

# Taxation of Non resident

## NON RESIDENT [Sec. 2(30)]: -

‘**Non-Resident**’ means a person who is not a “resident”.

This will be the case where **none of the two basic conditions of Sec. 6** is satisfied are satisfied.

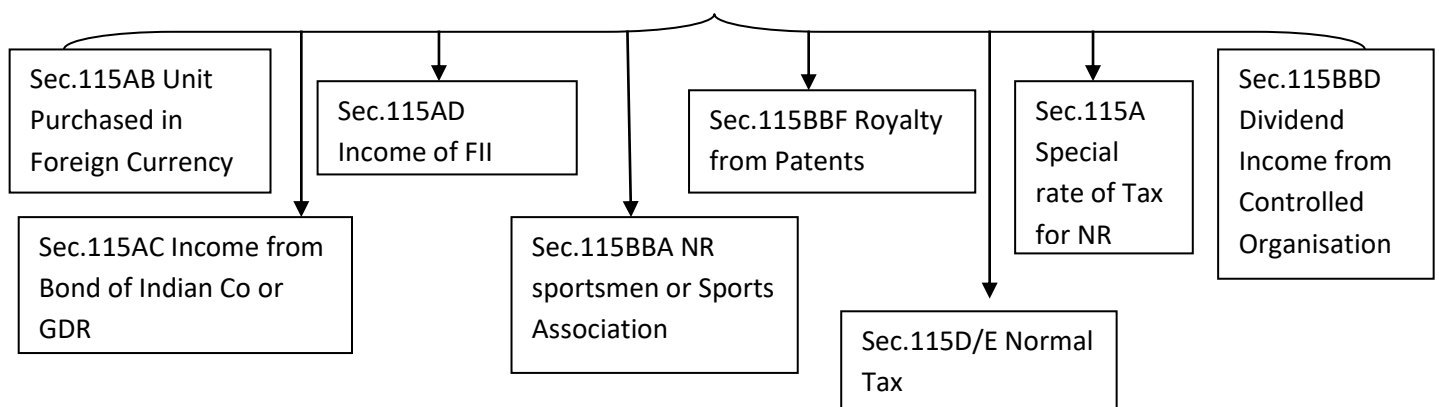
Individual	If he <b>do not satisfy Sec.6(1)</b>
HUF/other person	If <b>Control and management is wholly situated outside India</b>
Company	<b>Foreign co and POEM situated outside India</b>

## 115C: Definitions

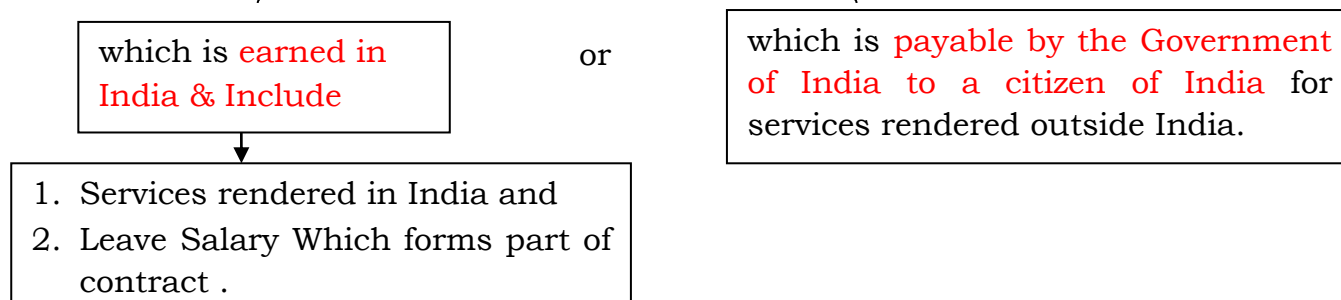
1. **Non Resident Indian** : An individual being a citizen of India or PIO who is not a resident
2. **Investment Income** : means any interest income derived from a foreign exchange asset
3. **LTCG** : means gains on transfer of a foreign exchange asset
4. **"Foreign Exchange asset"** means any of the following assets, namely :—
  - shares in an Indian company;
  - debentures issued by a Public Limited Company
  - deposits with a Public Limited Indian company
  - any security of the Central Government
  - such other assets as the Central Government notify.

Foreign Exchange Assets

## Various Sections



## Income from salaries Earned By NR [Sec 9(1) (ii) and (iii)]



### Special Provisions for NRI Sec. 115 D [Notes]/E [Tax rate]

Type of income	Rate of tax
1. Interest Income	20%
2. LTCG on transfer of foreign exchange asset	10%
3. Other Income	Normal Slab Rate

#### Note :

1. Indexation benefit not available.
2. No deduction under Chapter VI-A. If income include other income as well deduction shall be available out of that income to that extent.
3. Computation as per first proviso to sec 48 i.e. in foreign currency.

### Capital Gain on transfer of foreign exchange asset Sec. 115 F

#### Conditions

LTCG on Foreign exchange assets shall be Exempt if Net consideration is utilised for acquiring other foreign exchange assets within 6 months from the date of transfer

$$= \text{CG} \times \text{AI} / \text{Net Consideration}$$

If new Assets are transferred within 3 years from the date of acquisition then Cg exempt shall be Taxable.

### Exemption from Filing ROI Sec.115 G

It is not necessary for NRI to furnish return of Income Under Sec. 139 (1)

- ✓ Total income Include only Interest income LTCG or both.
- ✓ TDS already deducted.

### Benefit to continue even after assessee become resident Sec 115H

- NRI who becomes Resident, may file a declaration in writing requesting A.O. for continuing benefits .

### Above Provision not to apply if the assessee so chooses Sec. 115 I

NRI may elect not to be governed by the above for any AY by furnishing of declaration. In such a case the income for that AY will be computed under the normal provisions.

## SPECIAL PROVISIONS APPLICABLE TO NON RESIDENTS

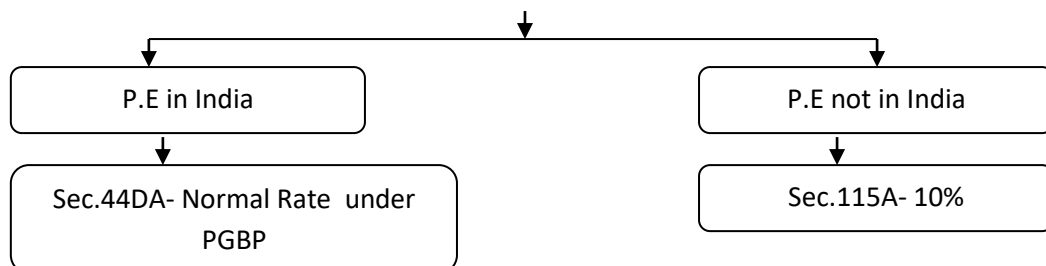
### Special rates of tax Sec. 115 A

Type of income	Rate of tax
Dividend other than in Sec. 115O	20%
Interest on foreign currency Loan received from <u>Government of India</u> <b>or</b> any <u>Indian concern</u> for money borrowed in foreign currency	
Income from UTI of Mutual Funds	
Interest received from an <u>infrastructure debt fund</u> referred to in Sec 10(47)	5%
Interest on Rupee denominated bond 194LC/ 194LD/ <b>194LBA</b>	<b>5%</b>
Indian company (between 01/07/12 to 01/07/17) by way of loan or Long term Bonds	<b>5%</b>
<b>Royalty &amp; fees for Technical Services (other than Sec.44DA)</b>	<b>10%</b>

#### Note :

- Rate of tax is to be enhanced by Applicable surcharge and Education Cess.
- No Deduction under Chapter VIA allowed
- No Deduction from Sect 28 to 44C or Sec 57 allowed against such incomes
- Chapter VI provision (Set off and carry forward of losses are applicable). Hence losses of current year and b/f losses can be set off against income of section 115A.
- Unabsorbed depreciation (CY and PY) cannot be set off.

### Royalty fees, Technical Services



◆ **Special rates of tax Sec. 115 AB Income /LTCG arising from Units purchased in Foreign Currency**

Type of income	Rate of tax
Income of <b>an overseas financial corporation from units purchased in foreign currency</b> or <b>LTCG arising there from</b>	10%

**Note :**

- No deduction under Chapter VIA
- No indexation (Second proviso to sec 48)
- Chapter VI : losses can be set off.
- LTCG on units of equity oriented funds are exempt u/s 10(38) provided STT has been paid on sale of such security.
- STCG on units of equity oriented funds are Taxable u/s 111A @15%

**Defination:**

"overseas financial organisation" means any fund, institution, association or body, whether incorporated or not, established outside India.

**Sec. 115 AC Income from Bond/GDR purchased in foreign Currency or Capital Gains arising therefrom.**

Type of income	Rate of tax
<b>Interest on bonds or GDR of</b> <ol style="list-style-type: none"> <li>1. Indian company (FCCB) or</li> <li>2. Government and <b>purchased in foreign currency</b> or</li> <li>3. Dividend on GDRs or</li> <li>4. Long term Capital gain arising from the transfer of the above bonds or GDRs.</li> </ol>	10%

**Balance income shall be chargeable at normal rate.**

**Note :**

- No deduction under Chapter VIA. However if other income is also considered then deduction to that extent is available.
- No indexation .
- No Deduction from Sect 28 to 44C or Sec 57 allowed against such incomes
- Chapter VI : losses can be set off.
- **Sec 47 GDR transferred by one NR to another NR outside India is not a transfer(Listed Entity), However if shares are not listed then exemption is not available .**

- If these bonds are covered u/s 194LD/194LC/LB then tax rate is 5%.

#### ◆ Special rates of tax Sec. 115 ACA

Type of income	Rate of tax
<b>Resident employee</b> of an Indian company or its subsidiary company engaged in specified knowledge based industry or service  Income from <b>dividends on GDR</b> (non 115O) of a Indian Co company or <b>long term Capital gain</b> arising from the transfer of such GDRs (purchased in foreign currency)	10%

#### Note :

- No deduction under Chapter VIA
- No indexation nor computation in foreign currency (First and second proviso to sec 48)

#### Special rates of tax Sec. 115 AD **Income of FII from security or capital gains from there transfer.**

Type of income	Rate of tax
Income in respect of securities (other than units u/s 115 AB) received by a FII as special by the Government	
✓ Long term capital gain	10%
✓ STCG	30%
Interest Income in respect of Security (other than units referred in Sec,115AB and other than on security	20%

#### Note :

- For other Income normal rate of Tax is applicable.
- There is no condition that the securities should be purchased in foreign currency.
- No deductions for u/s 28 to 44C and 57
- No benefit of indexation.
- **Chapter VI : losses can be set off.**
- Unabsorbed depreciation cant be setoff because it is covered u/s32.
- **LTCG on sale of Units on which STT is paid it is exempt u/s 10(38)**

♦ **Special rates of tax Sec. 115 BBA & Sec.194E**

Type of income	Rate of tax
<p>Income of <b>NR sportsman &amp; Sports Association</b></p> <ul style="list-style-type: none"> <li>✓ For participation in any game in India</li> <li>✓ Received by way of advertisement</li> <li>✓ For contribution of articles relating to any game</li> </ul> <p>Income of non resident sports association by way of guarantee money</p> <p><b><i>Income of non resident, foreign citizen entertainer for performance in India</i></b></p>	<b>20%</b>

**Note :**

- No deductions available .
- In case tax has been deducted at source and no other income then no need to file the return.

**Special rates of tax Sec. 115 BBD**

Type of income	Rate of tax
<b><i>Income of Indian Company only by way of Dividend from specified foreign company</i></b>	<b>15%</b>

**Note :**

- ***No deductions available in computing the above income.***
- ***Specified foreign company means a foreign company in which the Indian Company holds 26% or more in nominal value of the equity capital.***

Sec.115BBG Income from transfer of Carbon Credit	
Assessee	All Assessee
Rate of Tax	<b>10%</b>

### Shortcut for NR Taxation

Sec.	Assessee	Income	Tax Rate [+ Sur(if any) + Cess]	Exemption from Furnishing
115A (1)(a)	NR/FC	<ul style="list-style-type: none"> <li>➤ dividends other than dividends referred to in section 115-O</li> <li>➤ Interest received from Government or an Indian concern on monies borrowed</li> </ul>	20%	Yes subject to note 1
	NR/FC	interest received from an infrastructure debt fund referred to in 10[47]	5%	Yes subject to note 1
	NR/FC	Interest u/s 194LC/LD/LBA and other conditions are satisfied	5%	Yes subject to note 1
115A [1][a] [iiab]	NR/FII/QI B	Interest if the following condition are satisfied- Acquire rupee denominated Bond of Indian Company or Govt Between 01.06.2013 to 30.06.2017	5%	Yes subject to note 1
115A [1][a] [iiac]	FC/NR	Distributed income being Interest u/s 115UA	5%	-Do-
115A [1][b]	FC/NR	<ul style="list-style-type: none"> <li>▪ Income by way of royalty or</li> <li>▪ fees for technical services other than income referred to in sub-section (1) of section 44DA received from</li> <li>✓ Government or</li> <li>✓ an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian [Note 2-5]</li> </ul>	<p>Agreement 1961-76 = 50%</p> <p>From 1<sup>st</sup> april, 76 = 10%</p>	NO
115A CA	I(R) Employed in Indian Co Engaged in Special	Dividend on GDR LTCG on GDR GDR should be Issued	10%	NA



	knowledge based industry [Note 6]	under ESOP and purchased in foreign company		
115B BD	Indian Co	Dividends declared, distributed or paid by a specified foreign company  "specified foreign company" means a foreign company in which the Indian company holds twenty-six per cent or more in nominal value of the equity share capital of the company.	15%	N.A.
112	NR[not FC]	LTCG in unlisted co/share of PVT CO	10%	No
115AB	Overseas Financial Organisation	LTCG on transfer of Units of UTI/MF u/s 10(23D) purchased in foreign Currency	10%	No
115AC	NR	<ul style="list-style-type: none"> <li>✓ Interest on FCCB Bonds of Indian Co.</li> <li>✓ Interest o Bonds/ GDR of Public Sector Co or Notified company</li> <li>✓ LTCG on above</li> </ul>	10%	Yes subject to note 1
115AD	Notified FII	Income from Securities STCG u/s 111A STCG not covered u/s 111A LTCG on securities Securities exclude units covered u/s 115AB	20% 15% 30% 10%	No
115BBA	NR Sportsmen/Sports Ass/Entertainer	Games/Advertisement/Articles	20%	NO
115C to 115I	NR (I)	<ul style="list-style-type: none"> <li>▪ Income from foreign Exchange Assets</li> <li>▪ LTCG on transfer of a foreign exchange Assets</li> </ul>	20% 10%	Yes Note 1