



Guide to Expat Tax in India

Habibullah & Co. | Chartered Accountants

"Transforming Knowledge into values"

India | www.hcoca.com | info@hcoca.com



Expatriate Tax in India

Tax Rates in India

Taxable Income Band INR	National Income Tax Rates
0 – 0.25 Million	0%
0.25 Million – 0.50 Million	5%
0.50 Million – 1.0 Million	20%
Above 1.0 Million	30%

These rates are applicable up to the age of 60, thereafter until 80 years old, the first INR 300,000 is taxed at 0%, and all other rates remain the same. After 80, the first INR 500,000 is taxed at 0%.

Education Cess

An education 'cess' (a tax or levy) of 4% is levied on the tax payable.

Surcharges

Income	Surcharge	Maximum Marginal Tax Rate
Up to 5 Million	NIL	31.20%
5 million to 10 Million	10%	34.32%
Above 10 Million	15%	35.88%

Indian Permanent Account Number (PAN)

PAN stands for Permanent Account Number. PAN is a ten-digit unique alphanumeric number issued by the Indian Income Tax Department to all tax payers and act as unique identification number for all tax payers in the country.

PAN is to be obtained by following persons:

- Every person if his total income or the total income of any other person in respect of which he is assessable during the previous year exceeds the maximum amount which is not chargeable to tax.
- Every person who is entitled to receive any sum/income after deduction of tax at source
- Every person who intends to enter into specified financial transactions in which quoting of PAN is mandatory

It is mandatory to quote PAN on the return of income.

Application for PAN is to be made in Form 49A (in the case of Indian Citizen/Indian Companies/Entities incorporated in India/Unincorporated entities formed in India) or Form 49AA (in the case of individual not being a citizen of India/Entities incorporated outside India/Unincorporated entities formed outside India) along with prescribed fee at PAN application centres.

One should intimate your PAN to the deductor i.e. person deducting tax. Non-furnishing of PAN to deductor results in TDS at much higher rate of 20% or even more. PAN obtained once is valid for life-time of the PAN-holder throughout India.

Who pays tax in India?

Resident expats are subject to tax on their worldwide income.

Persons who are Resident but Not Ordinarily Resident are taxed only on Indian-source income, income deemed to accrue or arise in India, income received in India or income received outside India

Expatriate Tax in India

arising from either a business controlled, or a profession established, in India.

Non-Residents are taxed only on Indian-source income and on income received, accruing or arising in India.

Non-Residents expats may also be taxed on income deemed to accrue or arise in India through a business connection, through or from any asset or source of income in India, or through the transfer of a capital asset situated in India (including a share in a company incorporated in India) according to expatriate tax rules.

Residential Status for Person of Indian Origin (PIO) & Indian Citizens

As per the current provisions of the Income-tax Act 1961 (Act), an individual is qualified as Resident of India, if he satisfies either of the following conditions:

- Stay in India is at least 182 days during the FY; or
- Stay in India is at least 60 days during the FY and at least 365 days during 4 preceding FYs.

The relaxation is provided to an Indian citizen or a Person of Indian Origin (PIO) who, being outside India, comes on a visit to India by providing an extended period of 182 days instead of 60 days as mentioned in point (ii) above.

To the above existing condition laid down under the Act , for an individual to qualify as a NOR, additional condition has been inserted this year which states that an Indian citizen or a PIO, who, being outside India, comes on a visit to India in any FY shall be considered Not Ordinary Resident if –

- His total income, other than the income from foreign sources, exceeds INR 1.50 million; and
- His stay in India is 120 days or more but less than 182 days.

Expatriate Tax in India

Individuals who do not meet the above criteria are considered to be non-residents.

How is income taxed in India?

In general, all income received or accrued in India is subject to tax.

Employment income

All salary income relating to services rendered in India is deemed to accrue or arise in India regardless of where it is received or the residential status of the recipient.

Expatriate employees of foreign enterprises who are citizens of foreign jurisdictions are not subject to expatriate tax if all of the following conditions are satisfied:

- The foreign enterprise is not engaged in a trade or business in India.
- The employee does not stay in India for more than 90 days in that year.
- The compensation paid is not claimed by the employer as a deduction from taxable income in India.

Similar exemptions are available under tax treaties if the stay is less and are taxable in India. However, certain benefits may receive preferential tax treatment.

Self-employment and business income tax rules for expats -

All individuals who are self-employed or in business in India are subject to tax.

Business losses incurred in the current year can be set off against income under any other head except the salaries head. If business losses in the current year cannot be wholly set off, such business losses may be carried forward for 8 years if the income tax return for the year of the losses is filed on time.

Expatriate Tax in India

However, the losses carried forward can be set off against business income only. Unabsorbed losses from speculative transactions may be carried forward for 4 years only and can be set off against profits from speculative business only. Unabsorbed depreciation may be carried forward indefinitely.

Expatriate investment income

Dividends are taxed in the following manner (all must be declared via expatriate tax returns):

- Dividend income earned from Indian companies is taxable in the hands of the individual shareholders. The recipient of dividend will have to pay according to their respective income-tax tax slabs.
- Dividends received from foreign companies are subject to tax in the hands of shareholders at the normal tax rates.

Interest earned on securities, investments, advances and bank deposits in India is assessable based on the relevant expatriate tax rules. Taxes are withheld at source by the banks, cooperative societies and post offices if the interest exceeds INR 10,000 (INR 5,000 in other cases) in the tax year except in certain specified cases. The rate of the withholding tax is 10%.

This withholding tax is not a final tax for expats.

Interest earned on certain types of accounts is exempt from tax for non-residents but advice from an expatriate tax adviser should be sought before embarking upon expatriate tax preparations.

Expatriate Directors' Fees

Directors' fees are taxed at the usual progressive rates. Tax is required to be withheld at source at a rate or 10% from directors' fees paid to residents. Expenses incurred wholly and exclusively for earning fees are allowed as deductions.

Expatriate rental income

Rental income received by an individual from the leasing of house property (including buildings or land appurtenant thereto) is taxable at the value determined in accordance with specific provisions. The following deductions from such value are allowed according to expatriate tax rules:

- Taxes paid to local authorities on such property
- A sum equal to 30% of the value as notional cost of maintenance
- Interest payable on capital borrowed for the purpose of purchase, construction, repair, renewal or reconstruction of property

Taxes for expats in India: Double tax relief and tax treaties

Tax treaties provide varying relief for tax on income derived from personal services in specified circumstances. In certain circumstances, the treaties also provide tax relief for business income if no permanent establishment exists in India. India has entered into comprehensive double tax treaties with many countries.

If no double expatriate tax treaty applies, resident taxpayers may claim a tax credit on foreign-source income equal to the lower of the tax imposed by the foreign country or the tax imposed by India on the foreign income.

Do I have to pay inheritance and gift tax?

India does not impose tax on expatriate's estates, inheritances or gifts.

However, any sum of money received by an individual in excess of INR 50,000 without consideration is taxable in the hands of the recipient.

Finally on this point, do not assume that just because you've expatriated to live in India that your estate will not be liable to

inheritance tax (IHT) in your old home nation, or any nation where you hold assets. For example, those domiciled in Britain remain liable for IHT on their worldwide estate.

Do I have to pay capital gains tax?

Capital gains on assets other than shares and securities -

Capital gains derived from the transfer of short-term assets are taxed at normal rates.

Long-term capital gains for expats are gains on assets that have been held for more than three years. Long-term capital gains are exempt from expat tax in certain cases if the gains are reinvested within a prescribed time period. Short term taxes are paid to according to individual tax slab

Capital gains on shares and securities listed on a stock exchange in India

Long-term and short-term gains are treated differently under expat tax rules. A similar situation arises for capital gains on **unlisted shares and securities in India** – 20% (plus cess) may be applicable to expats and it is recommended that they seek professional expat tax help. Short term gain on listed securities are taxed @ 15% (plus cess).

Do expats get a state pension?

The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (EPF Act) contains the following schemes:

- Employees' Provident Fund Scheme, 1952
- Employees' Pension Scheme, 1995
- Employees' Deposit-Linked Insurance, 1976

The Ministry of Labour and Employment has issued a notification extending the applicability of the Provident Fund and Pension Scheme rules to a new class of employees called "International Workers." Under the EPF Act, the following employees are considered to be "International Workers":

Expat Tax in India

- An Indian employee (an Indian passport holder) who has worked or is going to work in a foreign country with which India has entered into a social security agreement and who is or will be eligible to avail of the benefits under a social security program of that country, in accordance with such agreement
- A foreign national who works for an establishment in India to which the EPF Act applies

An "excluded employee" is not covered by the EPF Act. An expat employee is considered to be an "excluded employee" if the following conditions are satisfied during expat tax preparation:

- The employee is an International Worker who is contributing to a social security program of his or her country of origin, either as citizen or resident.
- The employee's home country has entered into a social security agreement with India on a reciprocity basis and the employee is considered to be a detached worker under the social security agreement.

Every covered employer is required to contribute 24% (12% each for the employer's and the employee's share) of the employee's "monthly pay" (as defined) towards the Provident Fund and Pension Fund. The employer has the option to recover the employee's share from the employee.

For expat employees (including International Workers) who become members on or after 1st September 2014 and draw monthly salary exceeding INR15000, the entire contribution is allocated to the Employees' Provident Fund.

Local employees who draw a monthly salary of INR 15000 or more are excluded from the legislation, but this exclusion does not apply to International Workers even if the monthly pay of the employee exceeds INR 15000.

How we can help?

We believe the above information is accurate, however tax rates and rules are subject to regular changes. Therefore, please do not rely exclusively on the information to determine your liability for tax. Speak to our tax expert for personalised advice. If you'd like our help to source someone to assist you, please get in touch with our tax expert.

About Us

Habibullah & Co. (HCO) is a professional services firm providing audit, assurance, tax, financial advisory and consulting services to a wide range of publicly traded and privately held companies, guided by core values including competence, honesty and integrity, professionalism, dedication, responsibility and accountability. At HCO, the interests of our clients are paramount. Our focus on the mid-market means we have a real understanding of the environment in which our clients operate and are ideally placed to help them grow and prosper.

Who we are and what we stand for

- Established 1962
- 9 Partners
- 80+ staff
- 8+ offices across India
- International Representation through "Antea- Alliance of Independent Firms" & UTN
- Member Firm of The Institute of Chartered Accountants of India since 1962
- Registered with all major Government Regulators in India

Our Services

- Book Keeping and Auditing
- Global Mobility Tax
- Business Setups in India
- Tax Compliance, Planning and Management
- Transfer Pricing Advisory
- Business Advisory

Let's talk

For a deeper discussion of how this issue might affect your business, please contact, Managing Partner for International Relations:

CA. Vivek Agarwal
E: vivek@hcoca.com
T: +91-98391-19370

Offices in India

New Delhi
Gorakhpur
Varanasi
Rewa

Lucknow
Ranchi
Mau
Patna

Associates at

Kolkata
Allahabad

Mumbai
Agra

Email

info@hcoca.com

Website

www.hcoca.com

Follow Us



Unsubscribe

Reply to this mail with subject "unsubscribe"

Disclaimer

This presentation is exclusively designed and prepared by Habibullah & Co. and no part of this can be reproduced without consent. While due care has been taken to draft this please obtain professional advice before taking any decision.

