

Tax & Regulatory Services

Assignments in India*

Overview of Tax and Regulatory Framework for Foreign Nationals

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PRICEWATERHOUSECOOPERS 

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Foreign Nationals

PricewaterhouseCoopers
India

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This booklet is prepared by PricewaterhouseCoopers to provide foreign nationals going to work in India with a broad view of tax laws. It reflects the current tax law or practice in India prevailing in October 2007.

This booklet is not intended as a comprehensive or exhaustive study, but merely as an explanatory guide. We would strongly recommend readers to seek professional advice before making any decisions.

For further information, please contact PricewaterhouseCoopers offices in India (See Appendix C)

Introduction: International assignees working in India

Moving to a foreign country often proves challenging. Coming to terms with a new tax system is one of the more significant factors contributing to this challenge. This guide is designed to help expatriates:

- To get an idea about the changes to their personal income tax as a result of such a move; and
- To understand the steps they may be advised to take before they leave their home country.

When dealing with the tax implications of moving abroad, it is helpful to consider the following:

- What tax planning should be done before the transfer abroad;
- How is the expatriate taxed in the foreign country; and
- What tax matters need consideration in preparing for the return to the home country.

This booklet reflects tax law and practice in India applicable for the Indian fiscal year 2007-08 (assessment year 2008-09).

This booklet does not claim to be a comprehensive guide. Accordingly, we must advise the reader against making decisions without consulting their tax advisors.

Should you require any specific information or additional copies of the booklet, please contact Mr Kaushik Mukerjee at our Bangalore office (Please see Appendix C for contact details and addresses).

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Section 1: Understanding basic principles

The scope of Indian taxation

1. As a foreign national seconded to work in India you will, in general, become liable to Indian income tax. Other taxes to which you would become liable for are capital gains tax levied on disposal of assets in India and wealth tax levied on possession of taxable wealth. While many employers tax equalize the seconded employees, the primary tax liability under the tax laws remains with the employees.
2. Taxation in India is based on the residential status of a person and not on citizenship. Residential status of a person under Indian tax is determined solely based on his or her physical presence in India regardless of purpose of the stay.

The tax year

3. The Indian tax year runs from April 1 to March 31. The tax year is classified into:

"Previous year" with reference to which income subject to tax is computed; and

"Assessment year", which is the year subsequent to the previous year with reference to which income of the previous year is assessed and subject to tax at prescribed rates.

For example, the assessment year 2008-09 (April 1, 2008 to March 31, 2009) will correspond to previous year 2007-08 (April 1, 2007 to March 31, 2008).

Residence

4. Under the existing legislation, if you have stayed in India only for brief period of time, whether you are resident and / or ordinarily resident in India for tax purposes is determined initially by reference to your intended length of stay. If your stay is longer than intended, your residential status could change. If you spend an aggregate of 182 days or more in India in any previous year, you will certainly be considered as a resident for that year.
5. In order to follow the remainder of these notes and to understand their relevance to your situation, you will need some idea as to what your residential status could be. The following scenarios and examples indicate what rulings might be expected under the present law and practice in various circumstances.

If this is your first stay in India as an employee in India, the following rulings are probable:

Non-Resident

- 5.1 If you have been in India for 60 days or more but less than 182 days, and in the last four years preceding the relevant previous year you have not been in India for a period or periods aggregating to 365 days or more, you shall be a non-resident.

Example A

If you come to India after October 2, you would be treated as non-resident for that previous year as your stay in India would be less than 182 days provided you were not in India for an aggregate of 365 days or more in the 4 years preceding the previous year.

Example B

If you come to India after February 1, you would be treated as non-resident for that previous year since you were present in India for less than 60 days.

Resident

- 5.2 • In any previous year your aggregate stay in India is 182 days or more, or
- In any previous year, your aggregate stay in India is 60 days or more and 365 days or more during the 4 tax years preceding the year for which residential status is being determined.

Example A

If you come to India on or before 30 September, you would be treated as resident for that previous year. You would be taxed on income arising in the first year from the start of your assignment till 31st March.

Example B

If you come to India on or before 31 January and you have stayed in India for 365 days or more during the 4 years preceding the relevant previous year, you would be treated as resident for that previous year.

Not Ordinarily Resident / Ordinarily Resident

5.3 A resident individual is treated as a 'resident but not ordinarily resident' (RNOR) in India if he satisfies any one of the following conditions:

- He has been a 'non-resident' in India for 9 out of 10 tax years preceding the year for which residential status is being determined; or
- He has been in India for a period of 729 days or less during the 7 tax years preceding the year for which residential status is being determined.

A "resident" individual satisfying none of the above two conditions is a "resident and ordinary resident" (ROR).

Example

If an expatriate stays in India for say 300 days for each of the 3 years, then he will not qualify as RNOR in the fourth year as :

- He is not a nonresident in 9 out of 10 previous years; and
- His physical presence in India exceeds 729 days in the preceding 7 years.

An expatriate who is an ROR is taxable on worldwide income. An expatriate who is RNOR is taxable on income earned/accrued or received in India.

6. Salary income is subject to income tax in India if services are rendered in India, irrespective of whether salary is received in India or not. Other incomes are subject to income tax if received or are deemed to be received in India, or accrue or arise or are deemed to accrue or arise in India.

In addition, income that accrues or arises outside India will also be subject to income tax in the case of persons who are resident and ordinarily resident in India under Indian tax legislation. In other words, an expatriate who is resident and ordinarily resident is taxed on his/her worldwide income.

Methods of calculating tax

7. An overview of personal deductions and income tax rates for assessment year 2008-09 and an example of an income tax calculation for the previous year 2007-08 are set out in Appendix A. After deduction of allowances, income tax is imposed at graduated rates. Rates for assessment year 2008-09 are as follows:

Taxable Income Over (Rs.)	Not Over (Rs.)	Tax on Column 1 (Rs.)	Percentage on excess (%)
0	110,000	—	0%
110,000	150,000	—	10%
150,000	250,000	4,000	20%
250,000	And above	24,000	30%

Resident women having income upto Rs 145,000 and resident senior citizens (above 65 years of age) having income upto Rs 195,000 do not have to pay income tax.

Tax as above will be subject to levy of Surcharge at 10% on tax if income exceeds Rs 1,000,000.

Further, an education cess @ 3% of the tax including applicable surcharge will be levied (irrespective of the level of income).

8. Long-term capital gains are subject to tax at a flat rate of 20% (plus applicable surcharge and education cess). However, long term capital gains from securities listed on a stock exchange in India, where Securities Transactions Tax has been paid, are exempt from income tax. Short-term capital gains are added to taxable income and subject to tax at normal rates. However, short term capital gains from securities listed on a stock exchange in India, where Securities Transactions Tax has been paid, are taxable at 10% (plus applicable surcharge and education cess) .

The concepts of long-term and short-term capital gains are discussed in Paragraphs 21-24.

9. Wealth tax is currently not charged if the taxable wealth in India does not exceed Rs 1,500,000 as on the valuation date each year, i.e., March 31. Taxable wealth in excess of Rs.1,500,000 as on March 31 is charged at a flat rate of 1%.

10. Although there is no gift tax liability in India, where any sum of money exceeding Rs 50,000 is received without consideration by an individual from any person would be subject to tax as "Income from other sources". However, this would not apply to any sum of money received:

- from any relative (spouse, brother, sister, brother or sister of the spouse or any lineal ascendants or descendants); or
- on the occasion of the marriage of the individual; or
- under a will or by way of inheritance; or
- in contemplation of death of the donor.

Husband and wife

11. Husband and wife are treated as separate and independent individuals for the purposes of income tax. However, income arising directly or indirectly from assets transferred by an individual to the spouse without adequate consideration is subject to tax in the hands of the transferor. Similarly, assets transferred without adequate consideration to the spouse are included in the taxable wealth of the transferor for wealth tax purposes.

Section 2: Understanding the Indian tax system

The taxation of employment income

12. Taxable income includes all amounts, whether in cash or in kind, arising from an office or employment. It need not necessarily be the employer who makes the payment or provides the benefit. Apart from salary, fees, bonuses and commissions, some of the most common remuneration items are allowances, reimbursement of personal expenses, education payment and perquisites/benefits provided by the employer either free of cost or at concessional rates. All such payments are included, whether paid directly to the employee or on his behalf. Incomes that are exempt from levy of income tax are dealt with separately.
13. Reimbursement of expenses actually incurred wholly, necessarily and exclusively in the performance of official duties are not included in taxable salary. Children education allowance and hostel allowance are exempt up to Rs. 100/ Rs. 300, respectively, per month per child (limited to 2 children). House rent allowances and certain other allowances are exempt subject to certain limits and conditions. Payment for encashment of earned leave at the time of retirement is exempt subject to certain conditions and limits. Provision of free medical facilities is not taxable in the hands of the employees, subject to certain conditions and limits. Gifts in kind, subsidized lunch /refreshment during working hours and telephone expenses are also not taxable in the hands of the employees.
14. Housing benefits provided by an employer are taxed at prescribed value. Car and driver facilities are not taxed in the hands of the employees.
15. Tax borne, if any, by an employer on non-monetary perquisites is not grossed up in the hands of the employee. However, the employer cannot deduct such tax paid in computing its taxable income.
16. Examples of non-cash benefits which could be subject to tax might include use of accommodation, use of other assets, medical and life insurance plans, free use of gas/water/electricity and provision of free domestic helps. Benefits provided by an employer (except house) are taxable on a cost to employer basis. Telephone expenses paid by the employer are not taxable.
17. A deduction is allowed for profession tax (tax on employment) levied by State Governments and paid by the employee.
18. There are a number of issues relating to the taxation of employment income, which depend on the facts and circumstances of each case, and on the views taken by the Tax Authorities. Therefore, you should seek professional advice on your remuneration package as a whole to minimize Indian tax incidence.

The taxation of self-employment income

19. Profits or gains from a trade, profession, business or vocation, which you carry out within India, are subject to tax whether you are resident or nonresident. If you are resident and ordinarily resident in India, a liability would arise even if your trade, etc., is carried on outside India. You should seek professional advice at the earliest possible stage.

The taxation of investment income

20. Foreign nationals not resident in India are generally not allowed to make investments in immovable property in India. Investments in shares/debentures of an Indian company by foreign nationals not resident in India are subject to (Foreign Direct Investment) FDI policy. Foreign nationals resident in India are permitted to make investments.

Capital gains tax

21. As a general rule, capital gains from the disposal of taxable capital assets situated in India are liable to tax in the previous year in which such assets are sold and/or transferred.
22. Taxable assets include all forms of property, stocks and shares, land and buildings, goodwill, etc.(but exclude personal effects except jewelry, stock-in-trade, stores, and raw materials held for business purposes).
23. Assets held for more than three years (one year in the case of shares, securities listed on a stock exchange in India or units of Unit Trust of India or of an Indian Mutual Fund) are called "long-term capital assets" and the assets not so held are called "short-term capital assets". Capital gains arising from transfer (disposal) of long-term capital assets are called "long-term capital gains". Gains arising from transfer (disposal) of short-term capital assets are called "short-term capital gains". This distinction is important as "long-term capital gains" are taxed / treated beneficially.
24. Short-term capital losses can be offset against any capital gains (long-term or short-term). Long-term capital loss can only be offset against long-term capital gains. Unabsorbed capital losses can be carried forward for a maximum of eight years to be offset only against future capital gains as above.

Fringe Benefits Tax (FBT)

25. The Government has introduced a new tax, namely, Fringe Benefits Tax (FBT) w.e.f. April 1, 2005. FBT is leviable on the employer on the statutory value of fringe benefits provided / deemed to have been provided to its employees. FBT is chargeable in addition to income tax and is payable by the employer even if no income-tax is payable by him on his total income. 'Fringe Benefits' does not include perquisites on which tax has already been paid or is payable by the employees. FBT is chargeable at 30% (plus applicable surcharge and education cess) on the value of the Fringe Benefit. Effective rates of FBT (% value of fringe benefit multiplied by FBT rate) for the financial year 2007-08 on some of the fringe benefits are -

• Contribution to an approved superannuation fund (in excess of Rs. 100,000 per employee per year)	33.99%
• Employee Stock Options/Sweat equity	33.99%
• Entertainment	6.80%
• Hospitality*	6.80%
• Conference	6.80%
• Sales Promotion including publicity	6.80%
• Employee Welfare	6.80%
• Conveyance *	6.80%
• Tour and travel	1.70%
• Hotel, boarding & lodging*	6.80%
• Repair, running, fuel & maintenance of motor cars	6.80%
• Telephone Expenses	6.80%

• Maintenance of a guest house	6.80%
• Gifts	17.00%

* Specific sectoral benefits apply to certain industry sectors, namely, hotel, pharma, IT & ITES, construction, transport etc. The beneficial FBT rate in such cases is 1.70%.

Stock Plans and Fringe Benefit Tax :

With effect from April 1, 2007, the Government has extended FBT to the value of fringe benefit arising to an employee on allotment or transfer of securities (like shares) under a stock plan or sweat equity shares by the employer. The value of the fringe benefit is to be determined as under :

“Fair market value of the share on the date of vesting minus the amount actually paid by the employee for such share/security”.

The fair market value of the share/security is to be computed as per the method prescribed by the Government. The employer is required to pay fringe benefit tax on the value of fringe benefit determined as above, upon exercise of the stock option by the employee.

The residential status as well as situs of the shares plays vital role in determination of taxability of capital gains for the employee (refer paragraphs 21 to 24).

If the employee is per se taxable in India for capital gains, then upon sale/transfer of the shares, the employee will pay capital gains tax on sale consideration minus the fair market value of the share considered by the employer for paying FBT.

Following example illustrates the concept :

Price per share payable by the employee	Rs. 8
FMV on the date of vesting	Rs.12
Sale price	Rs.18

Fringe benefit tax (on employer) :

FMV on the date of vesting	Rs.12
Price paid by the employee	Rs. 8
Fringe Benefit	Rs. 4
Fringe Benefit tax at 33.99%	Rs.1.36

Capital gains (on employee) :

Sale price of share	Rs.18
FMV on the date of vesting	Rs.12
Capital gains	Rs. 6
Capital gains tax (assuming short term)	Rs. 2.04

Double taxation agreements

26. So far, we have outlined the general principles of Indian domestic tax laws. However, if you are treated as a tax resident of another country you may qualify for relief from Indian tax under a double taxation agreement between that country and India. Most current agreements lay down various tests to determine in which of the two countries an individual is resident for treaty purposes. Most agreements contain clauses, which exempt a resident of one country from tax on employment income in India if he is present in India for less than 183 days in a tax year, and some other conditions regarding the salary charge back and payment of salary by non resident etc. are satisfied. A list of countries with which India has such agreements is given in Appendix B.

Social security taxes

27. Social security contributions could take the form of provident funds, gratuity funds, superannuation funds, family pension funds and medical insurance fund. Foreign nationals are not subject to any of the social security laws in India.

Section 3: What to do before you arrive in India

Work Permit / Employment Visas

28. An individual visiting India must have a valid passport. According to the provisions of The Foreigners Act 1946 and The Foreigners Order 1948, a valid visa is required for any "foreigner" intending to visit India.
29. A foreigner means a foreign national who is not a citizen of India. A visa may be an "Employment Visa", a "Business Visa" or a "Tourist Visa" and it may be either "Single Entry" or "Multiple Entry." A visa is obtainable from the Indian Consulates or High Commissions situated in the respective countries.
30. A foreign national is not permitted to take up employment in India unless he holds an Employment Visa. You should therefore ensure that you have a valid Employment Visa if you intend taking up employment. Employment income received in India cannot be repatriated unless the expatriate holds a valid employment visa. In case you come to India on a short term business visit you will need Business Visa. Tourist Visas are issued to tourists.

Employment contracts

31. Indian income tax is levied on income for services rendered in India. This is true even if your employer is outside India and the salary for services rendered in India is paid into your bank account outside India.
32. Ideally you should be employed as a full-time employee under a service contract setting out in clear terms the remuneration/salary and the non-cash benefits (perquisites) to which you will be entitled.
33. If you are being sent to India, on secondment by your foreign employer, for services to be rendered in India, a proper secondment structure should be put in place. The considerations which should be kept in mind are: where salary should be delivered; if salary is to be paid outside India, would it be charged back to the Indian entity; current exchange control regulations for delivering salary; corporate tax implications (permanent establishment exposure), withholding tax, the transfer pricing regulations and service tax implications.

Remuneration package

34. Before moving, you will want to ensure that satisfactory arrangements are made to cover any extra expenses, which you will incur through living in India. As explained in Paragraphs 12-18, most of the allowances, which you may receive because of the Indian assignment, are likely to be taxable.
35. The current exchange control regulations permit a foreign national, who is an employee of foreign company, on secondment/ deputation to a subsidiary in India, to maintain a foreign currency account in a bank outside India and receive salary outside India. However, such receipt into an overseas account may not exceed 75% of the salary received by such person from the foreign company; the remaining salary is to be paid in rupees in India with the condition that appropriate income tax is paid on the entire salary in India. Any direct payment in excess of 75% of the salary into the overseas account will require specific prior permission of the Reserve Bank of India. In case the employee is tax equalized and his Indian tax liability is borne and paid by the employer in India, the employer can pay whole of his salary outside India, in view of the fact that the employer is already paying taxes to Indian tax authorities which is higher than 25%. (In India, maximum marginal rate of tax is 33.99 %.)

Foreign nationals working in India can repatriate 100% of net salary (salary after deduction of taxes) to a place outside India.

Opening bank accounts

36. As a foreign national employed in India, you can open a bank account in India with an Indian Bank or an Indian branch of a foreign bank.

Transferring funds to India

37. Funds can be remitted into a bank account in India from sources outside India (salary received outside India, etc.).
38. While rendering services in India, it is possible that you will continue to earn non-employment income (such as dividends, interest on deposits, etc.) on your investments outside India. Such income normally is remitted to your bank account outside India. Subsequent transfer of the funds from your bank account outside India to your bank account in India will not make the Income taxable in India. However, such non-employment income directly remitted to your bank account in India is likely to be taxable in India.
39. A foreign national transferring his residence to India is allowed duty-free imports of used personal and household articles including jewelry up to Rs.10,000 by a male passenger or Rs.20,000 by a female passenger. In addition, the person transferring his residence is also allowed to bring back the jewelry taken out earlier by him or by a member of his family from India. However, 17 articles specified in the Baggage Rules, 1998, which include household appliances, business machines, vessels, aircraft and gold and silver (other than ornaments) not included for the purposes of calculating the limits as laid down. Further there are restrictions for importation of contrabands such as cigarettes, liquor etc. Firearms, cartridges of firearms exceeding 50, cigarettes exceeding 200 or cigars exceeding 50 or tobacco exceeding 250 grams, alcoholic liquor and wines in excess of two litres, or gold or silver, in any form, other than ornaments are not allowed to be imported.
40. The aforementioned 17 specified household appliances and business machines can be imported on payment of a concessional rate of customs duty of 15%. However, only one item of each of these goods is allowed per family and the person claiming the benefit of such notification should make a declaration stating that no other member of his family has availed of or would avail of such benefit. Furthermore, the total aggregate value of such goods should not exceed Rs. 5 lakhs.
41. In addition to the above, the foreign national transferring his residence is also entitled to the benefit extended to a passenger returning from any country. This benefit allows duty free import of new articles up to a value of Rs.25,000. (In case a passenger is returning from Nepal, Bhutan, Myanmar or China, this limit is only Rs. 6,000/-).
42. Articles in excess of Rs.25,000 would be charged a customs duty of 35% of the value of the goods.

Section 4: What to do when you arrive in India

Exchange control regulations

43. Permission of the Reserve Bank of India is not required for a foreign national wishing to take up employment in India. However, regulations in respect of payment and repatriation of salary as discussed in paragraph 35 are to be adhered to.

Registration for foreigners

44. As per the provisions of the Registration of Foreigners Rules 1939, any foreign national visiting India, who either has valid visa for more than 180 days or intending to stay for more than 180 days must register within 14 days of arrival with the "Foreigners Regional Registration Office" (FRRO).

Registration procedure

45. At the time of registration, the following documents are generally required to be submitted to the FRRO:

- Form A;
- Certificate from employer about Indian employment;
- Four photographs;
- Original passport and Visa (returned after verification); and
- Proof of residence.

Once the FRRO is satisfied about the above documents, a "Residential permit" is issued to the foreign national.

Extension of visa

46. Generally, extension of a visa is granted by the appropriate Indian Embassy/Indian Consulate abroad. Although an employment visa can be extended by the Ministry of Home Affairs, without the foreign national going back to the home country, it is a time-consuming process. A business visa is normally not extended, without going back to the home country. Further, converting business visa into employment visa is also very difficult and foreign national has to go back to his/her home country and apply to Indian Embassy in his home country to obtain an employment visa.

Obtaining a Permanent Account Number

47. Upon arrival in India for employment purposes, you should apply to the agency appointed by the Indian income tax authorities in the prescribed form for allotment of a Permanent Account Number (PAN).

Establishing residence

48. As discussed in Section 1, the residence ruling is of primary importance in establishing the basis of individual taxation in India. Although you may have a good idea what these rulings will be, it is advisable to have them checked and confirmed by your advisors.

Withholding tax

49. When you come to India for employment and your employment income is taxable in India, your employer will be required to withhold tax on your earnings from salary at applicable rates and pay over the same to the Government's treasury within 7 days from the end of the month during which salary is paid. This is applicable even if your employer is not resident in India.

Direct collection

50. Where your employer fails to deduct withholding tax as required, and in all other cases when you have taxable income from a trade, profession or vocation, it will be your liability to make timely advance tax payments on due dates on an estimated basis. Interest would be charged for delayed payment of advance tax. There may be an adjustment of your tax liability at the end of the year if the withholding tax by the employer is incorrect or the estimates made for advance tax payments do not tally with the actual tax liability. If there is an overall shortfall in payment for tax, it should be made good by payment (self-assessment tax) before filing your annual income tax return for the relevant year. If a refund is due to you, it should be claimed in the annual income tax return.

Car registration licensing and insurance

51. In case you are importing your vehicle to India, you must register and license your vehicle unless you are visiting India for less than three months. This is required even if you have been relieved from payment of import duty and taxes. You will have to submit a Customs Declaration form and an undertaking for the re-export of the vehicle. You must take your vehicle for registration to the Regional Transport Office ('RTO') as soon as possible and obtain a license for your vehicle. An international driving license is valid in India.

52. If you have obtained relief from import duty and taxes, you will be issued a vehicle import document. This allows your vehicle to be in India for the specific period provided in the import permit and ensures strict compliance with all the terms and conditions of the license.

53. Ensure that you are adequately insured before you drive on Indian roads. You must cover all risks, including third party liabilities. You will be required to show to the RTO that you are adequately insured before you can register your vehicle.

Section 5: What to do at the end of the year

Your income tax return

54. At the end of each year, a tax return has to be filed with the income tax authorities in the prescribed form. The return is to be filed at the latest by July 31 of the relevant assessment year. If the taxable income includes income from a trade, profession or vocation (the accounts of which are required to be audited), the last date for filing the return is October 31 of the relevant assessment year.

55. For example, the return for assessment year 2008-09 corresponding to the previous year 2007-08 would have to be filed at the latest by 31 July 2008. If the taxable income includes income from a trade, profession or vocation (the accounts of which are required to be audited), the last date would be 31 October 2008.

56. You should ensure that the tax return is filled in with the utmost care without any apparent mistakes or incorrect claims for deduction. Wherever necessary, exemption/deduction claims should be backed by documentation. Self-assessment tax and interest, if any, must be paid before filing the return. Interest is charged for delay in filing returns.

Wealth tax return

57. If your taxable wealth as at the end of the previous year exceeds Rs. 1,500,000, a wealth tax return has to be filed with the relevant wealth tax authority in the prescribed form. The due date for filing the return is the same as the income tax return.

58. Since there is no gift tax liability, there is no need to file a gift tax return.

Notices of assessment

59. The tax authorities may accept your tax return without requiring your presence for assessment proceedings. Under this procedure, a notification is generally sent to you showing your total taxable income, gross tax liability and net tax (after adjustment of withholding tax, advance tax, and self-assessment tax, if any) payable by you or refundable to you. If you are not in agreement with this assessment, you can apply for rectification.

60. The tax authorities may take up your case for scrutiny and issue a notice to you to appear before them to explain various issues/points raised by them in connection with your taxable income and claims for deduction. Scrutiny assessment for high income returns are more routine than exception. After taking into account your representations, etc., the tax authority will issue an assessment order determining your taxable income, gross tax liability and net tax (after adjustment of withholding tax, advance tax, and self-assessment tax, if any) payable by you or refundable to you.

61. If an assessment results in a refund of tax to you, then you may be entitled to interest on account of tax overpaid. Specific rules are prescribed to ascertain interest payable to the taxpayer.

62. If you do not agree with the assessment order passed as discussed above, you have the option to file several appeals against such assessments to seek redress. The first such appeal is filed with the Commissioners of Income Tax (Appeals) who are independent arbitrators in tax disputes. Further appeals against the order of Commissioners can be filed with the Tax Tribunals. Against the orders of the Tax Tribunals, further appeals on substantial questions of law can be filed with the High Court and thereafter with the Supreme Court.

Payment of tax due

63. If an assessment on income shows a balance of tax payable, a demand notice from the tax authorities is served for the tax amount and the interest if any already due on the date of assessment. If this is not paid on the due dates mentioned in the demand notice, further interest would be payable. Different and complex rules apply with regard to dates of payment of taxes and charging of interest. Generally, no postponement of payment of tax is permitted even though you appeal against an assessment.

Section 6: What to do when you leave India

Tax clearance

64. You are required to obtain a no objection certificate from the Indian tax authorities at the time of leaving the country. One of the requirements to obtain such certificate is to furnish the Income tax authorities an undertaking, in the prescribed form, from your employer to the effect that the tax payable by employee to tax authorities shall be paid by the employer. On the basis of the said undertaking, the income tax authority will grant you a 'No Objection Certificate'. Immigration authorities at the airport may require you to produce such certificate.

Transferring funds abroad

65. Employment income credited to your account in India is freely repatriable.

Important points to remember

66. Your residential status for Indian tax purposes has been explained in Section 1. If, for example, you leave India on 29 May and have spent 59 days in India in that year, i.e., 30 days in April and 29 days in May, you will be considered to be non-resident. One further day spent in India between 30 May and the following 31 March would result in your being "not ordinarily resident", provided you satisfy another condition (i.e. 365 or more days in India in the 4 preceding years).

67. If you are ruled as resident but not ordinarily resident, you would be taxable on income accrued or received in India. Income accrued or received outside India is not taxable.

68. It will be seen from paragraph 6 that if you are ruled as ordinarily resident in any tax year, Indian tax would be levied on a worldwide basis. The ruling of resident and ordinarily resident has been explained in paragraphs 5 and 6. It would be advisable to plan the duration of your stay in India to ensure that you are not treated as ordinarily resident in India.

69. You should seek professional advice before planning your departure to and from India to minimize your Indian tax liabilities.

Scope for tax planning

70. In this booklet, we have mentioned a number of points which provide scope for tax planning and on which professional advice should be sought, preferably either before or shortly after your arrival in India. Advice may help to reduce your Indian tax and may also save tax in your home country. For convenience, the more important points are summarized below:

- Determination of your residential ruling for short-term and long-term periods to ascertain liability to Indian tax (paragraphs 4 and 5);
- Preparation of tax efficient remuneration packages (paragraphs 12 to 18);
- Judicious setting up of bank accounts so that remittances to India from abroad are arranged to keep Indian tax on them to the minimum (paragraph 38); and
- Planning departure from India vis-à-vis residence ruling (paragraphs 66 to 69).

Inheritance tax

71. There is no inheritance tax in India.

Medical care and National Health insurance

72. Free medical and hospital facilities are provided through the Government approved Municipal Clinics and Hospitals for all individuals. A number of good private hospitals also provide medical facilities at reasonable rates. Insurance companies also provide medical policies covering various types of medical treatment.

Miscellaneous

73. Although this booklet is primarily concerned with tax matters, we recommend that you seek advice on the following topics before you arrive in India:

- The availability of housing and the likely costs of accommodation;
- Educational facilities for children where appropriate;
- The level of remuneration required to provide a proper standard of living for yourself and your family;
- Motoring regulations; and
- Life assurance and other insurance coverage whilst working in India.

Personal deductions, income tax rates, income tax calculation**Overview of personal deductions and income tax rates for accounting year 2007-08 and an example of an income tax calculation for the accounting year 2007-08 (assessment year 2008-09).****Deductions/rebates permitted**

Certain allowances and benefits paid/provided by an employer like house rent allowance, leave travel allowance, motor car facilities, telephone, food at place of work are treated as exempt subject to applicable conditions and limits and are accordingly not included in the computation of income.

Further, w.e.f. 1st April, 2005, a deduction from income is available upto Rs 100,000 for investments made in the previous year in certain eligible schemes in India, namely, -

- Life insurance premium on the life of self, spouse or any child
- Contribution to a Recognized Provident Fund
- Contribution to Public Provident Fund
- Contribution to a Tax plan of an Indian Mutual Fund
- Tuition fees of any university, college, school or other educational institution in India for the purpose of full-time education of the individual, spouse or any child
- Repayment of housing loan, etc.

Personal income tax rates

Taxable Income Over (Rs.)	Not Over (Rs.)	Tax on Column 1 (Rs.)	Percentage on excess (%)
0	110,000	—	0%
110,000	150,000	—	10%
150,000	250,000	4,000	20%
250,000	And above	24,000	30%

Resident women having income upto Rs 145,000 and resident senior citizens (above 65 years of age) having income upto Rs 195,000 do not have to pay income tax.

Tax as above will be subject to levy of Surcharge at 10% on tax if income exceeds Rs 1,000,000.

Further, an education cess @ 3% of the tax including applicable surcharge will be levied (irrespective of the level of income).

Example of a computation of taxable income for an individual (male below the age of 65 years) for assessment year 2007-08

Earned Income	Rs.
Base Salary	500,000
Allowance	200,000
Taxable perquisites	100,000
Total salary & allowances	800,000
Add: Short-term capital gains from transfer of immovable property	200,000
Sub-Total	1,000,000
Add: Long-term capital gains from transfer of immovable property	250,000
Total taxable income	1,250,000

Tax liability on income (Other than long-term gain)	Rs.
On first 110,000	0
Above 110,000 to 150,000 (@10%)	4,000
Above 150,000 to 250,000 (@ 20%)	20,000
Above 250,000 (@ 30%)	225,000
Sub-Total	249,000
Add: 20% tax on long-term capital gains	50,000
Total tax	299,000
Add: Surcharge @ 10%	29,900
Sub-Total	328,900
Add: Education cess @ 3%	9,867
Total tax liability	338,767

Double taxation agreements

Countries with which India currently has double taxation agreements:

Armenia	Israel	New Zealand	Turkey
Australia	Italy	Norway	Turkmenistan
Austria	Czechoslovakia	Oman	UAE
Bangladesh	Ireland	Portugal	UAR (Egypt)
Belarus	Japan	Poland	Uganda
Belgium	Jordan	Qatar	United States
Brazil	Kazakhstan	Romania	United Kingdom
Bulgaria	Kenya	Russia	Ukraine
Canada	Korea	Singapore	Uzbekistan
China	Kyrgyzstan	South Africa	Vietnam
Cyprus	Libya	Spain	Zambia
Czech Republic	Malaysia	Sri Lanka	
Denmark	Malta	Sudan	
Finland	Mauritius	Sweden	
France	Mongolia	Switzerland	
Germany	Morocco	Syria	
Greece	Namibia	Tanzania	
Hungary	Nepal	Thailand	
Indonesia	Netherlands	Trinidad & Tobago	

Countries with which India currently has Limited Purpose treaties/ agreements:

Afghanistan	Kuwait	Yemen
Ethiopia	Lebanon	
Iran	Saudi Arabia	

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PricewaterhouseCoopers Pvt Ltd. (www.pwc.com/india) provides industry focused tax and advisory services to build public trust and enhance value for its clients and the stakeholders. PwC professionals work collaboratively using connected thinking to develop fresh perspective and practical advice.

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