under the law of that country.



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## B. Partnership firm

A partnership firm is treated as non-resident in India if control and management of its affairs are situated wholly outside India.

## C. Company

An Indian company is always resident in India. A foreign company is treated as resident if, during the previous year, control and management of its affairs is situated *wholly* in India. In other words, a foreign company is treated as non-resident if control and management of its affairs is situated *wholly or partly* outside India.

With effect from Assessment Year 2017-18, a company is said to be resident in India in any previous year, if:

- (i) it is an Indian company; or
- (ii) its place of effective management, in that year, is in India.

For this purpose, the “place of effective management” means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

## 2. Scope of Total Income

As per Section 5 of the Income-tax Act, 1961, unlike a resident person who is liable to pay tax on his global income, a non-resident shall be liable to tax in India in respect of following incomes only:

- 1) Income received or is deemed to be received in India in such year; or
- 2) Income accrues or arises or is deemed to accrue or arise to him in India during such year.

## 3. Indirect transfer of a capital asset situated in India

As per section 9(1)(i), any income accruing or arising, whether directly or indirectly, through transfer of a capital asset situated in India shall be deemed to accrue or arise in India.

The Finance Act, 2012 inserted *Explanation 5* to section 9(1)(i) w.e.f. 01.04.1962 to clarify that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India, shall be deemed to be situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

However, The Finance Act, 2017 inserted proviso to provide that *Explanation 5* shall apply to an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in a Foreign Institutional Investor as referred to in clause (a) of the *Explanation* to section 115AD for an assessment year commencing on or after the 1st day of April, 2012 but before the 1st day of April, 2015.

A new *Explanation 6* is inserted to section 9(1)(i) by the Finance Act, 2015 w.e.f 01.04.2016 to define the term "substantially". It provides that share or interest in a company or entity registered or incorporated outside India shall be deemed to derive its value substantially from the assets located in India, if, on the specified date, the value of such assets:

- (i) exceeds Rs. 10 Crore; and
- (ii) represents at least 50% of the value of all the assets owned by the company or entity, as the case may be.

Further, a new *Explanation 7* is inserted to provide that no income shall be deemed to accrue or arise to a non-resident from transfer, outside India, of any share of, or interest in, a company or an entity, registered or incorporated outside India, referred to in the *Explanation 5*:

- (i) if such company or entity directly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds the right of management or control in relation to such company or entity, nor holds voting power or share capital or interest exceeding five per cent of the total voting power or total share capital or total interest, as the case may be, of such company or entity; or
- (ii) if such company or entity indirectly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds the right of management or control in relation to such company or entity, nor holds any right in, or in relation to, such company or entity which would entitle him to the right of management or control in the company or entity that directly owns the assets situated in India, nor holds such percentage of voting power or share capital or interest in such company or entity which results in holding of (either individually or along with associated enterprises) a voting power or share capital or interest exceeding five per cent of the total voting power or total share capital or total interest, as the case may be, of the company or entity that directly owns the assets situated in India;

In a case where all the assets owned, directly or indirectly, by a company or, as the case may be, an entity referred to in the *Explanation 5*, are not located in India, the income of the non-resident transferor, from transfer outside India of a share of, or interest in, such company or entity, deemed to accrue or arise in India under this clause, shall be only such part of the income as is reasonably attributable to assets located in India and determined in such manner as may be prescribed.

## 4. Certain activities not to constitute business connection in India

The Finance Act, 2003 has inserted *Explanation 2* to section 9(1)(i) w.e.f. 01.04.2004 to broadly explain the term 'business connection'.

After substituting the clause (a) of *Explanation 2* to 9(1)(i) by the Finance Act, 2018, the term 'business connection' shall include any business activity carried out through a person who, acting on behalf of the non-resident::

- (a) has and habitually exercises in India, an authority to conclude contracts on behalf of non-resident or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident and the contracts are:
  - (i) in the name of the non-resident; or



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- (ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or
- (iii) for the provision of services by the non-resident; or
- (b) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or
- (c) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident.

Further, after Explanation 2, the following Explanation has also been inserted, namely:—

'Explanation 2A.—For the removal of doubts, it is hereby clarified that the significant economic presence of a non-resident in India shall constitute "business connection" in India and "significant economic presence" for this purpose, shall mean:

- (a) transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed; or
- (b) Systematic and continuous soliciting of business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means:

The transactions or activities shall constitute significant economic presence in India, whether or not the agreement for such transaction is entered in India or non-resident has a residence or place of business in India or renders services in India.

Further, the transactions or activities of a non-resident in India, which are confined to the purchase of goods in India for the purpose of export, shall not constitute a significant economic presence of such non-resident in India.

A new Section 9A is inserted by the Finance Act, 2015. It provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund (subject to certain conditions).

It further provides that an eligible investment fund shall not be said to be resident in India for the purpose of section 6 merely because the eligible fund manager, undertaking fund management activities on its behalf, is situated in India.

(Refer Section 9A for meaning of 'Eligible Investment Fund', 'Eligible Fund Manager' and other conditions).

## 5. Exemption from applicability of section 206AA to non-residents

Section 206AA provides that where the taxpayer does not furnish its PAN to the person responsible for withholding of tax, tax shall be deducted at source at higher of the following rates:

- (a) rate specified in the relevant provision of this Act;
- (b) rate or rates in force; or
- (c) 20%.

However, the provisions of section 206AA shall not apply to a non-resident, not being a company, or to a foreign company, in respect of—

- (i) payment of interest on long-term bonds as referred to in section 194LC; and
- (ii) any other payment subject to such conditions as may be prescribed.

As per Rule 37BC, if deductee is a non-resident or a foreign company, he is not required to furnish his PAN to the deductor if he is in receipt of following income:

1. Interest
2. Royalty
3. Fees for technical services
4. Dividend
5. Payments for transfer of any capital asset.

However, the deductee is required to furnish the following details and documents to the deductor:

1. Name, e-mail id and contact number
2. Address in the country of which he is a resident
3. Certificate of Residence from the Government of his home country, if the law of that country provides for issuance of such certificate
4. Tax Identification Number allotted in his home country and if such number is not available, then a unique number on the basis of which he can be identified by the Government of his home country.

## 6. Relaxation to first time resident foreign companies

Section 115JH provides relaxation to foreign companies from certain compliances if such company is held to be resident in India for the first time. It is provided that provisions relating to computation of income, treatment of unabsorbed depreciation, set off or carry forward of losses, advance tax, TDS or transfer pricing shall apply to said company subject to such modifications or exceptions, as may be prescribed by the Government.

## 7. Tax incentive to unit located in international financial services center



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Rate of MAT and AMT shall be 9% in case of unit located in International Financial Services Center ('IFSC'), provided such unit derives its income solely in convertible foreign exchange. A unit located in IFSC, deriving income solely in convertible foreign exchange, shall not be subject to dividend distribution tax on declaration of dividend out of its current income.

No Securities Transaction Tax (STT) and Commodities transaction tax would be levied on transactions undertaken on a recognised stock exchange located in IFSC if consideration is paid or payable in foreign currency.

## 7A. Exemption from condition of payment of STT by IFSC in case of capital gains taxable under Section 112A

As per Section 112A, the capital gains arising from transfer of long-term capital assets, being listed equity shares, units of equity oriented fund or unit of business trust, in excess of Rs. 1.25 lakhs shall be chargeable to tax at the rate of 12.5%.

The capital gains shall be taxable under Section 112A if securities transaction tax (STT) is paid on acquisition and transfer of listed equity shares. While as in the case of unit of equity oriented fund or unit of business trust, the STT is to be paid at the time of transfer of such capital asset. However, this condition of payment of STT shall not apply to transfer undertaken on a recognized stock exchange located in IFSC and the consideration for such transfer is received or receivable in foreign currency.

## 7B. Exemption from MAT in case foreign companies opt for presumptive taxation scheme

The Finance Act, 2018 inserts a new Explanation 4A to Section 115JB to provide exemption from applicability of MAT provisions in case of a foreign company, if its total income comprises solely of profits from business referred to in Sections 44B, 44BB, 44BBA or 44BBB and such income has been offered to tax at the rates specified in those sections.

## 8. Provisions for taxability of Non-residents

S.N.	Section	Particulars	Limit of exemption or deduction or Computation of income	Available to
<b>A. Income not chargeable to tax</b>				
1.	10(4)(i)	Interest on bonds or securities notified before 01-06-2002 by the Central Government including premium on redemption of such bonds.	Interest amount	Non resident
2.	10(4)(ii)	Interest on money standing to the credit in a Non-resident (External) account in India.	Interest amount	Person resident outside India (under FEMA Act) and person who has been permitted to maintain said account by RBI
3.	10(4B)	Interest on notified savings certificates issued before 01-06-2002 by the Central Government and subscribed to in convertible foreign exchange.	Interest amount	Individual, being a citizen of India or a person of Indian Origin, who is a non resident.
3A.	10(4C)	Interest on Rupee Denominated Bonds (as referred to in Section 194LC) issued outside India during the period 17-09-2018 to 31-03-2019 by an Indian company/business trust	Interest amount	Non-resident person or foreign company
3B.	10(4D)	Income accrued or arisen or received by specified fund which is attributable to units held by a non-resident (not being a PE in India) or to the investment division of offshore banking unit. Such exemption is allowed in respect of the following incomes: (a) Income from transfer of a capital asset as referred to in Section 47(viiab) on a recognised stock exchange located in IFSC and consideration is paid or payable in 'convertible foreign exchange'; (b) Income arising from transfer of securities (other than shares in a company resident in India); (c) Income from securities issued by a non-resident (not being a PE of a non-resident in India) and where such income otherwise does not accrue or arise in India; or (d) Income from a securitization trust which is chargeable under the head 'Profits and gains from business or profession' to the extent such income accrued or arisen to or is received, <ul style="list-style-type: none"> <li>• is attributable to units held by non-resident (not being the permanent establishment of NR); or</li> <li>• is attributable to the investment division of offshore banking unit.</li> </ul>	Capital Gain/PGBP	Specified Fund
3C.	10(4E)	Transfer of non-deliverable forward contracts or offshore derivative instruments or over the counter derivative or income distributed on the offshore derivative instruments or over-the-counter derivatives entered into with an offshore banking unit of IFSC as referred in section 80LA(1A) or any Foreign Portfolio Investor being a unit of an IFSC and fulfils prescribed conditions	Entire income	Non-resident
3D.	10(4F)	Income on account of leasing of aircraft or a ship in a previous year, paid by a unit of an IFSC unit as referred to in section 80LA(1A), if unit has commenced operations on or before the 31st March 2030	Royalty or interest income	Non-resident



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3E.	10(4G)	Income by way of portfolio of securities or financial products or funds which is managed or administered by a portfolio manager on behalf of a non-resident in an account maintained with an Offshore Banking unit in an IFSC as referred in section 80LA(1A). The CBDT may also notify specified activity carried out by specified person that will fall under scope of this section.	Income from portfolio services	Non-resident
3F.	10(4H)	Income earned by a non-resident or Unit of an IFSC as referred to in section 80LA(1A). The exemption shall be allowed subject to the following conditions: (a) Non-resident or Unit of an IFSC must be engaged primarily in the business of leasing of an aircraft or ship; (b) Income should be in the nature of capital gains arising from the transfer of equity shares of a domestic company; (c) Domestic company must be a Unit of an IFSC as referred to in section 80LA(1A); (d) Domestic company must be engaged primarily in the business of leasing of an aircraft; (e) Domestic company must commence its operations on or before 31-03-2030; (f) Equity shares of the domestic company must be transferred within 10 years of commencing of its operations. However, if the domestic company commenced its operations after 01-04-2024, the 10-year time limit shall be counted from 01-04-2024. For the above purposes "aircraft" means an aircraft, helicopter, an engine or part of an aircraft or a helicopter or any part thereof and "ship" means a ship or an ocean vessel, an engine of a ship or ocean vessel, or any part thereof.	Income from Capital Gains (transfer of equity shares of a domestic company) or PGBP (engaged in the business of leasing an aircraft)	Non-Resident or a Unit of IFSC
4.	10(6)(ii)	Remuneration received by Foreign Diplomats/Consulate and their staff (Subject to conditions)	Remuneration	Individual (not being a citizen of India)
5.	10(6)(vi)	Remuneration received by non-Indian citizen as employee of a foreign enterprise for services rendered by him during his stay in India, if: a) Foreign enterprise is not engaged in any trade or business in India b) His stay in India does not exceed in aggregate a period of 90 days in such previous year c) Such remuneration is not liable to be deducted from the income of employer chargeable under this Act	Remuneration	Individual - Salaried Employee (not being a citizen of India)
6.	10(6)(viii)	Salary received by a non-resident, for services rendered in connection with his employment on a foreign ship if his total stay in India does not exceed 90 days in the previous year.	Salary	Non-resident Individual - Salaried Employee (not being a citizen of India)
7.	10(6)(xi)	Remuneration received by an Individual, who is not a citizen of India, as an employee of the Government of a foreign state during his stay in India in connection with his training in any Government Office/Statutory Undertaking, etc.	Remuneration	Individual-Salaried Employee (not being a citizen of India)
88.	10(6A)	Tax paid by Government or Indian concern on royalty or FTS from Government or Indian concern under agreement made before 1-6-2002 which either relates to a matter included in the industrial policy of the Government and is in accordance with that policy or is approved by Central Government	Tax liability of foreign company borne by taxpayer	Foreign Company
99.	10(6B)	Tax paid by Government or Indian concern under terms of agreement entered into before 1-6-2002 by Central Government with Government of foreign State or international organization on income derived from Government or Indian concern, other than income by way of salary, royalty or fees for technical services	Tax liability of non-resident borne by taxpayer	Non-resident
110.	10(6BB)	Tax paid by Indian company, engaged in the business of operation of aircraft, who has acquired an aircraft or its engine on lease, under an approved (by Central Government) agreement entered into between 31-3-1997 and 1-4-1999, or after 31-3-2007, on lease rental/income	Tax liability so borne by Indian Company	Government of foreign State or foreign enterprise
111.	10(6C)	Income by way of royalty or fees for technical services rendered in India or abroad in projects connected with security of India pursuant to agreement with Central Government	Royalty and fee for technical services	Notified foreign company
111A	10(6D)	Income by way of royalty or FTS for services rendered in or outside India to the National Technical Research Organization.	Entire Income	Non-resident or Foreign Company



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112.	10(15)(iid)	Interest on notified bonds (notified prior to 01-06-2002) purchased in foreign exchange (subject to certain conditions)	Interest Amount	Individual, being a: a) NRI or nominee or survivor of NRI; b) Individual to whom bonds have been gifted by NRI.
	10(15)(iii)	Interest on securities	Interest amount	Issue Department of Central Bank of Ceylon
	10(15)(iiia)	Interest on deposits made with scheduled bank with approval of RBI	Interest amount	BBank incorporate abroad
	10(15)(iiib)	Interest payable to Nordic Investment Bank on a loan advanced to a project approved by the Central Government.	Interest amount	Nordic Investment Bank
	10(15)(iiic)	Interest payable to the European Investment Bank on loan granted by it in pursuance of framework agreement dated 25-11-1993 for financial corporation between Central Government and that Bank	Interest amount	European Investment Bank
	10(15)(iv)(b)	Interest received from industrial undertaking in Indian on money lent to it under a loan agreement entered into before 01-06-2001	Interest amount	AAproved foreign financial institution
	10(15)(iv)(fa)	Interest payable by scheduled bank on deposits in foreign currency where acceptance of such deposit by the bank is duly approved by RBI.	Interest amount	a) Non-resident bb) Individual or HUF being a resident but not ordinary resident
	10(15)(viii)	Interest on deposit made on or after 01.04.2005 in an offshore Banking Unit referred to in Section 2(u) of the Special Economic Zones Act, 2005.	Interest amount	Person who is a non-resident or not ordinarily resident.
	10(15)(ix)	AAny interest payable in respect of money borrowed by a unit located in IFSC on or after September 1, 2019.	Interest amount	Non-resident
12A.	10(15B)	Income from the lease rental received from cruise ships operating in India	Lease rental income	Foreign Company
113.	10(23BBB)	Income of European Economic Community from interest, dividends or capital gains from investment of funds under specified scheme	Specified interest, dividends or capital gains	European Economic Community
14.	10(23BBC)	Income of SAARC Fund for Regional Projects set up by Colombo Declaration issued on 21-12-1991	Entire income	SAARC Fund for Regional Projects
14A.	10(23FBC)	Income from specified fund or transfer of unit in specified fund Note: Specified fund means fund as referred to in Section 10(4D)	Entire income	UUnit holder
14B.	10(23FE)	Income of a specified person Note: 'Specified person' means: a) Wholly owned subsidiary of Abu Dhabi Investment Authority, which is resident of UAE and makes investment, directly or indirectly, out of the fund owned by the Government of the Abu Dhabi. b) Sovereign wealth fund and pension fund which satisfies prescribed conditions.	Dividend, interest, any sum referred to in clause (xii) of section 56(2), or long-term capital gains (whether or not such capital gains are deemed as short-term capital gains under section 50AA) arising from an investment made in India	Specified person
14C.	10(23FF)	Income on transfer of shares of a company resident in India, by the resultant fund or specified fund if prescribed conditions are satisfied	Capital gain	NNon-resident
16D	10(34B)	Dividend income earned by an IFSC unit primarily engaged in aircraft or ship leasing business. However, the exemption is subject to the condition that the company paying the dividend should also be an IFSC unit and engaged in the aircraft or ship leasing business.	Dividend Income	IFSC engaged in the business of leasing aircrafts.
15.	10(48)	Any income received in India in Indian currency by a foreign company on account of sale of crude oil or any other goods or rendering of services as may be notified by the Central Government, to any person in India under an approved and notified agreement or arrangement (Subject to certain conditions)	Specified Income	Foreign Company
116.	10(48A)	Any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India (subject to certain conditions)	Entire income	FForeign company
16A.	10(48B)	Any income arising to a foreign company on account of sale of leftover stock of crude oil from the facility in India after expiry of the agreement referred to in 10(48A) or on termination of the said agreement (Subject to certain conditions)	Entire Income	Foreign Company



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17.	10(50)	AAAny income which is chargeable to equalization levy under Chapter VIII of the Finance Act, 2016. Note: the provisions of this clause shall not apply w.e.f. AY 2026-27.	Entire income	Non-resident
<b>B. Income under the head Profit and gains from business or profession</b>				
11.	44B read with 172	Income from shipping business shall be computed on presumptive basis (Subject to certain conditions).	7.5% of specified sum shall be deemed to be the presumptive income	Non-resident engaged in shipping business
22.	44BB	Income of a non-resident engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils shall be computed on presumptive basis (Subject to certain conditions).	10% of specified sum shall be deemed to be the presumptive income	Non-resident engaged in activities connected with exploration of mineral oils
33.	44BBA	Income of a non-resident engaged in the business of operation of aircraft shall be computed on presumptive basis (Subject to certain conditions).	5% of specified sum shall be deemed to be the presumptive income	Non-resident engaged in the business of operating of aircraft
44.	44BBB	Income of a foreign company engaged in the business of civil construction or the business of erection of plant or Machinery or testing or commissioning there of, in connection with a turnkey power projects shall be computed on presumptive basis (Subject to certain conditions).	10% of specified sum shall be deemed to be the presumptive income	FForeign Company
4A.	44BBC	Presumptive taxation scheme for the business of operation of cruise ships by non-residents	20% of the specified amounts shall be deemed to be the presumptive income.	Non-resident
4B.	<a href="#">44BBD</a>	Presumptive tax scheme for non-residents providing services or technology to a resident company in India to set up an electronics manufacturing facility or manufacture/produce electronic goods.	25% of the total amount paid or payable to the non-resident for such services or technology would be deemed presumptive income	Non-resident
55.	44C	Deduction for Head office Expenditure (Subject to certain conditions and limits)	Deduction for head-office expenditure shall be limited to lower of following: a) 5% of adjusted total income* ; or b) Head office exp. as attributable to business or profession of taxpayer in India * In case where adjusted total income of assessee is a loss, adjusted total income shall be substituted by average adjusted total income ** Adjusted total income or average adjusted total income shall be computed after prescribed adjustments i.e. unabsorbed depreciations, carry forward losses, etc.	Non-resident
66.	44DA	Deduction of expenditure from royalty and FTS received under an agreement made after 31-03-2003 which is effectively connected to the PE of non-resident in India (Subject to certain conditions)	Expenditure incurred wholly and exclusively for the business of PE or fixed place of profession in India shall be allowed as deduction.	Non-resident (not being a company) or Foreign Company
<b>C. Income under the head Capital Gains</b>				
1.	47(via)	Transfer of a capital asset being shares in an Indian company by the amalgamating foreign company to the amalgamated foreign company (in scheme of amalgamation) shall not be treated as 'transfer' (Subject to certain conditions).	No capital gains shall arise in the hands of foreign amalgamating company due to transfer of capital assets.	Foreign amalgamating company
22.	47(viab)	Transfer of share of a foreign company (which derives, directly or indirectly, its value substantially from the share or shares of an Indian company) held by a foreign company to another foreign company under a scheme of amalgamation shall not be regarded as transfer (Subject to certain conditions)	No capital gains shall arise in the hands of foreign amalgamating company	FForeign amalgamating company



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2A.	47(viib)	Transfer of bonds or GDRs as referred to in Sec. 115AC(1) or Rupee Denominated Bond of Indian Co. or Derivative or any other specified security by a non-resident on a recognized stock exchange located in any IFSC and where the consideration is paid in foreign currency	No capital gains shall arise in the hands of non-resident	Non-resident
33.	47(vic)	Transfer of a capital asset being shares in an Indian company by the demerged foreign company to the resulting foreign company (in scheme of demerger) shall not be treated as 'transfer' (Subject to certain conditions).	No capital gains shall arise in the hands of foreign demerged company due to transfer of capital assets.	Foreign demerged company
44.	47(vicc)	Transfer of share of a foreign company (which derives, directly or indirectly, its value substantially from the share or shares of an Indian company) held by a demerged foreign company to resulting foreign company pursuant to demerger shall not be regarded as transfer (Subject to certain conditions)	No capital gains shall arise in the hands of foreign demerged company	Foreign demerged company
55.	47(viia)	Transfer of capital asset being bonds or GDR [referred to in section 115AC(1)] outside India by one non-resident to another non-resident shall not be treated as 'transfer'.	No capital gains shall arise in the hands of non-resident transferor	Non-resident
5A	47(viiaa)	Transfer of capital asset being rupee denominated bond of an Indian company issued outside India by one non-resident to another non-resident shall not be treated as 'transfer'.	No capital gains shall arise in the hands of non-resident transferor	Non-resident
5B	47(viiac)	Transfer of a capital asset by the original fund to the resultant Fund, in relocation, shall not be considered as a transfer for capital gain tax purpose <i>Note: Refer Explanation to section 47(viiad) for meaning of original fund, relocation &amp; resultant fund.</i>	Amount of capital gain	Non-resident
5C	47(viiad)	Transfer of capital asset being share or unit or interest (in relocation) held by shareholder or unit holder in original fund, in consideration for share or unit or interest in resultant fund <i>Note: Refer Explanation to section 47(viiad) for meaning of original fund, relocation &amp; resultant fund.</i>	Amount of capital gain	Non-resident
6.	47(viib)	Transfer of a capital asset, being a Government security carrying a periodic payment of interest, made outside Indian (through an intermediary dealing in settlement of securities) by a non-resident to another non-resident shall not be treated as 'transfer' (Subject to certain conditions).	No capital gains shall arise in the hands of non-resident transfer	Non-resident
7.	First Proviso to 48	Computation of capital gains when shares or debentures in an Indian Company are transferred which were acquired in foreign currency (Subject to certain conditions)	Capital gain shall be computed in same foreign currency (utilized for acquiring shares or debentures) which shall be reconverted into Indian currency	Non-resident
8.	115F	Long-term capital gain arising from transfer of specified foreign exchange assets shall be exempt from tax if net consideration is invested within six months after date of transfer in any specified asset or deposited in notified saving certificates (Subject to certain conditions).	Amount of exemption shall be computed in following manner: Amount invested in new asset X Capital gains / Net Sales consideration	Non-resident Indian

## D. Other Provisions

1.	90	A non-resident can apply either provisions of the Act or the relevant DTAA (India has entered into with counterpart foreign country), whichever is more beneficial.	Beneficial provisions of DTAA or the Income-tax Act	Non-resident
2.	95	Provisions of GAAR shall be applicable in respect of any assessment year beginning on or after April 1, 2018.	-	-
3.	192	If net taxable income (being income from employment) is less than maximum amount which is not chargeable to tax (Rs. 2,50,000) no tax shall be deducted at source.	No deduction of tax at source from salaries	Non-resident - Individual
4.	245N, 245Q	A non-resident applicant can apply before Authority for Advance Ruling for determination of tax liability that may arise out of a business carried out in India (Subject to certain conditions) <b>Note:</b> The Finance Act, 2021 has provided that the Authority for Advance Rulings shall cease to operate with effect from such date, as may be notified by the Central Government in the Official Gazette.	Non-resident can file application for Advance Ruling	Non-resident



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4A.	245-OB	The Central Government to constitute one or more Board for Advance Rulings for giving advance rulings on and after the notified date.	Non-resident can file application for Advance Ruling	Non-resident
5.	115G	A non-resident Indian shall not be required to file his return of income if his total income consists only following incomes and tax has been deducted therefrom: a) Income from investment in foreign exchange assets b) Long-term capital gains arising from transfer of foreign exchange assets.	Exemption from filing of return of income	Non-resident Indian

\* For detailed conditions refer Income Tax Act, 1961

## Notes:

- a) "Foreign Exchange Asset" means any "specified asset" which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange [Section 115C(b)].
- b) In view of Section 115(f), "Specified asset" means any of the following assets, namely:
- Shares in an Indian company;
  - Debentures issued by an Indian company which is not a private company;
  - Deposits with an Indian company which is not a private company;
  - Any security of the Central Government;
  - Other notified assets
- c) 'Non-resident Indian' means an individual, being citizen of India or a person of Indian origin who is not a "resident" [Section 115(e)].

## 9. Special Rates of Taxes for Non-Resident

S.N.	Section	Particulars	Rates
1.	112(1)(c)	Long Term Capital Gains	12.50%
2.	112(1)(c)	Long term capital gains arising from transfer of a capital asset, being unlisted securities or shares of a company not being a company in which public are substantially interested.	12.50%
3.	112(1)(c)	Concessional rate of tax if long term capital gains arising from transfer of listed securities or units or zero coupon bonds is calculated without taking into consideration the benefit of indexation.	12.5%
4.	111A	Concessional rate of tax if short term capital gains arising from transfer of equity shares or units of an equity oriented fund, or a unit of business trust is chargeable to securities transaction tax. With effect from assessment year 2016-17 the concessional tax rate shall also apply to any income arising from transfer of any units of a business trust which were acquired in consideration of a transfer referred to in section 47(xvii) and in respect of which security transaction tax has been paid.	20%
5.	112A	Long-term capital gains arising from transfer of capital assets, being listed equity shares, units of equity oriented fund or unit of business trust. The capital gains shall be computed without applying the first and second proviso to Section 48.	12.50%
5A.	115AD	Income in respect of securities received by foreign institutional investor as specified by the Government or by a specified Fund: • Short term capital gain covered by section 111A • Any other short-term capital gain • Long-term capital gain • Long-term capital gain (referred to in section 112A) in excess of Rs. 1.25 lakh • Interest referred to in section 194LD • Other income in the case of FII • Other income in the case of specified Fund	20% 30% 12.5% 12.5% 5% 20% 10%
6.	115A(1)(a)(i)	Dividends	20%
6A.	115A(1)(a)(i)	Dividend from a unit located in IFSC (as referred to in section 80LA(1A))	10%
7.	115A(1)(a)(ii)	Interest received from Government or an Indian concern on monies borrowed or debt incurred in foreign currency	20%
8.	115A(1)(a)(iia)	Interest from notified Infrastructure Debt Fund as referred to in section 10(47)	5%
9.	115A(1)(a)(iiaa)	Interest of the nature and extent referred to in Section 194LC	5% or 4% or 9%
10.	115A(1)(a)(iiab)	Interest of the nature and extent referred to in Section 194LD	5%
11.	115A(1)(a)(iiac)	Distributed income being interest referred to in Section 194LBA	5% or 10% or 30%
12	115A(1)(a)(iii)	Income in respect of units purchased of a Mutual Funds in foreign currency [specified under section 10(23D) or of UTI]	20%



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13.	115A(1)(b)	Income by way of Royalty or FTS (other than income referred to in Section 44DA) received in pursuance of an agreement made at any time after 31-03-1976.	20%
14.	115AB	Income of an overseas financial organization on transfer of units purchased in foreign currency being long-term capital gains	12.5%
14A.	115AB	Income of an overseas financial organisation in respect of units purchased in foreign currency	10%
14B.	115AC	Income from bonds or GDRs of a public sector company sold by the Government and purchased in foreign currency	10%
15.	115AC	Income from long-term capital gains arising from transfer of bonds or GDRs	12.5%
16.	115AD(1)(b)	Short term capital gains earned by specified fund or FIIs as referred to in Section 111A	15%
16A.	115AD(1)(b)	Short term capital gains earned by specified fund or FIIs as referred to in Section 111A	15%
17.	115AD(1)(b)	Any other short term capital gain earned by specified fund or FIIs (other than as referred to in Section 111A)	30%
18.	115AD(1)(b)	Long term capital gains earned by specified fund or FIIs	12.5%
19.	115AD(1)(a)	Interest referred to in section 194LD earned by specified fund or FIIs	5%
20.	115AD(1)(a)	Other income earned by specified fund or FIIs	20% for FIIs & 10% for specified fund
21.	115BBA(1)(a)/(b)	Income of a non-resident foreign citizen sportsman for participation in any game in India or received by way of advertisement or for contribution of articles relating to any game or sport in India or income of a non-resident sport association by way of guarantee money	20%
22.	115BBA(1)(c)	Income of non-resident foreign citizen (being an entertainer) for performance in India	20%
23.	115E	Income from specified asset purchased in foreign currency	20%
24.	115E	Long-term capital gains arising from transfer of specified asset purchased in foreign currency	10%
25.	115E	Income from long-term capital gains of an asset other than a specified asset	20%

## 7. Applicability of Minimum Alternative Tax (MAT) on foreign companies

In respect of a foreign company, capital gains arising from transfer of securities, interest, royalty and fees for technical services accruing or arising to such foreign company shall be excluded from book profit for the purpose of charging MAT if income-tax payable by foreign company on such income is at rate less than 15%. Further, expenditure, if any, debited to the profit loss account, in respect of such income shall also be added back to the book profit for the purpose of computation of MAT.

However, provisions of section 115JB shall not be applicable with effect from April 1, 2001 to a foreign company, if—

- the assessee is a resident of a country or a specified territory with which India has an Double Taxation Avoidance Agreement (DTAA) or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assessee does not have a permanent establishment in India; or
- the assessee is a resident of a country with which India does not have an DTAA and the assessee is not required to seek registration under any law for the time being in force relating to companies.

[As amended by Finance Act, 2025]