VENTURA PRANAS
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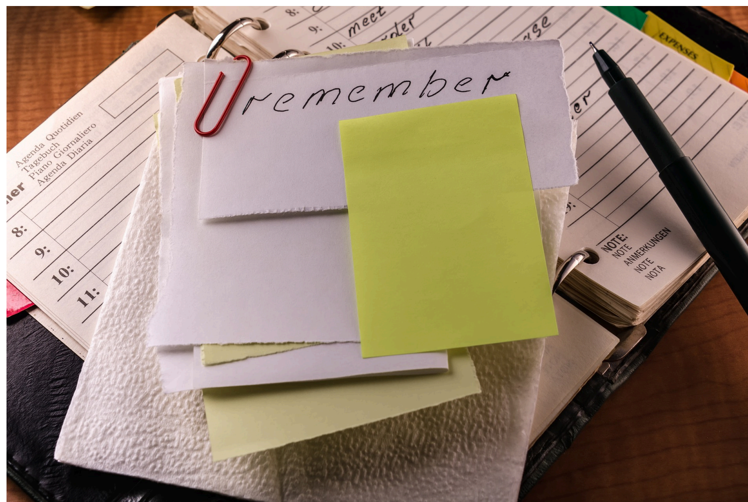
WIDE ANGLE

The Ventura Pranas Quarterly Newsletter

October - December 2019

Tax 2019 updates: India Income Tax rates for Individuals



Optional new tax regime

There is no change in the existing income-tax slab rates for individuals in this budget. However, a new tax regime has been proposed, under which individuals foregoing exemptions and deductions would be taxed at reduced tax rates.

The exemptions and deductions that would need to be foregone includes inter-alia exemptions and deductions claimed widely by individuals including House Rent Allowance, Leave Travel Concession, standard deduction, deductions under Section 80C, deduction in relation to self-occupied house property, set-off of loss from house property against any other source of income, etc.

Individuals who opt to claim available exemptions or deductions would be taxed as per the existing rates.

There is a lot of understandable confusion amongst taxpayers on what the new budget would mean to them. For this, we have provided a snapshot of what the slab rates were under the old rules and what they look like now. Essentially, it is a question of whether one avails exemptions and opts for the old slab rates, or does away with exemptions and opts for the lower intermediate slab rates.

Here is a bird's eye view of the comparison between two people with same income levels- one availing exemptions for old slab rates and the other foregoing exemptions for the lower slab rates.

Income Bracket	Tax Rate if exemptions are availed	New proposed rax rate w/o availing exemptions	HRA	STD Dedn	80C	80D	Old Regime-Taxable Income with exemptions	New proposed Taxable Income w/o availing exemptions	Old Regime-Tax availing exemptions	New proposed Tax w/o availing exemptions	Addnl Tax Under the New Regime
5,00,000	5%	5%		50,000			4,50,000	5,00,000	-	-	-
7,50,000	20%	10%	50,000	50,000	1,50,000		5,00,000	7,50,000		39,000	39,000
10,00,000	20%	15%	75,000	50,000	1,50,000	25,000	7,00,000	10,00,000	41,600	78,000	36,400
12,50,000	30%	20%	1,00,000	50,000	1,50,000	25,000	9,25,000	12,50,000	1,01,400	1,30,000	28,600
15,00,000	30%	25%	1,25,000	50,000	1,50,000	25,000	11,50,000	15,00,000	1,48,200	1,95,000	46,800
25,00,000	30%	30%	2,00,000	50,000	1,50,000	25,000	20,75,000	25,00,000	3,95,000	5,07,000	1,11,800
50,00,000	30%	30%	4,00,000	50,000	1,50,000	25,000	43,75,000	50,00,000	11,12,800	12,87,000	1,74,200
100,00,000	30%	30%	5,00,000	50,000	1,50,000	25,000	92,75,000	100,00,000	30,86,200	33,67,000	2,80,8000
200,00,000	30%	30%	5,00,000	50,000	1,50,000	25,000	192,75,000	200,00,000	77,28,500	80,47,000	3,18,500
500,00,000	30%	30%	5,00,000	50,000	1,50,000	25,000	492,75,000	50,00,000	248,13,100	252,07,000	3,93,900

Determination of residential status for certain categories of individuals

The budget proposes to introduce the following amendments in determining residential status for certain categories of individuals.

As per the proposed amendments, a citizen of India would be deemed to be a resident of India in any financial year, if such individual is not liable to tax in any other country. The basic conditions for determining residential status for other categories of individuals remains the same.

As per the existing provisions, an Indian Citizen or Person of Indian Origin who lives outside India and comes on a visit to India in any financial year, would be considered as a resident in India, if said individual stays in India for 182 days or more. The amendment proposed by the budget provides for such an individual to be resident in India in either of the two scenarios – (i) the individual's stay in India during the financial year is 182 days or more; or (ii) the individual's stay in India is 120 days or more in the current financial year and 365 days or more in the preceding 4 financial years.

Conditions to be categorized as ordinarily resident or not ordinarily resident

A resident in India would be considered as not ordinarily resident if the individual has been a non-resident in India in 7 out of 10 preceding financial years.

Certain contributions to be taxed as perquisite

Contributions exceeding INR 7,50,000 made by employer to an employee's account in a recognized provident fund, notified pension scheme or approved superannuation fund would be taxable perquisite in the hands of the employees. The annual accretions to such contributions exceeding INR 7,50,000 would also be considered as taxable perquisite.

Tax on allotment of Securities issued under ESOPs by eligible start-ups removed

Securities issued under Employee Stock Benefit Plans by employers are taxable in the hands of the employees at the time of their exercise (i.e. allotment). In case of eligible start-ups, the payment of tax on such benefit is proposed to be deferred to within 14 days after the *earliest of the following dates* - (i) 5 years from the end of financial year in which options are exercised, or (ii) date of sale of such security by the employee, or (iii) the date of the employee ceasing employment with the company.

Currently, ESOPs are taxed as perquisites under section 17(2) of the Income Tax Act read with Rule 3(8)(iii) of the Rules. The taxation of ESOPs is split into two components: i. Tax on perquisite as income from salary at the time of exercise. ii. Tax on income from capital gain at the time of sale.

Taxation of dividend from domestic companies and mutual funds

As per the existing provisions of the income tax, domestic companies that declare, distribute or pay dividend are required to pay a dividend distribution tax. Such dividend was exempt in the hands of the recipients up to INR 10,00,000.

It is proposed to remove the dividend distribution tax payable by companies and tax the dividend from such companies and mutual funds in the hands of the recipients at the tax rates applicable to the respective recipients (i.e. applicable slab rates for individuals.) TDS at 10% will be applicable on dividend paid to an individual exceeding INR 5,000 during a fiscal year.

New Tax Collected at Source (TCS) on LRS

According to the budget provision any authorized dealer receiving an amount or an aggregate of amounts of Rs. 7 lakhs or more for remittance out of India in a financial year must deduct 5% tax collected at source from the remittance. The net will be remitted abroad. The TCS is not to be construed as an additional tax but as an advance tax that can be used to offset taxes from other sources. Taxpayers should therefore calibrate their advance tax payments on other sources to allow for this prepayment made on the LRS.

Upcoming due dates in year 2020 (USA & India) – First Quarter

Filing requirement	Tax Year	IRS Forms	Original due date	Extended due date
Final Estimated Quarterly Payment	2019	Form 1040-ES	15 January 2020	N/A
Deadline for Filing W-2 Forms for Employees	2019	W-2s	31 January 2020	N/A
Deadline for Filing 1099 MISC for Independent Contractors	2019	1099	31 January 2020	N/A
Tax Returns Due for S-Corporations and Partnerships	2019	Form 1120S/1065	15 March 2020	15 September 2020
Individual and Corporate Tax Returns Deadline	2019	Form 1040/1120	15 April 2020	15 October 2020
Trust Tax Returns Deadline	2019	Form 1041	15 April 2020	30 September 2020
FinCen	2019	Form 114/FBAR	15 April 2020	15 October 2020
Gift tax return	2019	Form 706	Due within nine months of the decedent’s death.	Automatic six-month extension is

				available. Form
Gift tax return	2019	Form 709	15 April 2020	15 October 2020
Exempt organization	2019	Form 990	15 May 2020	15 November 2020
First quarter estimated tax payment for 2020 due	2020	Form 1040-ES	15 April 2020	N/A
Second Quarter estimated tax payment for 2020 due	2020	Form 1040-ES	15 June 2020	N/A
Individual Tax Returns Deadline (Living in outside US)	2019	Form 1040	15 June 2020	15 October 2020
India Tax Return	2019-20	ITR V	31 July 2020	N/A
Third Quarter estimated tax payment	2020	Form 1040-ES	15 September 2020	N/A
November End-of-Year Tax Planning		Business Projection	15 November 2020	N/A
December 31st Deadline for End-of-Year Tax Plans		Individual Projection	15 December 2020	N/A
Final	2020	IRS Form	15 January	N/A

estimated tax payment		1040-ES	2021	

Investment Guide

US Investments: Mutual Funds and Direct Stocks

Mutual funds and Direct stocks are always a preferable investment for a US citizen or person living in the US or India. The treatment in the US for US mutual funds follows the same rules for stocks and consequently more favorable than holding mutual funds outside the United States when unrealized gains are subject to ordinary income tax rates.

India Investments:

Mutual Funds

It is almost always more expensive to hold mutual funds in India than US mutual funds particularly for those taxpayers at the highest tax brackets in the USA. Also those who live in a taxable state will have to contend with state taxation on the Indian sources of income with, more often than not, no offset opportunity for taxes paid in India. In other words, few states in the US allow credits for taxes paid in a foreign country.

Direct investments in Equity / Debentures

It is almost always more expensive to hold mutual funds in India than US mutual funds particularly for those taxpayers at the highest tax brackets in the USA. Also those who live in a taxable state will have to contend with state taxation on the Indian sources of income with, more often than not, no offset opportunity for taxes paid in India. In other words, few states in the US allow credits for taxes paid in a foreign country.

Direct investments in Equity / Debentures

Direct stocks have always been a preferable investment option for US citizens whether resident in India or the USA. The reason being that the Dividend Distribution Tax, although not paid at the individual level, still met the 5 golden rules in the US for a creditable tax. Note: with the new law abolishing the DDT, this differentiator is moot.

Please review the table below for a quick overview of the tax:

Investment Type	Source of income	Rate of Tax					
		Person Resident* in the USA			Person Resident in the India		
		USA	India		USA	India	
			FY 2019-20	FY 2020-21		FY 2019-20	FY 2020-21
US direct Stock	Div	23.80 %	N/A	N/A	23.80%	30%	30%
	Long term Cap gains	23.80 %	N/A	N/A	23.80%	20%	20%
	Long term Cap gains	40.80 %	N/A	N/A	40.80%	30%	30%
US direct Stock	Div	23.80 %	N/A	N/A	23.80%	30%	30%
	Long term Cap gains	23.80 %	N/A	N/A	23.80%	20%	20%
	Long term Cap gains	40.80 %	N/A	N/A	40.80%	30%	30%
Indian Mutual Funds (Equity)	Div (amount in excess of Rs. 10L for India purposes)	23.80 %	N/A	30%	23.80%	10%	30%
	Long term Cap gains (above INR 1 L)	40.80 %	10%	10%	23.80%	10%	10%
	Short Term Cap gains	40.80 %	15%	15%	40.80%	15%	15%
Indian Mutual Funds (Debt)	Div (amount in excess of Rs. 10L for India purposes)	23.80 %	N/A	30%	23.80%	10%	30%
	Long term Cap gains (units held for more	40.80 %	20%	20%	23.80%	20%	20%

	Short Term Cap gains (units held for 36 months or less)	40.80%	30%	30%	40.80%	30%	30%
Indian Direct stock	Div (amount in excess of Rs. 10L for India purposes)	23.80%	N/A	30%	23.80%	10%	30%
	Long term Cap gains (above INR 1 L)	23.80%	10%	10%	23.80%	10%	10%
	Short Term Cap gains (other than by way of regular trading)	40.80%	15%	15%	40.80%	15%	15%
	Short Term Cap gains (by way of regular trading)	40.80%	15%	15%	40.80%	30%	30%

1. * Person Resident in the US includes a US citizen or resident or non resident alien but living in the USA
2. Assumption Is that the taxayer is in the highest tax bracket of tax in the US and India

Note 2:

The above India rates are base rates, Surcharge to be levied at:

- 37% on base tax where specified income exceeds Rs. 5 crore;
- 25% where specified income exceeds Rs. 2 crore but does not exceed Rs. 5 crore;
- 15% where total income exceeds Rs. 1 crore but does not exceed Rs. 2 crore; and
- 10% where total income exceeds Rs. 50 lakhs but does not exceed Rs. 1 crore.

You ask, We Answer

The financial considerations to take into account for green card holders, depending on their level of income, their source of income, income in multiple countries, etc., are so complex, we've created points under various topic headers to answer your questions and address your concerns.

Income Considerations

1. Take stock of your sources of income in India. A good place to start is your IT returns for the prior year.
2. Calculate your effective taxes in India by income source.
3. Assess your US taxes on the Indian income sources. Don't forget state taxes while you're at it.
4. Check on availability of foreign (Indian) tax credits to offset US taxes. Few states allow a credit for foreign income (Indian) taxes.
5. Be aware that Net investment income tax in the US is not creditable by any Indian tax credit.

Residency

1. If you've been a resident in the US for a while, you will have to consider the state tax component on the income (which varies from state to state within the US) and potentially no availability of a foreign tax credit against state tax.
2. Look into the availability of the election 8833 to be able to declare a closer tax connection with India and avoid global taxes on your Indian income.
3. If the above is possible then make some divestment decisions quickly to avoid the differential tax considerations when a global return in the US will be the only option.
4. If you leave India see if you can file an NRI return in India under the DTAA even if you exceed the days test under the income tax act.
5. Be aware of the Long term residency (LTR) rules before you become subject to either an estate or exit tax in the US. Remember once you become a LTR exiting the US can become expensive.

Estate

1. Assess the total value of the estate.
2. If there is a potentially very-close-to or higher-than-the lifetime exemption in the US, see if some planning can be done to move these assets over before being subject to the US thresholds.
3. Evaluate significant life expenses coming up to assess when you might need liquidity.
4. Evaluate the age of parents, children and potential estate inheritances to you and from you to the children.
5. Get a will in India in place before you leave.

6. Setting up a trust in India before getting a GC may be required when asset holdings are significant in India.
7. Closely held family businesses, patnerships, companies and HUFs should be looked at before exposing yourself to US taxation of exclusively Indian earnings thus far.

FEMA

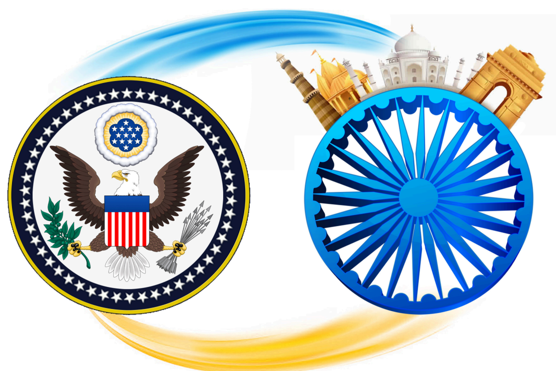
1. FEMA residency to be assessed.
2. Once you know you are leaving for an indefinite period of time, consider making children nominees or second holders (either/or) for ease of transfer of liquid assets in DMAT or India bank account.
3. Consider changing the accounts to Non resident bank accounts in India.
4. Consider moving some of the funds under the permissible LRS limits before you move.
5. To this end set up a US bank account as quickly as possible
6. Put a repatriation plan for sale of assets and LRS limits when you become a US resident (NRI for FEMA).

Investment

1. Review your portfolio and income sources and determine how these investments are treated in the US.
2. Understand your FATCA obligations for the move before not after so you will not default in any reporting obligations that can potentially become expensive in the future.
3. If you have significant gains, you might want to liquidate these in India and confine your taxes to India.
4. Reinvestment strategies should be kept in mind thereafter keeping both US and India rules.
5. Refer to the investment section where we have talked a little bit about the tax impact on liquid assets.
6. If you are making a significant sale and reinvestment in India under the Indian rules for tax savings, it is best done before the greencard arrives.
7. Capital gains computation in the US and India will be different. Make sure you have these computed ahead of the greencard and evaluate if the sale should happen before or after the greencard.

Parallel Universes

Stories and scenarios you can relate to, for families in the US and in India, to help you understand the complexity (and humour) involved in financial planning.



Saroja and her daughters

What Saroja loved most about her life in Chennai, aside from her family, was her activities; her morning walks in the neighbourhood, during which she'd greet many neighbours and catch up on their lives (Nithya's son finally passed his 12th grade exams on his third attempt), leisurely cook her lunch (curry leaves and spinach from her terrace garden), and her afternoon Bhagavad Gita classes. Her husband had passed away two years ago, and she misses his companionship, but she decided to live a full life and made room for friends and hobbies. On Sundays she drives out to her farm, sometimes with her daughter, Amla, or her friends from the Bhagavad Gita class, where she lovingly tends to her plants while the smell of fresh earth reminds her of her childhood and the decades after. Nostalgia is bittersweet.

Saroja is a passive partner in her husband's firm, and she owns a few properties in India (including that beautiful farm), fixed deposits that earn interest – overall, around $4mm in assets and another $100,000 in annual income.

Saroja's younger daughter, Amla, lives in Chennai and her older one, Aarti, lives in California. Aarti has been going through a rough time for a few years, and Saroja wonders if she should move to the US, on a Green Card, to spend time with her and help her raise her family. Amla is a US citizen as well, and she might go back there someday, but at the moment she's engrossed in her work in Chennai.

Saroja and her daughters are trying to figure out tax implications in the event that Saroja does decide to apply for a Green Card.

Luckily, or as US tax laws would have it, her daughters will not have to pay any tax when they inherit their father's wealth because he was an Indian citizen. Saroja may be subject to US tax laws, but only 8 years after her Green Card is issued and only if her total estate value is under $11.8mm. However, if Saroja were to sell her property after getting a Green Card, she will be subject to Indian taxation rules. Since these properties are Indian locus assets, she would first be subject to Indian capital gains computations.

Unfortunately, things get more complex in the US. As a Green Card holder, Saroja should also declare the capital gains on her US tax returns. The capital gains taxes paid in India can be used to offset the taxes in the US. However, the US uses the FMV on the date of death as the cost basis. This could result in markedly different computations for US vs Indian taxes with Indian capital gains being higher.

It's important to note that capital gains computation, for US purposes, allows one to use the exchange rate that was prevailing on the date of purchase and date of sale respectively. This, indirectly, is recognition for the loss in exchange rate while computing the capital gains.

All of these factors contribute to significantly different capital gains computation in India and US. There is opportunity for each of Saroja's properties to be evaluated in isolation and the most optimal reinvestment option chosen in India such that she gets the most utilization of any capital gains tax paid in India as a credit in the US leaving as little as possible to be paid to the US. If Saroja does decide to get a Green Card and spend more time with her daughter Aarti in California, perhaps she should sell the properties with the most gains before she leaves India to reduce her US tax

exposure. Also, the US imposes a tax called Net Investment Income tax that will kick in after one year with a significant sale. This is 3.8% additional tax to the feds that cannot be credited with any tax paid in India. She might need a real estate professional to help her through this. This is a lot more reality-based nitty gritty to consider in comparison to the philosophy of her Bhagavad Gita classes that she enjoys so much.

Fortunately, the situation with her partnership in her husband's company is slightly less complex. While her share of income will have to be reported to the IRS, taxes paid by Indian partnership will be allowed as a credit in the US. Essentially, at her income levels, Saroja's Indian taxes will more than offset the US taxes.

Thinking about all of this from pure financial terms wasn't the only task ahead, although it was reassuring to Saroja to know that moving to the US on a green card wouldn't put her finances in jeopardy. However, there's also her life to consider – is she willing to give up this weather and the routine she worked so hard to create? Isn't life supposed to be lighter and fun in your 60s and 70s? How does she reconcile that with the need and desire to help her daughter in California, and to some degree, put both her daughters at ease that she can live in the US where they will also spend the greater part of their lives?

Satyam and his children

Satyam had spent most of his life working hard and fulfilling what he saw was his responsibility: providing for his family. He did well, career-wise, and as with most of us with busy lives, time whizzed by. Now, at 70, Satyam finally gets to enjoy some of the fruits of his life by slowing down and observing time more mindfully. Sadly, his wife Meenakshi, passed away a year ago and that has left him with a melancholy longing. Many days are spent admiring his garden while sipping coffee, reading the papers, going for walks in the neighbourhood, and listening to the news. He often feels pangs of sadness, but not quite regret because he doesn't know how he would do it all differently, when he thinks of the hours spent at work and time with his family sacrificed as a result. How is one supposed to do it all when time is limited?

Satyam has two sons who live in the US and who are keen on him joining them there, especially after the passing away of their mother. Satyam does like the idea of spending more time with them and their families, but living in India is all he has ever known, and it's tough to make an adjustment at the age of 70.

Considering the financials of the move, Satyam first ran through his assets in his mind. He has taxable investment income in India with his investment portfolio consisting of equities, mutual funds and FDs. He has some real properties in India, so what would the financial repercussions be, were he to get a Green Card and move to the US? First one would have to look at the size of his investments in each of the buckets to determine FATCA filing obligations. From an Income Tax reporting standpoint, once the Green Card comes through, he would need to file tax returns in the US combining his income in both countries. He might have no additional liability as a result of the effective India rate being higher than the US at those income levels – in fact, it almost always is the case as Indian tax slabs accelerate rapidly than for the corresponding income in the US.

As far as estate and exit tax consequences go, Satyam should have no exit tax obligations for the first 8 years that he holds his green card (exit meaning a surrendering of the green card). If he exits

post that time period, and if his net worth is USD 2mm, he will be liable to pay an exit tax to the IRS computed on the net unrealized gain on his assets over approximately 700K at long term capital gains rates. And after his lifetime, Satyam's assets will pass to his children free of estate tax as long as the total value is under the prevailing lifetime exemption (today it is 11.2mm, and expected to drop to sub 6mm levels in 2026). It's probably best that he gets his estate planning in order, Satyam thinks to himself, and considers making settlements in favor of the children, before he leaves India and before he gets the Greencard, to ensure a seamless transfer to the kids after his lifetime with no current income tax obligations.

So all finances pondered, it seems like Satyam's move to the US won't hurt him or his sons financially. His kids really want him to move, so now it might be a question of taking the time to process this big change, and move onto the next era of his life.

We are growing (recruitment is on)!

Ventura Pranas is an international accounting firm with its headquarters in Los Angeles (California), and offices in Chennai, Bangalore and Hyderabad. Since it is a blend of a CPA firm from the US with an Indian CA firm, Ventura Pranas will provide you with exposure to both US and Indian practices in all departments: accounting, tax, audit and technology. Here at Ventura Pranas, we do all the work that the Big 4 does, but at accessible rates. We do cross border work, and we're looking for bright, energetic, committed people to be a part of our team.

We are hiring in all departments - production and non-production, operations, human resources and management. Send us your resume and a few lines about why you'd like to work at Ventura Pranas to hr@venturapranas.com.

For those wanting to pursue articleship and certification as a CA, let us know. Srinivasan R & Associates is an Indian Partnership firm of Chartered accountants.

How you can get some face-to-face time with Prabha Srinivasan

Ventura Pranas is now 8 years old. We have grown thanks to you, and as we've grown, we have also added several senior level resources to assist with consulting needs. As with every growing firm,

some of the personal touches that were a huge part of our identity when we were small become hard to retain. But we're determined to think of clients as extended family- we've got your back and we are your well-wishers.

Video Call option

Since Prabha Srinivasan cannot attend to every client personally (given time constraints, offices in different cities and time-zones, etc.) she encourages you to get on a video call with her on zoom if you'd like some face-to-face vitural time with her. To do this, simply email her scheduling team at ea@venturapranas.com and mention a gist of what you would like to specifically discuss with her and they will have potential times emailed to you for a meeting. Email Prabha directly at psrinivasan@venturapranas.com or send her a message via Whatsapp at +919940095879

Meet Prabha in person in these cities:

Los Angeles: Feb 27 - March 11, 2020

Hyderabad: Week of March 16, 2020

Mumbai: Week of March 16, 2020

Los Angeles: March 22 - April 20, 2020

UK - London: July 6, 7, 8, 2020

New York City: July 9, 10, 2020

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