India Tax Knowledgebase

Employee personal income tax

Tax residence

In India, an individual's tax residency status is determined based on their physical presence in the country during a given tax year. There are specific rules to ascertain whether an individual qualifies as a resident or a non-resident (NR) for tax purposes.

Resident status:

- **182-day rule:** An individual is considered a resident if they are physically present in India for 182 days or more during the tax year.
- **60-day rule:** Alternatively, an individual may be deemed a resident if they stay in India for at least 60 days in the relevant tax year and 365 days or more in the preceding four years.

If neither condition is met, the individual is classified as a non-resident (NR).

Example:

Mr. A: If Mr. A arrives in India before September 30, he will be considered a resident for that tax year.
Mr. B: If Mr. B arrives by January 31 and has accumulated 365 days of presence in the preceding four years, he will be considered a resident for the tax year.

RNOR status: A resident individual can be classified as a resident but Not Ordinarily Resident (RNOR) if they meet either of the following conditions:

- They have been a non-resident in nine out of the last ten years.
- Their total days of presence in India during the past seven years do not exceed 729 days.

Example: If an expatriate spends 300 days in India for three consecutive years, they will not qualify as RNOR in the fourth year, as their stay exceeds 729 days in the last seven years.

Deemed resident: A person who is an Indian citizen or of Indian origin with India-sourced taxable income exceeding INR 1.5 million will be deemed a resident in India if they are not considered a tax resident of any other country. This rule applies when the individual doesn't qualify as a resident based on physical presence but still has significant ties to India through income.

Special rules for Indian citizens:

- **Indian citizens working abroad:** Indian citizens who leave India for employment abroad or as part of an Indian ship's crew qualify as residents only if they are physically present in India for 182 days or more.

- **Indian citizens visiting India:** If their taxable income from India does not exceed INR 1.5 million, they qualify as residents only if their stay is 182 days or more. If their India-sourced taxable income exceeds INR 1.5 million, they must reside in the relevant year for 120 days and for a total of 365 days over the preceding four years to qualify as a resident. They may also be classified as RNOR if their stay is between 120 and 182 days.

- **Physical presence considerations:** The duration of an individual's stay in India does not need to be continuous. The days of arrival and departure are counted toward the total stay, and the purpose of the visit (whether for work, tourism, or family visits) is irrelevant for residency determination.

In conclusion, the Indian tax residency rules are designed to account for various scenarios, including short visits, long-term stays, and income sources, ensuring that individuals are classified correctly for tax purposes based on their connections with India. These rules provide clarity on the residency status, which influences tax obligations under Indian law.

Conditions for the obligation to file the PIT

In India, an individual is required to file a separate return of income, and joint filing is not permitted. For income tax purposes, each spouse is treated as a separate and independent taxpayer, ensuring that both husband and wife must file individual returns based on their respective incomes.

Additionally, individuals engaged in business or a profession must comply with specific audit requirements under Indian tax laws. If the total turnover, sales, or gross receipts of a business exceed INR 10 million, or if the gross receipts from a profession exceed INR 5 million, the individual must have their books of account audited as per the provisions set by the tax authorities. This ensures transparency and compliance with the tax regulations.

It is mandatory to file a return of income in the following cases:

- An individual qualifying as an ROR (tax resident) and owning foreign assets (as a beneficial owner or otherwise) or having signing authority in any account located outside India.
- A person deposits amounts exceeding INR 10 million in one or more current accounts maintained with banks or cooperative banks.
- A person incurs expenditure exceeding INR 200,000 for themselves or any other person for travel to a foreign country.
- A person incurs an expenditure exceeding ₹100,000 for the consumption of electricity.
- A person who fulfils such other conditions as may be prescribed.
- Resident senior citizens (aged 75 years or more) with only pension and bank interest income from the specified bank are exempt from the return filing requirement, subject to fulfilling certain conditions.

Tax report in question (Form name

In India, the relevant personal income tax forms for individuals are as follows:

- **ITR-1 (SAHAJ):** For residents (other than not ordinarily residents) with total income up to INR 50 lakh, including income from salary, one house property, other sources (e.g., interest), and agricultural income up to INR 5,000.

- **ITR-2:** For individuals or Hindu Undivided Families (HUFs) not having income under the head "Profits or gains of business or profession."

- **ITR-3:** For individuals or HUFs who have income chargeable to tax under the head of business or profession.

- **ITR-4 (SUGAM):** For individuals, HUFs, and firms (other than LLPs) with total income up to INR 50 lakh, having income from business and profession computed under sections 44AD, 44ADA, or 44AE.

- **ITR-5:** For firms, LLPs, Association of Persons (AOP), Body of Individuals (BOI), cooperative societies, and local authorities.

- **ITR-6:** For companies (other than those claiming exemption under section 11, which is for charitable/religious trusts).

- **ITR-7:** For individuals, companies, or any other persons who are required to file under sections 139(4A), 139(4B), 139(4C), or 139(4D), such as trusts, political parties, institutions, and colleges.

Tax year

The Indian tax year runs from April 1 to March 31.

Tax rates

Starting from 1 April 2024 (tax year 2025/26), the Alternative Tax Regime (ATPR) will introduce revised tax rates, which apply without deductions or exemptions. The new tax slabs are as follows:

- Up to INR 300,000: 0%
- INR 300,001 to INR 700,000: 5%
- INR 700,001 to INR 1,000,000: 10% on the excess over INR 700,000
- INR 1,000,001 to INR 1,200,000: 15% on the excess over INR 1,000,000
- INR 1,200,001 to INR 1,500,000: 20% on the excess over INR 1,200,000
- Over INR 1,500,000: 30% on the excess over INR 1,500,000

However, the ATPR does not allow deductions or exemptions such as leave travel allowance, house rent allowance, and several other deductions under Chapter VIA of the Income-tax Act (including provident fund contributions, tuition fees, and insurance premiums). This makes it simpler but less flexible than the old tax regime, which offered more room for tax-saving investments.

The ATPR option can be exercised on a yearly basis if the taxpayer has no business income. If business income exists, once the ATPR is chosen, it must be used for subsequent years with only a one-time change permitted. The employer will ask employees to choose their tax regime and will deduct tax at source accordingly. If no choice is made, the default regime is assumed.

Old tax regime

Despite the new ATPR, taxpayers can still opt for the old tax regime. Under the old regime, the tax slabs for the tax year 2022/23 are:

- Up to INR 250,000: 0%
- INR 250,001 to INR 500,000: 5%
- INR 500,001 to INR 1,000,000: 20% on the excess over INR 500,000
- Over INR 1,000,000: 30% on the excess over INR 1,000,000

Additionally, individuals aged 60 or above but under 80 have a higher basic exemption limit of INR 300,000, while those aged 80 or more have a limit of INR 500,000.

Taxpayers have the flexibility to choose between the old and new regimes each year; however, the chosen regime must be communicated to the employer. The old regime allows various exemptions and deductions but requires more detailed tax planning.

Tax returns and payment of tax

In India, the due date for individuals to file their tax returns is 31 July of the year following the relevant tax year. However, if the individual is required to have their books audited, the due date is extended to 31 October. Belated or revised returns can be filed by 31 December. A late fee of INR 5,000 is charged for returns filed after the due date; however, the fee is capped at INR 1,000 if the taxable income does not exceed INR 500,000.

For individuals aged 80 or more, who qualify as Residents and Ordinarily Residents (RORs), manual filing of tax returns is an option. However, electronic filing is mandatory if a refund is claimed, income exceeds INR 500,000, or the individual has foreign assets or signing authority over foreign accounts. To ease the e-filing process, the government has introduced Electronic Verification Codes (EVCs), a 10-digit unique code used for secure online verification during the filing process, replacing the need for digital signatures.

Personal deductions (salary)

In India, taxpayers can claim several personal deductions to reduce their taxable income, provided they meet specific criteria. These deductions are available under the Income Tax Act and can significantly reduce the amount of tax an individual has to pay.

One of the key personal deductions is for investments made in eligible schemes such as life insurance premiums, contributions to recognised provident funds, public provident funds, the National Pension System (NPS), and tax-saving plans of Indian mutual funds. A deduction of up to INR 150,000 is available for these investments (if made to a notified pension scheme of the government). Additionally, tuition fees for full-time education of oneself, spouse, or children can also be deducted. Repayment of housing loans (principal) also qualifies for this deduction.

Moreover, a special deduction of up to INR 50,000 is available for contributions made to a government-notified pension scheme, such as the NPS. Contributions to the NPS are eligible for an extra 10% (or 14% if contributed by the Central Government) of salary as a deduction. At retirement, individuals can withdraw up to 60% of the NPS corpus without paying tax. Additionally, donations made to approved charitable organisations, including the PM CARES Fund, also qualify for deductions under certain conditions. This ensures that individuals can benefit from various tax-saving opportunities while contributing to the welfare of society.

Tax allowances

In India, tax allowances enable taxpayers to reduce their taxable income through specific allowances granted by the government. While these allowances are somewhat limited, they can still offer significant benefits.

One of the most common allowances is the standard deduction, which allows a deduction of INR 50,000 under the old tax regime and INR 75,000 under the Alternative Tax Regime (ATPR) while calculating taxable salary income. This deduction applies automatically without the need for specific investments or expenses.

Additionally, while there are no broad personal allowances, individuals in hardship situations—such as postings in specified hilly, border, remote, or tribal areas—may be eligible for certain hardship-related allowances to ease the cost of living in those areas.

For individuals incurring education expenses, a deduction is available for the interest paid on loans taken out for higher education. Medical insurance premiums and medical expenses for senior citizens are also deductible, with different limits depending on the age of the insured individuals. For senior citizens, medical expenditures up to INR 50,000 can be deducted if no insurance premium has been paid.

While the range of tax allowances is limited, these provisions still offer some relief for taxpayers, enabling them to reduce their tax burden through relevant expenses and contributions.

How to submit the tax return

Filing your Income Tax Return (ITR) in India is a structured process that ensures compliance with tax regulations. Here's a concise guide to help you navigate the steps:

1. **Access the income tax e-filing portal:** Visit the official Income Tax e-Filing portal at https://www.incometax.gov.in/iec/foportal.
2. **Log in or register:** If you're a registered user, log in using your Permanent Account Number (PAN) as the User ID, along with your password and the provided captcha code. New users must register by clicking the 'Register' option and following the on-screen instructions.
3. **Navigate to ITR filing:** After logging in, select the 'e-File' menu and click on 'Income Tax Return' to initiate the filing process.
4. **Select the appropriate assessment year:** Choose the assessment year for which you are filing the return. For instance, for income earned between April 1, 2023, and March 31, 2024, select assessment year 2024-25.
5. **Choose the relevant ITR form:** Select the ITR form applicable to your income sources. Common forms include:

- **ITR-1 (Sahaj):** For individuals with income from salary, one house property, and other sources (excluding lottery winnings and income from racehorses), and having total income up to ₹50 lakh.
- **ITR-2:** For individuals and Hindu Undivided Families (HUFs) not having income from business or profession.
- **ITR-3:** For individuals and HUFs having income from business or profession.
- **ITR-4 (Sugam):** For individuals, HUFs, and firms (other than LLP) having total income up to ₹50 lakh and income from business and profession computed under sections 44AD, 44ADA, or 44AE.

6. **Filing type and submission mode:** Indicate whether it's an original return or a revised return. Choose the submission mode: 'Prepare and Submit Online' is recommended for most users.
7. **Verify and pre-fill personal information:** The system will auto-fill personal details based on your PAN. Ensure all information is accurate and up-to-date.
8. **Provide income and deduction details:** Enter your income details, including salary, house property, capital gains, and other sources. Input eligible deductions under sections like 80C, 80D, etc.
9. **Compute tax and validate entries:** The portal will automatically calculate your tax liability based on the provided information.
10. **Review all entries to ensure accuracy.** Preview the completed ITR form to confirm all details are correct. Submit the return electronically.

Verify your ITR

After submission, verify your ITR using one of the available methods:

- **Aadhaar OTP:** If your Aadhaar is linked to your mobile number.
- **Electronic Verification Code (EVC):** Generated through net banking or bank account pre-validation.
- **Digital Signature Certificate (DSC):** If you possess a DSC.

Alternatively, you can send a signed physical copy of the ITR-V acknowledgement to the Centralised Processing Centre (CPC) in Bengaluru within 120 days of e-filing.

Acknowledge confirmation:

Upon successful verification, an acknowledgement is sent to your registered email. You can also download it from the e-Filing portal under 'View Filed Returns'. For comprehensive guidance and updates, refer to the official Income Tax Department's user manual.

Employee taxation of income (int, div, royalties)

Dividend income: Tax rate

In India, the taxation of dividend income has undergone a significant change. Previously, dividend income received from Indian companies was not taxable in the hands of shareholders if the company had already paid the Dividend Distribution Tax (DDT). This rule applied to both resident and non-resident (NR) shareholders. However, with the introduction of a new tax regime effective from 1 April 2020, dividend income is now taxed directly in the hands of the shareholders, and companies are no longer required to pay tax on the distribution of income.

Under the revised system, dividend income exceeding INR 1 million is subject to a tax rate of 10% for individuals, Hindu Undivided Families (HUFs), or firms that are resident in India. Importantly, this tax applies to the amount exceeding INR 1 million in dividend income. On the other hand, dividend income from SEBI-registered Indian mutual funds is not taxable in the hands of the recipient, regardless of whether they are a resident or a non-resident. This new structure aims to shift the tax burden to the shareholders, offering more transparency and aligning with global practices of taxing dividend income at the individual level.

Interest income: Tax rates

Interest income is taxable in India. A deduction of up to INR 10,000 is allowed in respect of savings bank interest on deposits (excluding time deposits) with specified banking companies registered with the banking authority or cooperative societies engaged in carrying on the business of banking or post office in India.

Furthermore, the exemption limit for interest income of resident senior citizens is INR 50,000. Interest income will also include interest earned from fixed deposits and recurring deposits.

Royalty income: Tax rates

For Indian residents, royalty income is taxed at slab rates applicable to the assessee.
Non-Residents: Royalty payments made to non-residents are subject to a withholding tax rate (TDS in India) of 20%, as per Section 115A of the Income Tax Act.

Withholding

Withholding tax on dividends: Rates

Dividends paid to an Indian resident are generally subject to withholding tax at 10%. Dividends paid to a nonresident generally are subject to withholding tax at 20%. The rate is 10% for dividends paid on global depository receipts. The withholding tax rates on dividends paid to nonresidents are subject to any applicable surcharge and cess and may be reduced under an applicable tax treaty.

Withholding tax on interest: Rates

Interest paid to an Indian resident is typically subject to a 10% withholding tax, which also applies to interest from listed debentures. For non-residents, interest paid on foreign currency loans or debt is generally subject to a 20% withholding tax (plus any applicable surcharge and cess). Interest on foreign currency convertible bonds and foreign currency exchangeable bonds, before the conversion option is exercised, is taxed at 10% withholding tax (plus surcharge, if applicable, and cess). These rates can be reduced under a relevant tax treaty.

A reduced withholding tax rate of 5% (plus surcharge, if applicable, and cess) applies to certain interest payments made to non-residents, including: (i) interest on specific foreign currency borrowings made before 1 July 2023; and (ii) interest accruing before 1 July 2023 on investments by foreign institutional investors or qualified foreign investors in Indian rupee-denominated bonds, government securities, or municipal debt securities. This rate may also be lowered under an applicable tax treaty.

If a non-resident does not have a Permanent Account Number (PAN) and a tax treaty is applicable, the withholding tax will be the higher of the tax treaty rate or 20%. This rule does not apply if the interest is paid to a foreign taxpayer who provides the necessary documentation. If the conditions for concessional tax rates are not met, a higher withholding tax of 30% (for individuals and entities other than foreign companies) or 40% (for foreign companies) applies (plus surcharge, if applicable, and cess). Again, these rates may be reduced under an applicable tax treaty.

Withholding tax on royalties: Rates

Royalties paid to an Indian resident are generally subject to withholding tax at a rate of 2% where the royalty is in the nature of consideration for the sale, distribution, or exhibition of cinematographic films; otherwise, the rate is 10%. Royalties paid to a nonresident are subject to a 20% withholding tax (plus surcharge, if applicable, and cess). The rate may be reduced under a relevant tax treaty.

Where a treaty applies but the nonresident does not have a PAN, tax must be withheld at the higher of the applicable tax treaty rate or 20%. However, this requirement does not apply if the payments are in the nature of royalties and the foreign taxpayer provides the required documents to the payer.

Fees for technical services:

Payments for technical services to an Indian resident are typically subject to a 2% withholding tax, whereas fees for professional services are generally subject to a 10% withholding tax. When technical service fees are paid to a non-resident, a 20% withholding tax applies (plus surcharge, if applicable, and cess), though this rate may be reduced under a relevant tax treaty.

If a tax treaty applies but the non-resident does not possess a Permanent Account Number (PAN), withholding tax is applied at the higher of the treaty rate or 20%. However, this rule does not apply if the foreign taxpayer submits the necessary documentation to the payer.

Employee tax - Special regimes to apply

Expatriate Law

Indian citizens working abroad continue to be taxed based on their residency status. If ROR, they are taxed on global income but may claim foreign tax credits under DTAA. If RNOR or NR, they are only taxed on Indian-source income.

India has entered into Social Security Agreements (SSAs) with certain countries to prevent double taxation for expatriates.