Assignments in India

Overview of tax and regulatory framework for foreign nationals

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Executive summary

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 in many ways:

- To get an idea about changes to their personal income tax and implications on social security contributions as a result of such a move
- 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 the expatriate is taxed in the foreign country
  - What tax matters need consideration in preparing for the return to the home country
  - Whether reporting requirements get stringent with the change in residential status due to long-term assignment period

This booklet reflects on tax laws and practices in India applicable for the Indian tax year 2015-16 covering period 1 April 2015 to 31 March 2016.

This booklet does not claim to be a comprehensive guide. Accordingly, we 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 Kuldip Kumar, National IAS Leader at kuldip.kumar@in.pwc.com. (Please see Appendix D for contact details and addresses).

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Indian taxation: An overview

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

The tax year

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

Residence

4. Under existing legislation, if you spend an aggregate of 182 days or more in India in the relevant tax year, you will be considered as a resident for that year. Further, if you have been in India for 60 days or more but less than 182 days during the relevant tax year, and in the last four tax years preceding the relevant tax year you have been in India for an aggregate of 365 days or more, you shall be a resident for that year.
5. The following scenarios and examples indicate what rulings might be expected under the present law and practice in various circumstances.

Non resident

Example A

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

Example B

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

Resident

Example A

- If you come to India on or before 30 September, you will be treated as resident for that tax year.

Example B

- If you come to India on or before 31 January and have stayed in the country for 365 days or more during the four tax years preceding the relevant tax year, you will be treated as resident for that tax year.

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Not ordinarily resident or ordinarily resident

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

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

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

Example A

If an expatriate stays in India for say 300 days for each of the three tax years, then he or she will not qualify as RNOR in the fourth year because of the following reasons:

- He or she is not a non-resident in 9 out of 10 tax years; and
- His or her physical presence in India exceeds 729 days in the preceding 7 tax years.

5.3 An expatriate who is an ROR is taxable on worldwide income. An expatriate who is Non-Resident(NR)/RNOR is taxable on India sourced income.

5.4 Salary income is subject to income tax in India if services are rendered in the country, 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 are accrued or are deemed to accrue in India.

5.5 In addition, income that accrues or arises outside India will also be subject to income tax in the case of persons who are ROR in India under the Indian tax legislation.

Methods of calculating tax

6. An overview of personal deductions and income tax rates for the tax year 2015-16 are set out in Appendix A. After deduction of allowances, income tax is imposed at graduated rates. The rates for tax year 2015-16 are as follows:

Taxable income over (INR)	Not over (INR)	Tax on column 1 (INR)	Percentage on excess (%)
0	2,50,000	-	0%
2,50,001	5,00,000		10%
5,00,001	10,00,000	25,000	20%
10,00,001		1,25,000	30%

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Surcharge of 12% of the tax is applicable on tax payers having total income of more than 10 million INR. Further, there is also a levy of an education cess of 3% of the tax and surcharge (if applicable). Resident senior citizens (age of 60 years or more) having income upto 300,000 INR do not have to pay income tax. For resident very senior citizens (aged 80 years and above) the basic exemption limit is 500,000 INR. Tax credit of 2,000 INR is available to resident tax payers having taxable income less than 500,000 INR.

7. 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 15% (plus applicable surcharge and education cess). The concepts of long-term and short-term capital gains are discussed in paragraphs 26-29.
8. Wealth tax which was earlier levied on the possession of taxable wealth has been done away with from tax year 2015-16.
9. To curb black money, a new Bill has been passed by the Parliament namely 'The Black Money (Undisclosed Income and Foreign Assets) and Imposition of Tax Bill, 2015' containing stringent penalties and prosecution provisions for concealment of income in relation to foreign income/ assets and/or non-disclosure of foreign assets in return of income. Undisclosed foreign income/asset detected will be taxed under this new law at 30%. In addition, there is a provision of penalty of 300% of tax and imprisonment upto 10 years. Non-disclosure or inaccurate disclosure to attract penalty of 1 million INR and imprisonment of upto 7 years.
10. There is no gift tax liability in India. However, where any sum of money or property aggregating to 50,000 INR or more is received without consideration from any person(s) would be subject to tax as 'income from other sources'. This would not apply to any sum of money or property received;
    - from any relative (spouse, brother, sister, brother or sister of the spouse or any lineal ascendants or descendants)
    - on the occasion of the individual's marriage
    - under a will or by way of inheritance
    - 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.

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The taxation of employment income

12. Taxable income includes all amounts, whether in cash or in kind, arising from an office of employment. It need not necessarily be the employer who makes the payment or provides the benefit. Apart from the salary, fees, bonuses and commissions, some of the most common remuneration items are allowances, reimbursement of personal expenses, education payment and perquisites or benefits provided by the employer either free of cost or at concessional rate. 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 is not included in taxable salary. Children's education allowance and hostel allowance are exempt up to 100 INR or 300 INR, respectively, per month per child (limited to two children). House rent allowances and certain other allowances are exempt subject to specific limits and conditions. Transport allowance for commuting from residence to place of work and vice versa is exempt upto INR 1600 pm. Payment for encashment of earned leave at the time of retirement is exempt subject to conditions and limits. Free medical facilities is not taxable in the hands of the employees, subject to conditions and limits.

14. Housing benefits provided by an employer are generally taxed at 15% of the salary or rent paid for the accommodation, whichever is less. Hotel accommodation is taxable at 24% of the salary or amount paid, whichever is less. Cost of meals and laundry expenses are fully taxable. Accommodation provided in remote areas to employees working in mines, project execution sites, etc is not taxable.

15. Tax borne, if any, by the employer on non-monetary perquisites need not be grossed up in the hands of the employee. However, the employer cannot deduct taxes so 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, etc.

17. Value of any specified security or sweat equity shares allotted or transferred directly or indirectly by the employer or former employer, free of cost or at a concessional rate to the assessee, is taxable as perquisite in the hands of the employee. The valuation for this purpose is to be done on the basis of the fair market value of the specified security or sweat equity share on the date when the option is exercised by the employee. In case of shares not listed on Indian stock exchanges, the fair market value is determined as per the valuation done by Category I Merchant Banker as approved by the Securities and Exchange Board of India (SEBI).

18. The amount of any contribution to an approved superannuation fund by the employer to the extent it exceeds 100,000 INR is taxable as perquisite in the hands of employee.

19. Car and driver facilities provided by the employer is also taxable as a perquisite. The same is taxable at 1,800 INR or 2,400 INR per month (depending on the cubic capacity of the car) if the car is available for both official and personal use. Provision of a chauffeur by the employer is also concessionally taxed at 900 INR per month.

20. Expenses incurred on telephones including a mobile phone actually incurred by the employer on behalf of employee are not taxable as perquisite.

21. In addition, other benefits like domestic servants, utilities, children education, interest-free loans, usage of movable assets, gifts, credit card payments, food, club membership, etc are also taxable subject to tax valuation norms.

22. A deduction is allowed for profession tax (tax on employment) levied by state governments and paid by the employee.

23. 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 need to seek professional advice on your remuneration package as a whole to minimise Indian tax incidence.

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The taxation of self-employment income

24. Profits or gains from a trade, profession, business or vocation, which you carry out within India, are subject to tax whether you are a resident or a non resident. If you are a ROR in India, a liability will 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

25. Foreign nationals not resident in India are not allowed to make investments in immovable property in India without obtaining the specific approval of the Reserve Bank of India (RBI). Investments in shares, compulsory convertible debentures, compulsory convertible preference shares, partly paid up shares and warrants of an Indian company by foreign nationals not resident in India are subject to foreign direct investment (FDI) policies of the Indian government.

Capital gains tax

26. As a general rule, capital gains from the disposal of taxable capital assets situated in India are liable to tax in the tax year in which such assets are sold or transferred.

27. Capital assets include all forms of property, stocks and shares, land and buildings, goodwill, etc (but exclude personal effects except jewellery, stock-in-trade, stores, and raw materials held for business purposes).

28. Assets held for more than three years (one year in the case of securities listed in a recognised stock exchange in India or units of an equity oriented mutual funds) are called 'long-term capital assets' and the assets not so held are called 'short-term capital assets'. Capital gains arising from the transfer (disposal) of long-term capital assets are called 'long-term capital gains'. Gains arising from the disposal of short-term capital assets are called 'short-term capital gains'. This distinction is important as 'long-term capital gains' are taxed or treated beneficially and there are also planning opportunities to save tax provided the consideration or gain is re-invested, subject to fulfilment of certain other conditions.

29. 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 8 years to be offset only against future capital gains as above.

Double taxation agreements

30. 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 or she 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 a non resident are satisfied. In order to claim the beneficial provisions of double taxation agreements, the individual claiming the benefit is required to submit the tax residency certificate of his or her home country and maintain prescribed particulars in a prescribed form as notified by the Indian tax authorities. A list of countries with which India has such agreements is given in Appendix B.

Social security taxes

31. On 1 October 2008, the Ministry of Labour and Employment, government of India notified social security schemes for international workers (IWs). Accordingly, every foreign national, holding the passport of a foreign country is mandatorily required to contribute to the Indian social security schemes, namely, employee's provident fund (EPF) and employee's pension scheme (EPS), provided he or she is coming to India to work for an establishment in India to which the Provident Fund Act (PF Act) applies. Further, IW coming from a country with which India has a social

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security agreement (SSA) and he or she is contributing on reciprocity basis to the home country social security, either as a citizen or resident and enjoying the status of 'detached worker' in terms of the SSA, is excluded from this requirement provided he or she obtains the certificate of coverage from his or her home country. India has so far signed social security agreement (SSA) with 18 countries to help employees and employers from making double social security contributions in both the home and the host countries. However, only the SSAs with Belgium, Denmark, France, Germany, Luxembourg, the Netherlands, the Republic of Hungary, South Korea, Switzerland, Finland, Sweden, Norway and Czech Republic have been notified and made operational till date. The remaining agreements are yet to be notified. A list of countries with which India has signed SSAs is given in Appendix C.

Contribution

32. Every IW has to contribute 12% of his or her salary, comprising basic wages, dearness allowance, retaining allowance (but excluding bonus) every month towards the provident fund. The employer is required to deduct the contribution from the employee's salary every month and after making a matching contribution of 12%, deposit the amount (both employer and employee) along with administrative charges with the PF authorities by the 20th of the following month including grace period of 5 days. Out of the employer's contribution of 12%, a part is allocated to the pension fund for disbursement of monthly pension and other benefits on retirement as per the EPS. However, no such allocation towards the pension fund is required, where an IW has joined a covered establishment in India on or after September 1, 2014 and drawing a salary of more than INR 15,000 per month. In such case, the employer's entire contribution will go to the IW's provident fund.

Benefits and withdrawal of contribution

33. The contribution made by both the employer and the employee to the provident fund earns interest at specified rates. An IW can withdraw their accumulated balance in the provident fund in the following circumstances:
    - On retirement from services in the establishment or after attaining 58 years of age, whichever is later
    - Retirement on account of permanent and total incapacity to work due to bodily or mental infirmity as certified by a prescribed medical officer or registered practitioner
    - When suffering from certain diseases detailed in the terms of the scheme
    - On ceasing to be an employee of an covered establishment, where the IW is from an SSA country
- In cases where the international worker is from an SSA country, withdrawal from the provident fund shall be payable in the payee's overseas bank account directly or through the employer. In all the other cases, the amount withdrawn will be credited to IWs' Indian bank account. Amendments have been made in the Indian regulatory framework to permit IWs to open Indian bank accounts in order to realise provident fund money.

Tax deduction or exemption

34. Contribution made to the provident fund by an IW is eligible for deduction from his or her taxable income up to 150,000 INR per annum. Similarly, contribution by the employer and the interest accrued on Indian social security contributions are not taxable in the hands of the IW. Further, any withdrawal made by an IW from the provident fund is also exempt from Indian tax provisions, subject to the fulfilment of certain conditions. Monthly pension received from the pension fund after retirement is taxable as employment income. However, commutation of pension payment shall be exempt from tax, upto certain limits prescribed in this regard.

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Work permit and employment visas

35. A foreign national visiting India must have a valid passport and the right kind of visa. There are several types of visas depending upon the purpose of visit to India like tourism, transit, business, study, journalism and employment. The MHA has recently renamed the tourist visa on arrival scheme as 'e-tourist visa' scheme as on April 2015. Under this scheme, a foreign national is required to apply for a visa online by uploading his or her photograph and requisite documents and pay the visa fees. The e-tourist visa facility is available for holders of passports of 76 countries. Individuals holding overseas citizenship of India (OCI) card are not required to obtain any visa.

36. An foreign national who wishes to work in India is required to apply for an employment visa (EV). An EV is granted to skilled and qualified foreign individuals drawing a salary in excess of 25,000 USD per annum. EV is not granted in respect of roles for which a large number of Indian nationals are available or for routine or ordinary jobs. EV is given for a period of five years from the initial grant period including renewals in India. The duration and renewal of EV depends upon the validity of the contract. A foreign national can change his or her employer during the duration of his or her current EV with prior permission of the Ministry of Home Affairs (MHA) within the group subject to the fulfilment of specified conditions. Related family members of the EV applicant may apply for an 'X' visa. This enables family members to reside in India for the duration of the EV of the foreign national. The X visa can also be converted into an EV in India with the prior approval of the MHA and subject to conditions.

37. A business visa (BV) is granted to foreign nationals who intend to travel to India for bona fide business reasons only. Such purposes of visit may include the following:

    – Establishing a business venture or exploring opportunities to set up a business in India
    – Buying or selling industrial, commercial or consumer products
    – Attending technical meetings, discussions, board meetings, general meetings to provide business support service
    – Participating in an exhibition or trade fair
    – Foreign trainees attending in-house training
    – Foreign experts and specialists on a short duration visit in connection with an ongoing project with the objective of monitoring the progress of the work, conducting meetings with Indian customers and/or to provide technical guidance

The BV may be granted to the individual for single or multiple entries, for a period of six months, one year or, in exceptional circumstances, five years. A stay stipulation may also be prescribed by the Indian missions, wherein stay in India during each visit would be only for a maximum period of six months and in such case an endorsement of 'each stay not to exceed six months and registration not required' is to be appropriately made on the visa sticker of the foreign national.

Extension of visa

38. Extension of BV and EV can be undertaken in India also. The foreign national seeking extension must ensure that he or she submits the application along with supporting documents for extension within the prescribed period prior to expiry of the visa. Once an EV has been granted, all other standard conditions concerning the duration of the EV, its extension, etc are applicable.

39. Keeping in view the rapid changes taking place in the visa regime, it is strongly recommended to check the type of visa needed and other related matters at the time when a foreign national intends to come to India so that he or she is compliant with prevalent visa regulations.

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Employment contracts

40. 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.

41. Ideally, you should be employed as a full-time employee under a service contract setting out in clear terms the remuneration or salary and the non- cash benefits (perquisites) to which you will be entitled.

42. 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 the following: where should the salary be delivered; if the 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 implication (permanent establishment exposure), withholding tax, the transfer pricing regulations, service tax and Indian social security implications.

Remuneration package

43. Before moving, you need to ensure that satisfactory arrangements are made to cover any extra expenses, which you will incur through living in India. As explained in paragraphs 12-21, most of the allowances, which you may receive because of the Indian assignment, are likely to be taxable.

44. The current exchange control regulations permit a foreign national, who is an employee of a foreign company, on secondment, deputation to a subsidiary /group company in India, to maintain a foreign currency account in a bank outside India and receive the entire salary outside India provided full taxes are paid on the said salary accrued in India. FNs working in India can repatriate 100% of their salary to a place outside India provided income tax is paid on the entire salary.

Opening bank accounts

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

Transferring funds to India

46. Funds can be remitted into a bank account in India from sources outside India (salary received outside India, etc).

47. 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. As per section 8 of FEMA, any amount of foreign exchange due or accrued to a person resident in India, shall take all reasonable steps to realise and repatriate to India such foreign exchange within such period and in such manner as may be specified by the RBI.

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48. A foreign national transferring his residence to India is allowed duty-free imports of used personal and household articles and jewellery up to 50,000 INR by a male passenger or 1,00,000 INR by a female passenger. Further, duty-free import of used personal effects, excluding jewellery, required for satisfying daily necessities of life are allowed for a person coming from outside India. Also, imports of articles (other than specified articles), is permitted up to a value of 45,000 INR if these are carried in onto the person or accompanied baggage of the person (In case a passenger is returning from Nepal, Bhutan, Myanmar or China, this limit is only 6,000 INR). Jewellery taken out earlier by such passenger or by a member of his family from India is also permitted to be brought back, without any value limits, where the fact of its removal from India is established to the satisfaction of the customs authorities. However, 17 articles specified in the baggage rules, 1998, which include household appliances, business machines, vessels, aircraft and gold and silver (other than ornaments) are not included for the purposes of calculating the limits as laid down. Further there are restrictions for importation of Firearms, cartridges of firearms exceeding 50, cigarettes exceeding 100 or cigars exceeding 25 or tobacco exceeding 125 grams, alcoholic liquor and wines in excess of two litres, or gold or silver, in any form, other than ornaments and flat panel television sets are not allowed to be imported.

49. The aforementioned 17 specified household appliances and business machines can be imported by a person holding a valid India passport and transferring residence to India after a period of 365 days or more during the two years preceding the date of arrival in India on payment of a concessional rate of customs duty of 15%. However, in respect of such goods not more than one unit shall be permissible to such person and the total aggregate value of such goods including other goods imported free of duty under shall not exceed 75,000 INR.

50. These items can also be imported by a foreign national transferring his residence. However, only one item of each of these goods is allowed per family and the person claiming the benefit of such notifications should make a declaration stating that no other member of his family has availed of or would avail of such benefit. The provisions are applicable to all i.e. foreigners residing in India as well as Indian resident coming after two years and someone transferring his residence to India. Furthermore, the total aggregate value of such goods should not exceed 5,00,000 INR.

51. Articles above the duty free allowance limit are charged to a customs duty of 35% of the value of the goods.

Goods and services tax (GST)

52. One of the key industry expectations from the Budget 2014 was that the Finance Minister will lay down a clear roadmap for implementing GST. The Finance Minister has indicated that the GST shall be implemented with effect from 1 April 2016. Further, the GST Constitutional Amendment Bill has been passed in the Lower House of Parliament and shall now be presented in the Upper House.

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53. The RBI's permission 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 46 are to be adhered to. Further, there may be security clearance needed for certain sensitive sectors such as telecom, etc.

Registration for foreigners

54. As per the provisions of the Registration of Foreigners Rules 1939, foreigners entering India on EV, valid for more than 180 days or foreign national intending to stay in India for more than 180 days, are required to register with the concerned jurisdictional Foreigners Regional Registration Office (FRRO) within 14 days of their first arrival in India, irrespective of the duration of their stay. Foreigners visiting India on other categories of visa namely business or tourist visa would not require registration with the concerned FRRO if duration of his or her stay does not exceed 180 days on a single visit. OCI card holders are exempted from registration with FRRO.

Registration procedure

55. At the time of registration, the following documents are generally required to be submitted to the FRRO:
    - Online application form
    - Request letter from the Indian employer
    - Certificate from the Indian employer
    - Four photographs
    - Copy of passport and visa
    - Proof of residence; and
    - Undertaking from the employer
    - Copy of Indian employment contract

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

Obtaining a Permanent Account Number

56. 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

57. 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.

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Obtaining a Permanent Account Number
Establishing residence
Withholding tax
Direct collection
Car registration licensing and insurance

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Other matters requiring consideration

Withholding tax

58. 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 seven days from the end of the month during which the salary is paid (except for March wherein the time line is extended to 30 April). This is applicable even if your employer is not a resident of India.

Direct collection

59. 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. However, resident senior citizens (60 years or more in age) are exempted from paying advance tax provided they do not have income chargeable under the head 'Profits and Gains of business or profession'.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 of self-assessment tax before filing your annual income tax return for the relevant tax year. If a refund is due to you, it should be claimed in the annual income tax return.

Car registration licensing and insurance

60. 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.
61. 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.
62. 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.

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Your income tax return

63. At the end of each tax 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 31 July following the end of the relevant tax year. It is mandatory to file the return electronically if the total income exceeds 500,000 INR or tax relief/foreign tax credit is claimed under the treaty or the domestic laws, as the case may be. Further, a ROR having assets or signing authority in any account located outside India will have to file the tax return even though they do not have taxable income in India or income is below taxable limit. The details which needs to be included in the tax returns includes details of bank accounts with the peak balance during the year, details of financial interest in any entity with investment cost, immovable or any other asset with total cost of investment etc. 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 30 September following the end of the relevant tax year.

64. For example, the return for tax year 2015-16 will need to be filed at the latest by 31 July, 2016. 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 30 September, 2016.

65. 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.

Notices of assessment

66. The tax authorities may accept your tax return without requiring your presence for assessment proceedings. Under this procedure, a notification intimation 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.

67. The tax authorities may take up your case for scrutiny (i.e. audit) and issue a notice to you to appear before them to explain various issues or 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.

    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.

68. 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.

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Payment of tax due

69. 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.

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Tax clearance
Transferring funds abroad
Important points to remember

Other matters requiring consideration

Tax clearance

70. As a non-domiciled individual in India, 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 port of departure may require you to produce such a certificate.

Transferring funds abroad

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

Important points to remember

72. 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 you becoming a resident and then depending on the number of days you stayed in the past in India, you may become ROR.

73. It will be seen from paragraph 5.3 that if you are ruled as ROR in any tax year, Indian tax would be levied on a worldwide basis. The ruling of ROR has been explained in paragraph 4. It would be advisable to plan the duration of your stay in India to ensure that you are not treated as ROR in India.

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

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Other matters requiring consideration

Scope for tax planning
Inheritance tax
Medical care and national health insurance
Miscellaneous

Scope for tax planning

75. 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. Such advice may help reduce your Indian tax and may also save tax in your home country. For convenience, the more important points are summarised below:
    - Determination of your residential status for short-term and long-term periods to ascertain liability to Indian tax (paragraphs 4 and 5);
    - Preparation of tax compliant salary packages (paragraphs 12 to 21);
    - Structuring of assignments keeping in view corporate tax and other considerations (paragraphs 40 to 46);
    - 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 47); and
    - Planning departure from India vis-à-vis residence ruling (paragraphs 72 to 74).

Inheritance tax

76. There is no inheritance tax in India.

Medical care and national health insurance

77. 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

78. 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 insurance and other insurance coverage while working in India. Personal deductions, income tax rates, income tax calculation. Overview of personal deductions and income tax rates for tax year 2015-16 and an example of an income tax calculation for the tax year 2015-16.

Appendix A

Personal deductions, income tax rates, income tax calculation

Deductions and rebates permitted

- Certain allowances and benefits paid or provided by an employer like house rent allowance, leave travel allowance are treated as exempt subject to applicable conditions and limits and are accordingly not included in the computation of income
- A deduction from income is available upto 150,000 INR for investments made in the tax year in certain eligible schemes in India, namely
  - Life insurance premium on the life of self, spouse or any child
  - Contribution by employee to recognise 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.
- Additional deduction upto 10,000 INR per annum is allowed towards interest on deposits (excluding time deposits) in a savings bank account with specified banks. Deduction for funds, charitable institutions in excess of 10,000 INR to be allowed only if the donation is made otherwise than in cash.
- A further deduction of 25,000 INR (30,000 INR in case of senior citizens) is available for health insurance premiums or contributions made to an approved insurance scheme. This threshold limit of 25,000 INR(or 30,000 INR) will also include payments made upto 5,000 INR per annum (including cash payments) towards preventive health check ups for self, spouse, dependent children, parents). The medical expenditure incurred for very senior citizens (80 years and above) will be deductible up to 30,000 INR if no payment has been made towards any existing health insurance policy for such individuals.

Example of a computation of taxable income for an individual (male below the age of 60 years) for tax year 2015-16

Earned income	`
Base Salary	60,00,000
Allowance	20,00,000
Taxable perquisites	20,00,000
Total salary and allowances	100,00,000
Add: Short-term capital gains from transfer of immovable property	10,00,000
Sub-total	110,00,000
Add: long-term capital gains from transfer of immovable property	500,000
Total taxable income	11,500,000
Tax liability on income (Other than long-term gain)	`
On first 250,000	0
Above 250,000 to 500,000 (10%)	25,000
Above 500,000 to 10,00,000 (20%)	1,00,000
Above 10,00,000 (30%)	30,00,000
Sub-total	31,25,000
Add:20% tax on long-term capital gains	1,00,000
Total tax	32,25,000
Add: Surcharge* 12%	3,87,000
Add: Education cess 3%	1,08,360
Total tax liability	37,20,360

**Surcharge applicable to individuals having income exceeding INR 10 million*

Appendix B

Countries with which India has double taxation agreements

Countries with which India currently has limited purpose treaties or agreements
Nepal
Afghanistan
Ethiopia
Iran, Peoples Democratic Republic of Yemen
Lebanon, Pakistan, Maldives
SAARC countries

Albania	Jordan	Poland	Uganda
Armenia	Kazakstan	Qatar	Uzbekistan
Australia	Kenya	Romania	United Mexican State
Bangladesh	Korea	Russia	Vietnam
Belarus	Kuwait	Saudi Arabia	Zambia
Belgium	Kyrgyz Republic	Serbia	
Bhutan	Latvia	Singapore	
Botswana	Libya	Slovenia	
Brazil	Lithuania	South Africa	
Bulgaria	Luxembourg	Spain	
Canada	Malaysia	Sri Lanka	
China	Malta	Sudan	
Columbia	Mauritius	Sweden	
Croatia	Mongolia	Swiss Confederation	
Cyprus	Montenegro	Syria	
Denmark	Morocco	Tajikistan	
Estonia	Myanmar	Tanzania	
Ethiopia	Mozambique	Thailand	
Hungary	Namibia	Trinidad and Tobago	
Iceland	Nepal	Turkey	
Indonesia	Netherlands	Turkmenistan	
Israel	New Zealand	USA	
Italy	Norway	UAE	
Ireland	Oman	UAR (Egypt)	
Japan	Philippines	Ukraine	
Greece	Portuguese Republic	UK	

Appendix C

Countries with which India has signed SSA

Sl. No.	Name of Countries	Remarks
1	Belgium	Operational, effective 1 September, 2009
2	Germany	Operational, effective 1 October, 2009
3	Switzerland	Operational, effective 29 January, 2011
4	France	Operational, effective 1 July, 2011
5	Luxemburg	Operational, effective 1 June, 2011
6	Netherlands	Operational, effective 1 December, 2011
7	Denmark	Operational, effective 1 May, 2011
8	Korea	Operational, effective 1 November 2011
9	Hungary	Operational, effective 1 April 2013
10	The Czech Republic	Operational, effective 1 September, 2014
11	Norway	Operational, effective 1 January, 2015
12	Finland	Operational, effective 1 August, 2014
13	Sweden	Operational, effective 1 August, 2014
14	Canada	Signed on 6 November, 2012
15	Japan	Signed on 16 November, 2012
16	Austria	Signed on 4 February 2013
17	Portugal	Signed on 4 March 2013
18	Australia	Signed on 18 November 2014

Appendix D

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