Foreign Assets held outside India

If any individual has assets located outside India (**foreign assets**), such individuals are required to file a tax return to report such foreign assets irrespective of the income of the assessee.

Applicability

- Individual or HUF Resident and Ordinarily Resident.

Comment [MVP1]: As per Budget proposal reporting of foreign assets is applicable to both ROR and RNOR.

However, review of the new forms indicates that reporting is not applicable to RNOR

Clarity has to be seeked from the government for the same.

Points to be noted

- Section 139(1) is amended by Finance Bill 2012, which states the following points:
  - If the Individual or HUF ROR has foreign assets, filing of tax return is **mandatory** even if the resident does not have any taxable income.
  - Return has to be filed electronically even if the taxable income does not cross 10 Lakhs
- New ITR forms (ITR-2, ITR-3 and ITR-4) have been notified by government for F.Y.2011-12. In these forms **Schedule FA** has been inserted.
- The information is required to be reported in INR.

Foreign Assets

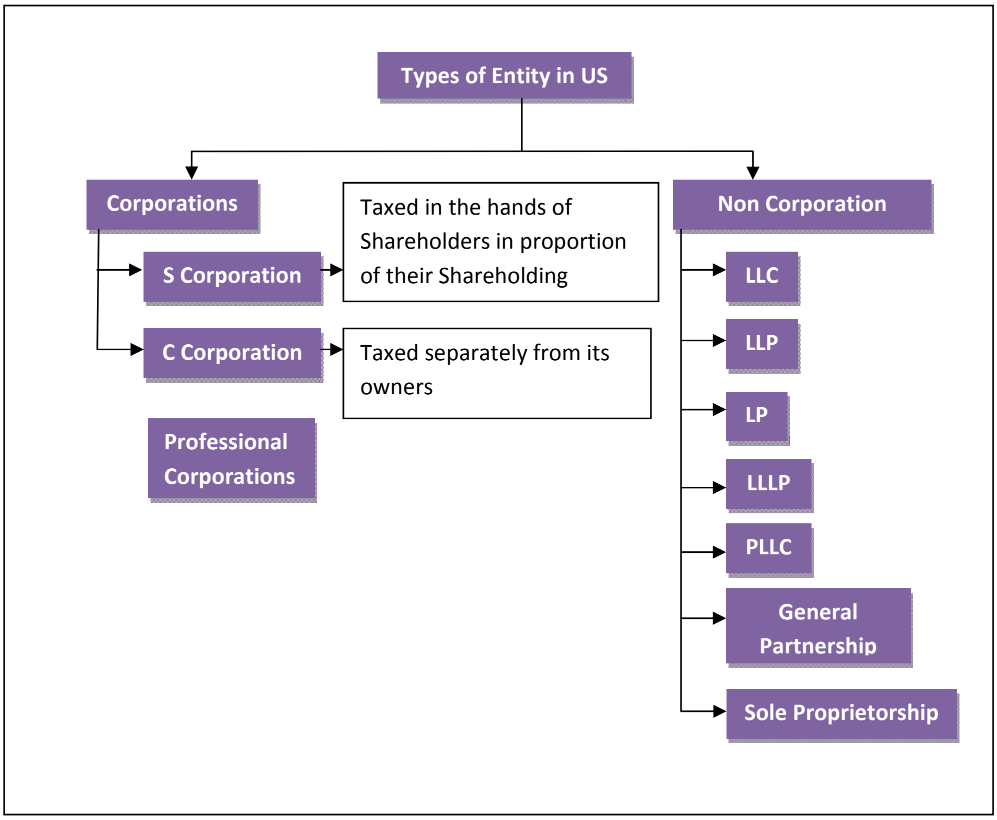
- Foreign Bank Accounts; or
- Financial Interest In any Entity outside India; or
- Immovable Property outside India; or
- Any other Asset outside India; or
- Details of account(s) in which the assessee has signing authority

Clarity on Foreign Assets

- The ITR form requires details of 'Financial Interest'/'any other asset' located outside India without defining what would be considered to be a 'Financial Interest' or an 'asset'
  - Which would mean that **all assets held outside India**, such as motor car, jewellery, etc., would be required to be reported
- The word used in the Finance Bill 2012 ‘any asset’ is wide enough to cover all assets held by an individual outside India

Types of Entity

Types of Entity in US



- **Corporations** (Corp Inc.,)
  - **S Corporation:** S corporations do not pay any federal income taxes. Instead, the corporation's income or losses are divided among and passed through to its shareholders. The shareholders must then report the income or loss on their own individual income tax returns. Cannot have more than 100 Shareholders
  - **C Corporation:** C corporation refers to any corporation that, under United States income tax law, is taxed separately from its owners
  - **Professional Corporations (PC) :** Are those corporate entities for which many corporation statutes make special provision, regulating the use of the corporate form by licensed professionals such as attorneys, architects, accountants, and doctors
- **Non Corporations:**
  - **Limited Liability Companies (LLC)**
  - **LLP:** Same as Indian LLP
  - **Limited Partnership (LP) :** a partnership where at least one partner has unlimited liability and one or more partners have limited liability
  - **Limited Liability Limited Partnership (LLLP):** a combination of LP and LLP

- **Professional Limited Liability Company (PLLC):** States which do not allow professionals to form LLC instead allows forming PLLC. Same as that of LLC
- **General Partnership**
- **Sole Proprietorship**

Types of entity in United Kingdom (UK):

- **Company**
  - **Private Company**
    - **Limited by Shares**
    - **Limited by Guarantee**
  - **Public Company**
  - **Unlimited company**
- **Non –Companies**
  - **General Partnership**
  - **LLP (Limited Liability Partnership)**
  - **LP (Limited Partnership)**
  - **Sole proprietorship**

Types of entity in Singapore:

- **Company**
- **LLP**
- **General Partnership**
- **Sole Proprietorship**

Examples of Any other assets outside India

- **Current Assets** such as cash and cash equivalents,
- **Investments in foreign markets** such as American depository receipts, U.S. Traded Foreign stocks, etc.,
- **Jewellery, Diamonds etc.,**
- **Intangible Assets** such as Patents, copyrights, franchises, trademarks etc.,

Conclusion

An Individual or HUF ROR is required to disclose all his foreign assets (as mentioned above), if any while filing the return of income in Schedule FA