

TAXATION



Income Tax Department

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TAXATION OF INTEREST ON DEPOSITS MADE BY NON RESIDENTS IN INDIAN BANKS AND ON LOANS GIVEN BY FIIs/FPIS TO INDIAN CORPORATES

Q1. Whether interest income of non resident individual with regard to the deposits made in any bank in India is taxable in India ?

Ans. Yes, the interest income of non resident individual whether in the ordinary Saving Bank accounts or in the NRO (Non Resident Ordinary accounts) or by way of FDRs, Term Deposits etc. is taxable in India as per the prescribed slab rates and TDS will be deductible at the rates applicable for that year {Sec. 56(2) and Sec. 5(2)(b) of the Income Tax Act, 1961}.

Q2. Whether interest income arising to a non resident individual from the Non Resident (External) account in any bank in India is taxable in India ?

Ans. In the case of non resident individuals, any income by way of interest accruing to them in a Non Resident (External) account in any bank in India is exempt from tax {Sec. 10(4)(ii)}.

Q3. At what rate is the income of non residents (including companies) by way of interest from infrastructure debt fund referred to in Section 10(47) of the Act, taxable in India ?

Ans. Such interest income are taxed at concessional rate of 5% under section 115A(1)(a)(iia) of the Act and TDS on such interest income will be deductible @5% {Sec 194LB of the Act}.

Q4. At what rate is the income of non residents (including companies) by way of interest from Indian companies/business trust payable for the money borrowed in foreign currency from a source outside India under a loan agreement or by way of issue of any long term bond including long term infrastructure bond, taxable in India ?

Ans. Such interest income is taxable at concessional rate of 5% under section 115A(1)(a)(iiaa) of the Act and TDS on such interest will be deductible @5% by the Indian company/business trust making such payment. Loan Agreement is required to have been entire between 01.07.2012 to 01.07.2020 and the long term bond is required to have been purchased between 01.07.2014 to 01.10.2020. The loan agreement/long term bond is also required to be approved by the Central Government. Similarly, TDS will be deductible @5% on the interest paid to non residents by way of issue of rupee denominated bonds before 01.07.2020. The rate at which interest is paid is required to be as per the rate

approved by the Central Government in this behalf (Sec 194 LC).

Q5. At what rate is the interest received by Foreign Institutional Investors/Qualified Foreign Investors in respect of investment made in Government securities or rupee denominated bonds of Indian companies during the period 01.06.2013 to 01.07.2020 shall be taxable in India ?

Ans. Such interest income is taxable at concessional rate of 5%, TDS on such interest amount is deductible @5%. The rate at which interest is paid for rupee denominated bond is required to be as per the rate approved by the Central Government in this behalf {Sec. 194LD}.

Q6. At what rate is the income of non residents (including companies) by way of interest from Indian companies/Government Income tax on amounts borrowed or debt incurred (Sec. 195) in foreign currency, taxable in India ?

Ans. Yes, such interest income other than income referred to in Q. Nos. 3, 4, and 5 above is taxable @20% and TDS @20% for F Y 18-19 will be deducted accordingly {Sec. 115A(1)(a)(ii)}.

Q7. At what rate is the income of non residents by way of interest on bonds (FCCBs/GDRs) of an Indian company issued in accordance with such scheme as approved by the Central Government and purchased in foreign currency, taxable in India ?

Ans. Such income is taxable in India @10% of the Act {Sec. 115AC}.

Q8. At what rate is the interest income of Foreign Institutional Investors from securities as defined in Section 2(h) of the Securities Contracts (Regulation) Act, 1956(except the cases covered in Section 194LD as above) taxable in India ?

Ans. The same is taxable in India @20% {Sec. 115AD}.

Q9. Whether the non residents can claim the benefit of Double Taxation Avoidance Agreement (DTAA) between India and the concerned country for which they are resident ?

Ans. Non residents can avail the benefit of specific Article of the Double Taxation Avoidance Agreement between India and the country of which they are resident if the provisions of the DTAA are more beneficial to them. In such cases, the interest will be taxable in India as per the rate given in the respective Article of the DTAA. They can also claim credit of the tax paid in India in the returns to be filed by them in the country of their residence as per the respective Article of the DTAA.

Q10. In what situation, can a recipient of interest income request the concerned payer (bank/Indian company) to deduct tax at a lower rate than the rate mentioned above ?

Ans. The recipient of interest income can make an application to the assessing officer in Form No. 13 giving details of the total interest income to be received by him and any other income received/receivable by him in India during concerned financial year. If the assessing officer is satisfied that the facts of the case justify deduction of tax at a lower rate or Nil rate, as the case may be, he may issue him an appropriate certificate.

For making such application to the assessing officer, it is mandatory for the recipient of interest to have his PAN and he must quote the TAN of the payer of interest.

All the non residents can now apply online (after registering on the TRACES website www.tdscpc.gov.in/app/login.xhtml) for the issue of the desired certificate at lower rate. For non residents filing of online application is optional till 31.03.2019, however, w e f 01.04.19 only online applications will be acceptable.

Q11. How the TDS certificate will be issued to the deductee ?

Ans. The payer of interest income/deductor is required to provide TDS certificate to the recipient of interest income/deductee in Form No. 16A within 15 days from the due date for furnishing the required online quarterly TDS statement in form No. 27Q by it.

Q12. Who is a non-resident under the Income Tax Act ?

Ans. The residential status is determined for every financial year, i.e., the period from 1st April to 31st March of the next year. For more details please refer to TPI series brochure titled as 'Determination of Residential Status under Income Tax Act, 1961'.

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This brochure should not be construed as an exhaustive statement of the law. For details - reference should always be made to the relevant provisions in the Act and the Rules.

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