

NRI Taxation in India under the Income-tax Act, 2025: Residential Status, Taxable Income, NRE and NRO Interest and TDS (Tax Year 2026-27)

Description

Last updated: 29 July 2026 · Written and reviewed by CA Meet Dhrangadhariya, CSM & Co LLP

Quick summary

- Under section 6 of the Income-tax Act, 2025 an individual is resident if in India for 182 days or more in the tax year, or for 60 days or more in it and 365 days or more in the four preceding years (120 days instead of 60 for a citizen or person of Indian origin visiting India with Indian income above ?15 lakh); otherwise the person is a non-resident.
- A non-resident is taxed only on income received, deemed received, accrued or arisen in India (section 5(2)); a resident other than not ordinarily resident is taxed on world income.
- Interest on a Non-Resident (External) account is exempt (Schedule IV, Sl. No. 1); NRO and fixed deposit interest is taxable, and the bank deducts tax at the rates in force (section 393(2), Table Sl. No. 17).
- The rebate for low income (section 156) is only for resident individuals, and the duty to report foreign assets in the return (section 263(1)(a)(ix)) falls on a resident other than not ordinarily resident, so a non-resident is outside it.

Whether an Indian citizen who lives abroad pays tax in India depends first on **residential status**, and then on what kind of income is involved. This post follows the Income-tax Act, 2025 (from 01/04/2026), which replaces sections 5, 6 and 9 of the 1961 Act with **sections 5 and 6**, among others. “NRI” is not a defined term for residence: the Act speaks of resident, not ordinarily resident, and non-resident.

Step 1: Residential status of an individual (section 6)

An individual is **resident in India** in a tax year if:

- (a) in India for a total period of **182 days or more** in that tax year; or
- (b) in India for **60 days or more** in that year **and** for **365 days or more** in the **four preceding** tax years (section 6(2)).

Exceptions and changes:

Case	Effect	Section
Indian citizen who leaves India as a crew member of an Indian ship, or for employment outside India	Test (b) does not apply, so 182 days is the test	6(3)
Indian citizen or person of Indian origin who is outside India and visits India	Test (b) does not apply	6(4)
The same person, with total income other than income from foreign sources above ?15 lakh	Test (b) applies with **120 days** instead of 60	6(5)
Indian citizen not liable to tax in any other country by reason of domicile, residence or similar criteria, with total income above ?15 lakh (other than foreign source income)	**Deemed resident** (but not ordinarily resident)	6(7), 6(13)(c)

A person who is not resident is a **non-resident**.

Not ordinarily resident (section 6(13))

A resident individual is **not ordinarily resident** if:

1. non-resident in **nine out of the ten** preceding tax years, or in India for **729 days or less** in the seven preceding tax years; or
2. a citizen of India or person of Indian origin whose total income other than foreign source income exceeds ?15 lakh and who was in India for **120 days or more but less than 182 days** in the year; or
3. an Indian citizen who is deemed resident under section 6(7).

“Income from foreign sources” means income that accrues or arises outside India (except income from a business controlled in or a profession set up in India) and is not deemed to accrue or arise in India (section 6(14)). For a company, residence turns on being an Indian company or having its place of effective management in India (section 6(10)); for a HUF, firm and others, on control and management being wholly outside India or not (section 6(9) and (11)).

Step 2: What income is taxed (section 5)

Status	Taxable in India
Resident (ordinarily resident)	Income from all sources: received or deemed received in India, accruing or arising in India, or accruing outside India (section 5(1))
Not ordinarily resident	Income received in India, accruing or arising in India, and income from outside India only if derived from a business controlled in or a profession set up in India (section 5(1)(c))

Status	Taxable in India
Non-resident	Only income received or deemed received in India, or accruing, arising or deemed to accrue or arise in India (section 5(2))

Foreign income that is merely taken into account in a balance sheet prepared in India is not deemed received in India (section 5(3)).

Step 3: Rates and relief

- The slab rates in section 202(1) apply to an individual's total income, and the new regime is the default unless the person opts otherwise. The rebate under section 156 (up to ?12 lakh of income in the new regime, and the smaller rebate in the old regime) is available only to a **resident individual**, so a non-resident does not get it. The ?4 lakh nil slab still applies as part of the rate table.
- **Capital gains** are computed under the capital gains sections; those rules and rates are covered in our posts on capital gains.
- **Tax treaty relief and foreign tax credit** for income taxed in both countries is given under sections 159 and 160.

Bank accounts: NRE, NRO and FCNR

Account	Tax position
NRE (Non-Resident (External))	Interest is **not included** in the total income of an individual who is a person resident outside India under FEMA (or is permitted by the RBI to keep the account) (Schedule IV, Sl. No. 1)
NRO (Non-Resident Ordinary)	Interest is taxable income; the bank deducts tax at the **rates in force** (section 393(2), Table Sl. No. 17)
FCNR	The exemption for FCNR(B) deposits under the 2025 Act depends on the residential status rules and was not verified in the Schedules for this post

An individual who becomes resident should tell the bank, because the NRE exemption is for persons resident outside India.

TDS on payments to a non-resident (section 393(2))

For payments to a non-resident, section 393(2) lists the cases. The general rule in Table Sl. No. 17 covers any interest or other sum chargeable under the Act, other than salary, paid to a non-resident (not being a company) or a foreign company, at the **rates in force**, which are fixed each year by the Finance Act. Special rates exist for items such as non-resident sportsmen and entertainers (20%), interest on certain foreign currency loans and bonds (4%, 5% or 9%) and income of a specified fund (10%). Where a tax treaty applies and the payee furnishes the certificate in section 159(8), the treaty rate is used if it is lower than 20% in the cases for which Note 2 to the Table applies (units of specified mutual funds and income of Foreign Institutional Investors).

Sale of property or assets by an NRI. The buyer, or the authorised dealer paying out a sum to a non-resident

Indian for the transfer of a foreign exchange asset that is not short-term, is responsible for deduction (section 393(1), the persons responsible for deduction, clause (c)). The rate is “rates in force” for the type of gain (for example, the 12.5% rate on long-term gains in section 197). Whether the deduction is on the whole price or only the gain, and how a lower deduction certificate is obtained, depends on the Rules and the certificate procedure, which were not examined for this post.

Reporting foreign assets

Section 263(1)(a)(ix) requires a return of income from a person who is **resident, other than not ordinarily resident**, who held any asset (including a financial interest in an entity) located outside India or has signing authority in a foreign account at any time in the tax year. A non-resident or a not ordinarily resident individual is outside this clause. Other reasons for filing a return, such as taxable Indian income above the basic exemption limit or a loss to carry forward, still apply.

Practical points

1. Count days carefully each year; the 182-day, 60-day, 120-day and ?15 lakh tests depend on exact days in India and on income figures.
2. Do not assume that “NRI under FEMA” means “non-resident under the Income-tax Act”. The two tests are different.
3. Keep a Tax Residency Certificate and the other treaty documents ready if you want treaty benefit.
4. File a return if tax was deducted and you want a refund of the excess.

How CSM & Co LLP can help

We determine residential status, file returns for non-residents, advise on treaty relief and handle lower-deduction applications and refund claims. Please reach out to our team and we will be happy to assist.

Frequently asked questions

How is an NRI’s residential status decided?

An individual is resident in India in a tax year if (a) in India for 182 days or more in that year, or (b) in India for 60 days or more in that year and for 365 days or more in the four preceding years (section 6(2)). A citizen of India who leaves India for employment outside India, or as a crew member of an Indian ship, is outside test (b) (section 6(3)). A citizen of India or a person of Indian origin who visits India is outside test (b) as well (section 6(4)), but if the person’s total income other than income from foreign sources exceeds ?15 lakh, the 60 days becomes 120 days (section 6(5)).

What is “not ordinarily resident”?

A resident is not ordinarily resident if the individual was non-resident in nine of the ten preceding tax years, or was in India for 729 days or less in the seven preceding tax years (section 6(13)(a)); or is a citizen of India or person of Indian origin with Indian income above ?15 lakh who was in India for 120 days or more but less than 182 days in the year (section 6(13)(b)); or is a citizen deemed resident under section 6(7) (section 6(13)(c)).

Who is deemed resident?

An Indian citizen who is not liable to tax in any other country or territory by reason of domicile, residence or similar criteria, and has total income above ?15 lakh excluding income from foreign sources, is deemed resident in India (section 6(7)), but is treated as not ordinarily resident (section 6(13)(c)). Section 6(7) does not apply to a person who is resident under the ordinary tests (section 6(8)).

What income of an NRI is taxable in India?

Income received or deemed to be received in India, and income that accrues or arises, or is deemed to accrue or arise, in India (section 5(2)). Income that arises outside India and is not received in India is not taxed, and income is not taxed twice on the received basis once it is taxed on the accrual basis (section 5(4)).

Is NRE account interest taxable?

No. Interest on money in a Non-Resident (External) Account is not included in the total income of an individual resident outside India under FEMA, or one permitted by the RBI to maintain the account (Schedule IV, Sl. No. 1, read with section 11). NRO account interest is taxable.

Does an NRI need to report foreign assets in the Indian return?

The requirement to furnish a return because of foreign assets, or signing authority in a foreign account, applies to a resident who is not “not ordinarily resident” (section 263(1)(a)(ix)). A non-resident is outside that clause, though a return may still be needed for other reasons, such as income above the basic exemption limit.

Official sources

- Income Tax Department: Income-tax Act, 2025 (sections 5, 6, 11, 156, 202, 263, 393, Schedule IV)

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Author
meetsoni