For Individual

1) Does NRIs need to pay tax in India?

Income earned by NRI outside India is not taxed in India. An NRI need not pay tax on the interest income in a non-resident external account (NRE) or foreign currency non-resident account. (FCNR). There is no need to file income tax return if NRI don't have any taxable income here. However if the income in India through capital gains, rent, dividend or interest beyond the threshold limit (exempted limit) will have to file income tax returns.

2) You are entitled to pay taxes under following circumstances:

- Trading Income
- Property / Plot / House Income
- Income from any family assets
- Salary earned in India for services in overseas
- Extra Bonus paid by any Indian company
- In the form of Interest rates paid by NRI to government, bank,
- Fees under industrial duty

3) NRI Deductions in IT:-

NRIs can save taxes by investing in pension plans, LIC and tax saving mutual funds, home loan repayment of principal and interest under relevant section of 80C and 24 are also allowed up to certain limits. Health insurance purchased by NRIs is also allowed as deductions up to Rs.35000 for self and family including parents. Capital gains up to Rs.50 lakhs earned from selling a capital asset can be invested in bonds of NHAI or REC.

4) There are mainly two ways that a NRI can make income:-

Initially via rental income from his property which gets deposited to his NRE account. As NRE bank accounts are on a repatriation basis, you can make transfer your earnings abroad anytime. All NRIs can be benefited from income tax exemption on NRE accounts. Though, income held in NRO accounts is made taxable. As all these investments are made from NRE accounts only, having income tax exception will persuade them to make more investments. You can invest through shares, insurance, mutual funds, debentures and other depositional plans. Insurance policy is another way to enjoy tax exemption. As procedures are same as for regular citizen, NRIs are required to file Return of Income (ROI), provided your yearly income in any financial year is more than the exemption limit of 1Lac INR. You can also fill the Form 2A if your income is less than Rs. 2 lakhs, where you aren’t in any business or job or you have not carried forward your losses. By chance your income is above Rs. 2 lakhs, then same “SARAL” form procedure is valid for NRIs. In case you want to take benefit from double taxation treaty, then you need to submit the Residency Certificate issued by the income tax department of your country of residence. Submit this Residential certificate to NRI India’s Bank Saving account. From then onwards, the bank will directly apply the new rate of TDS on your savings.

For Company

Since post assessment collection of taxes is difficult from a non-resident assessee by virtue of his residence and business activities being outside India, TDS is an imperative mode of tax collection. In such cases the rate of TDS also equates the tax rate.

The estimated income approach in Section 44B to 44BBB relating to taxation of certain categories of income in case of foreign companies is lined with TDS as a mode of collection.

Section 195 provides for deduction of tax at source as per rates in force which are specified in Annexure-1. Following are the sections dealing with presumptive rate of taxation in regard to income of foreign company. The tax payable is deducted at the time of remittance.

Section	Nature of Income	% of gross receipt Chargeable as Tax and liable for TDS
115A	Non-residents (Not a company) and foreign company : Dividends / Interest / income from units	20%
	Foreign company: Royalty / fees for Technical services.	30%

Note 1: Lower rate provided in Double Taxation Avoidance agreement would prevail over these rates wherever they exist.

Note 2: The rate of 30% is reduced to 20% or 10% in respect of royalty or fees for technical services depending on whether the fees is received pursuant to an agreement made after 31.5.1997 but before 1.6.2005 or whether it is made on or after 1.6.2005. Now, a foreign company deriving royalty and fees for technical services have to bifurcate its royalties and fees into 3 parts as follows:-

a) Royalty and fees received pursuant to an agreement made on or before 31.5.1997 and
b) Royalty and fees received pursuant to an agreement made after 31.5.1997 but before 1.6.2005.
c) Royalty and fees received pursuant to an agreement made on or after 1.6.2005.

On the first part, tax would be payable @30%; on the second part, tax would be payable @ 20% and on the third part, tax would be payable @10%.

Section	Nature of Income	% of gross receipts
44B	Receipt from shipping business	7.5%
44BB	Business of exploration of Mineral oils	10%
44BBA	Business of operation of Air-craft	5%
44BBB	Approved turn-key Power project	10%

NRI Gift Provision:- (As per FEMA)

Gift Tax has been abolished in India since 30.9.1998. Hence, there is no gift tax whatsoever for any gift including gift of immovable property.

However amounts of gifts exceeding Rs.50,000/- received from persons who are not covered by the definition of 'close relative ' are to be taxed as taxable income in the hands of the donee.

However, with effect from 1st October 2009, amount of gifts exceeding Rs. 50,000/- received from a person who is not a close relative of the donee, is to be included in taxable income of the donee. As such, donee is required to pay income tax on the amount of gift or market value of movable properties.

Provided further that this clause shall not apply to any sum of money or any property received

- from any relative; 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 payer or donor, as the case may be; or
- from any local authority as defined in the Explanation to clause (20) of section10; or
- from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section10; or
- From any trust or institution registered under section 12AA.
- Explanation. For the purposes of this clause,
- Assessable means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purpose of the payment of stamp duty.
- fair market value of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;

- jewellery includes-
  - (a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;
  - (b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;
- property means
  - (a) immovable property being land or building or both;
  - (b) shares and securities;
  - (c) jewellery;
  - (d) archaeological collections;
  - (e) drawings;
  - (f) paintings;
  - (g) sculptures; or
  - (h) any work of art;
- For the purposes of this clause, relative means
  - (a) spouse of the individual;
  - (b) brother or sister of the individual;
  - (c) brother or sister of the spouse of the individual;
  - (d) brother or sister of either of the parents of the individual;
  - (e) any lineal ascendant or descendant of the individual;
  - (f) any lineal ascendant or descendant of the spouse of the individual;
  - (g) spouse of the person referred to in clauses (ii) to (vi);
- stamp duty value means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an

NRI Gift Provision: - [As per Section 56(vii) of IT Act, 1961]

- ❖ Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head Income from other sources, if it is not chargeable to income-tax under any of the heads specified in section 14, items A to E.

- ❖ In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head Income from other sources, namely :

(vii) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009,

(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(b) any immovable property,

(i) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(c) any property, other than immovable property,

(i) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration :

Provided that where the stamp duty value of immovable property as referred to in sub-clause (b) is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of sub-clause (b) as they apply for valuation of capital asset under those sections :

- Provided further that this clause shall not apply to any sum of money or any property received
- from any relative; 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 payer or donor, as the case may be; or
- from any local authority as defined in the Explanation to clause (20) of section 10; or
- from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or
- from any trust or institution registered under section 12AA.