

FinTax hour WIW 2024 –
Taxation of income from investment in securities

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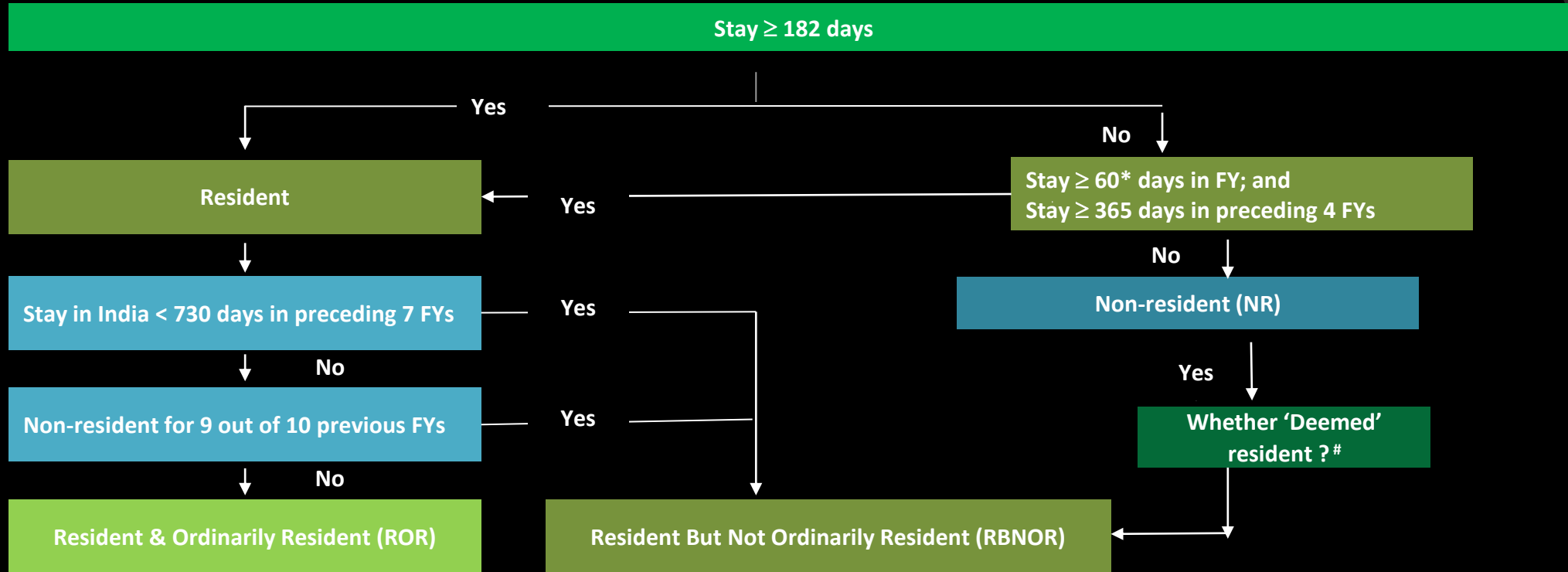




**Income-tax for resident individuals on
investment in securities**

Resident Individual: Definition

- Residential status is required to be to understand the scope of taxability and is mainly based on the physical presence of the individual in India.



- 60 days stands extended to 182 days in below cases –
 - **Indian citizen** who leaves for the purposes of taking employment outside India.
 - **Indian citizen or person of Indian origin (PIO)**, who being outside, come to India on visits and having India source income not exceeding INR 15 lakh during the relevant FY.
- If India sourced income exceeds INR 15 lakh then the 60 days stands extended to 120 days and such individuals will be regarded as RBNOR.

#Deemed resident means the **Indian citizen** who is not liable to tax in any other country/territory by reason of his domicile or residence or any other criteria of similar nature and have India source income exceeding INR 15 lakh during the relevant FY



Income from investment in securities

Shares/ Mutual Funds

- Dividend income taxable as 'Income from Other Sources' at slab rates
- Exemption from TDS on dividend not exceeding INR 5,000
- Buyback of shares

From 1 Oct 2024

- Buyback proceeds from all domestic companies taxed as "dividends"
- Sale consideration deemed to be nil; Cost of acquiring shares to be claimed as capital loss
- TDS at 10% for resident shareholders [Section 194]

Pre- 1 Oct 2024

- Buyback tax in the hands of company at 23.30% on the distributed amount
- Exempt for investors

Bonus Stripping

- In case of securities or units purchased within a period of 3 months prior to the record date and transferred within 9 months after such date,
 - loss arising on transfer of original securities or units shall be ignored
 - loss so ignored deemed as cost of acquisition of such bonus securities or units.

Receipt of any property (including securities) without consideration or for inadequate consideration in excess of INR 50,000 as compared to the fair market value (FMV), FMV in excess of such consideration taxable [Section 56(2)(x)]

Debt Securities

- Interest income taxable as 'Income from Other Sources' at slab rates
- Tax exemption for income by way of interest, premium on redemption or other payment on notified securities, bonds, etc. [Section 10(15)]
- Exemption from TDS on interest payable [Section 193]:
 - on specified debt securities
 - On interest payable on debenture issued by an Indian Company in which public are substantially interested, does not exceed INR 5,000

Holding period threshold for long term vs short term classification



The classification of capital gains into short-term and long-term categories has been streamlined into two holding periods, replacing the previous 12/24/36 months criteria:



12 month for all listed securities, units of equity oriented mutual fund and zero coupon bond



24 months for other assets

Capital Gains: Tax rates for resident Individual

Comparative base tax rates for capital gains (excluding surcharge and cess)

in %

Type of security	Listed				Unlisted			
	Long Term		Short Term		Long Term		Short Term	
	Upto 22 July 2024	From 23 July 2024	Upto 22 July 2024	From 23 July 2024	Upto 22 July 2024	From 23 July 2024	Upto 22 July 2024	From 23 July 2024
Equity	10	12.5	15	20	20	12.5	30	30
Preference shares	20	12.5	30	30	20	12.5	30	30
Bonds/ Debentures	20	12.5	30	30	20	NA	30	30
Units of equity oriented mutual funds	10	12.5	15	20	10	12.5	30	30
Market linked Debentures	NA	NA	30	30	NA	NA	30	30
Units of a Specified Mutual Fund acquired prior to 01 April 2023	20	12.5	30	30	10	12.5	30	30
Units of a Specified Mutual Fund acquired on or after 01 April 2023	NA	NA	30	30	NA	NA	30	30

Taxation benefits on life insurance

(In case of ULIPs)

Taxation in case of maturity proceeds from ULIP

- Prior to Budget 2021, maturity proceeds from ULIP was tax exempt.
- W.e.f. 1 April 2021 gains on maturity of ULIP (issued on or after 1 February 2021) taxed by treating it as capital asset if the aggregate premium payable for ULIP in any previous year exceeds INR 250,000.

Taxation in case of maturity proceeds from ULIP

Section 10(10D) provides that the sum received under a life insurance policy (including the sum allocated by way of bonus on such policy) shall be exempt subject to fulfilment of certain conditions.

- The exemption shall not apply with respect to any ULIP if it is issued on or after 1st February 2021 wherein the amount of premium payable exceeds Rs. 2.5 lakhs in any previous year during the policy term (fourth proviso)
- If the premium is payable, by a person, for more than one ULIP, issued on or after 1st February 2021, the exemption under section 10(10D) shall apply only with respect to those insurance policies, where the aggregate amount of premium does not exceed Rs. 2.5 lakhs in any of the previous year during the policy term (fifth proviso).
- The provisions of the aforesaid fourth and fifth provisos shall not apply to any sum received on the death of a person (sixth proviso).

Note - if a fund in the ULIP meets the test of an 'Equity oriented mutual fund' as per Explanation to Section 112A, the resultant gains will be taxed as capital gains as per the provisions of section 112A.

Taxation benefits on life insurance

(In case of ULIPs)

Section 80C

- Tax deductions are allowed for premiums paid for life insurance, up to a maximum of ₹1.5 lakh each financial year as deductions

Section 80DD

- Premiums paid towards critical illness rider are eligible of tax deductions

Section 10(10D) (Maturity Benefits Taxation)

- Exemption of proceeds (including bonus) received on the death of the insured
- Exemption of maturity proceeds (including bonus) on policy issued before 1 April 2012: premium paid on the life insurance policy does not exceed 20% of the sum assured
- Exemption of maturity proceeds (including bonus) on policies issued after 1 April 2012 : premium paid on the life insurance policy does not exceed 10% of the sum assured (15% in case of disability or a disease specified under Sections 80U and 80DDB)

Recent amendment

- **The Finance Act 2023 has inserted the sixth and seventh provisos** to Section 10(10D) to provide that no exemption shall be available in respect of life insurance policies (other than ULIPs) taken on or after 1 April 2023 where the premium/aggregate of premiums (excluding GST) paid in any year exceeds INR 5 Lakh
- Further, the CBDT has clarified regarding life insurance policies issued on or after 01-04-2023

Comparative Analysis with other investment products

Investment Product	Taxation on Income>Returns	Applicable Deductions
ULIPs / other investment linked policies (e.g.. endowment)	<p>Exempt under 10(10D) (limited cases)</p> <p>Balance taxable as <u>capital gains in case of ULIP</u> or <u>other income in case of other Life insurance products</u></p>	<ul style="list-style-type: none"> Section 80C (for premiums) upto INR 150,000 Section 80D (for premiums paid towards critical illness rider)
Mutual Funds (Equity)	Capital gains on sale of mutual funds	Section 80C up to INR 150,000 (Amount invested in ELSS fund)
Fixed Deposits	Interest taxed as per slab	Section 80C up to INR 150,000 (if the deposit is made for period not less than 5 years in a schedule bank)
Public Provident Fund	Completely tax-free	Section 80C up to INR 150,000
National Pension Scheme	<ul style="list-style-type: none"> Annual accretion on contribution above specified limit taxable Amount received on closure / opting out of the scheme is taxable as per section 80CCD(3) except on death. However, amount annuitized is not taxable as per section 80CCD(5) and also 60% of the total amount payable to a taxpayer is exempt from tax 25% of the total amount payable to an employee is exempt from tax at the time of partial withdrawal 	<ul style="list-style-type: none"> Section 80C upto INR 150,000 Additional deduction of INR 50,000 available under section 80CCD(1B)

Polling question - 1

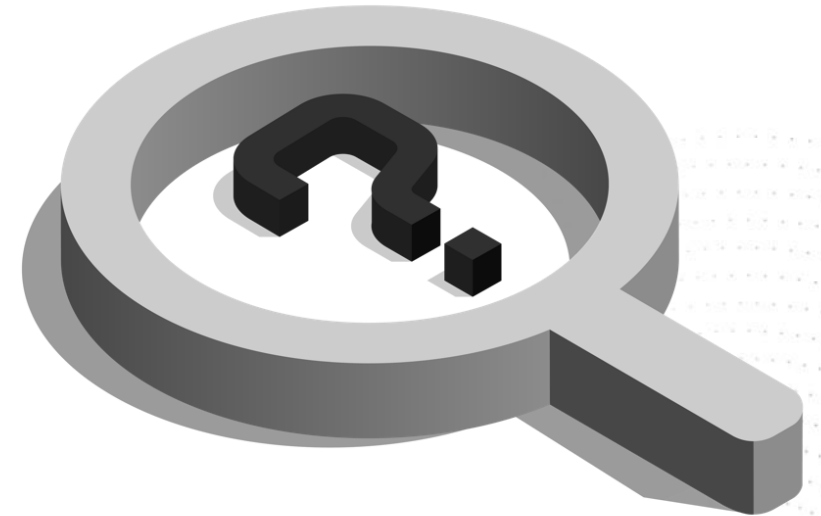


Should the tax rates on capital gains be simplified with just one rate of tax each for LTCG and STCG?

Yes

No

Not sure





Indirect taxes: GST applicability on various facets of securities

Category of Investments/Financial Products

1 Debt Instruments

- Bonds, debentures, fixed deposits (FD)
- Interest earned
- Suitable for risk averse investors

2 Equity Instruments and Derivatives

- Equity mutual funds, equity shares
- Futures, Options, Forwards, Swaps
- Dividend earned, profits/capital appreciation
- Potential for higher returns

3 Mutual Funds

- Term investor - Invest for specific term
- MF SIP – Small amounts invested regularly – compounding benefit
- Lumpsum – One time – Large investment
- SWP – One time investment – regular withdrawal over time – retirement plan

4 Insurance Policies

- Life Insurance such as Term, Endowment, ULIP, Whole Life, etc.
- General Insurance such as fixed assets, motor, marine, fire, etc.



GST Taxability on income from various Investments

Debt instruments

- Interest Income earned on deposits, loans or advances are exempted under GST

Equity Instruments & Derivatives

- Sale of equity shares, derivatives qualify under securities and hence, outside GST
- Future contracts settled on actual delivery is taxable
- Brokerage or charges or fees associated are also taxable



GST Taxability

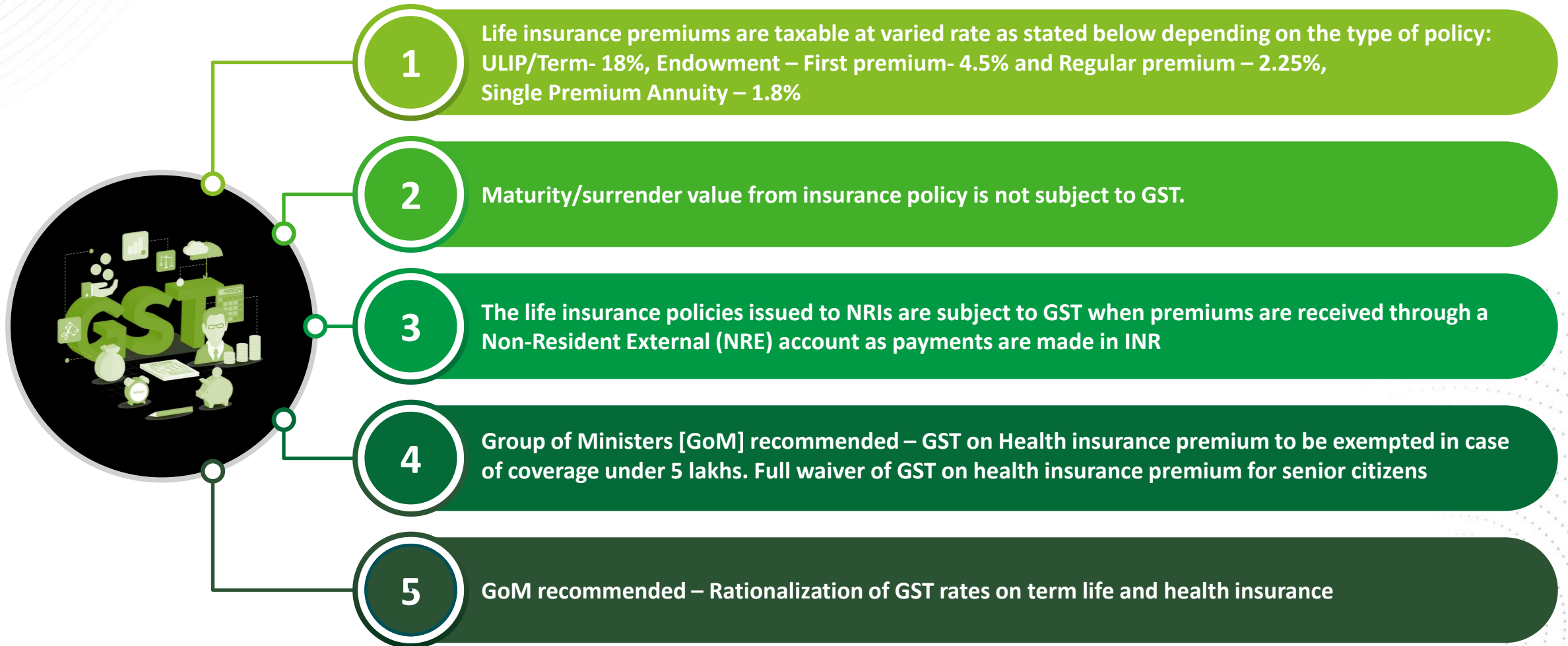
Mutual Funds [MFs]

- Exit loads charged by MFs on early withdrawal are subjected to GST @ 18%
- Sale/purchase of MFs per se are not taxable under GST

IFSC

- Services provided by intermediaries of financial services located in IFSC to customers outside India are exempted from GST

GST Taxability on income from Insurance Products:



Polling question - 2

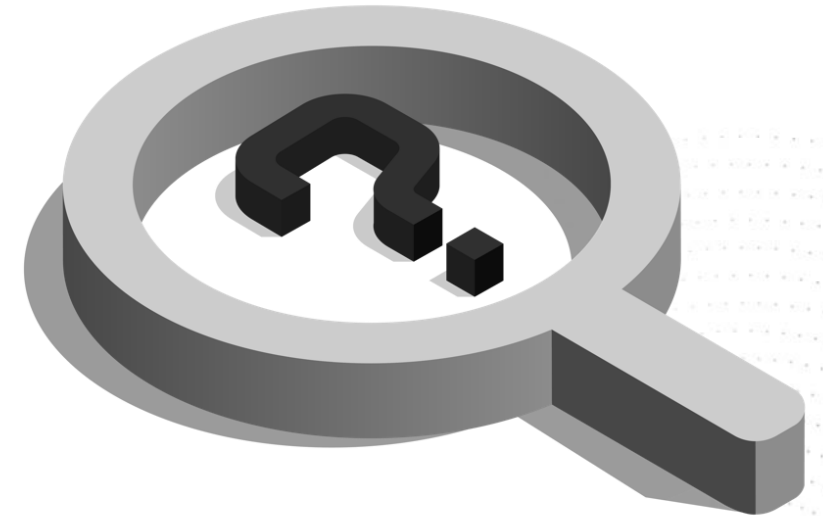


We have been seeing multiple clarifications/changes in GST in the last few months. Do you think that these clarifications/changes cover Financial services industry issues properly?

Yes

No

Not sure



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Income-tax for non-resident Individuals and FPI on investment in securities

Status and Scope

Status – Non-Resident Individual

- Non-Resident is an assessee who is not a resident / not ordinarily resident as per section 6 of the Income tax Act, 1961
- Tie-breaker clause under the India's DTAA with other countries

Scope of total Income

The total income of any previous year of a person who is a non-resident includes all income from whatever source derived which—

(a) is received or is deemed to be received in India in such year by or on behalf of such person ; or

(b) accrues or arises or is deemed to accrue or arise to him in India during such year.

Explanation 1.—Income accruing or arising outside India shall not be deemed to be received in India within the meaning of this section by reason only of the fact that it is taken into account in a balance sheet prepared in India.

Explanation 2.—For the removal of doubts, it is hereby declared that income which has been included in the total income of a person on the basis that it has accrued or arisen or is deemed to have accrued or arisen to him shall not again be so included on the basis that it is received or deemed to be received by him in India.

Income deemed to accrue or arise in India.

Taxation on portfolio investments

Equity Shares, equity-oriented mutual funds, and units of REITs/InVIT (STT Paid)

The capital gains tax rate on equity shares, equity-oriented mutual funds, and units of REITs/InVITs (STT Paid) is as under:

- STCG tax rate **20%**
- LTCG tax rate **12.5%**. However, exemption limit on LTCG would increase from INR 1 Lakh to INR 1.25 Lakh

Other than STT paid, Equity Shares, equity-oriented mutual funds, and units of REITs/InVIT

The capital gains tax rate on equity shares, equity-oriented mutual funds, and units of REITs/InVITs (non-STT paid) is as under:

- STCG tax rate 30% (FPIs) / As per slab rate (Individual – non-resident)
- LTCG tax rate 10% (FPIs) / 12.5% (Individual – non-resident)

Debt Mutual Fund (Invest more than 65% of total proceeds in debt)

The capital gains tax rate on Debt Mutual Fund is as under:

- It should be Short-term irrespective of period of holding and tax rate should be 30% (FPIs) /As per slab rate (Individual – non-resident)

Taxability of Listed bonds and debentures

- STCG tax rate 30% (FPIs) / As per slab rates
- LTCG tax rate 10% (FPIs) / 12.5% (Individual – non-resident)

Taxability of unlisted bonds and debentures

- It should be Short-term irrespective of period of holding and tax rate should be 30% (FPIs) /As per slab rate (Individual – non-resident)

Derivatives

- STCG tax rate 30% (FPIs) / As per slab rates
- LTCG tax rate 10% (FPIs) / 12.5% (Individual – non-resident)
- Is derivative – capital gains or business income or income from other sources

STT Rates

Taxable Securities Transaction	Rate	Payable by
Purchase of an equity share in a company [or a unit of a business trust] where— (a) the transaction of such purchase is entered into in a recognised stock exchange; and (b) the contract for the purchase of such share [or unit] is settled by the actual delivery or transfer of such share or unit	0.1	Purchaser
Sale of an equity share in a company [or a unit of a business trust] where— (a) the transaction of such sale is entered into in recognised stock exchange; and (b) the contract for the sale of such share [or unit] is settled by the actual delivery or transfer of such share [or unit]	0.1	Seller
Sale of a unit of an equity oriented fund, where— (a) the transaction of such sale is entered into in a recognised stock exchange; and (b) the contract for the sale of such unit is settled by the actual delivery or transfer of such unit	0.001	Seller
Sale of an equity share in a company or a unit of an equity oriented fund [or a unit of a business trust], where— (a) the transaction of such sale is entered into in a recognised stock exchange; and (b) the contract for the sale of such share or unit is settled otherwise than by the actual delivery or transfer of such share or unit.	0.025	Seller

STT Rates

Taxable Securities Transaction	Rate	Payable by
Sale of an option in securities	0.1	Seller
Sale of an option in securities, where option is exercised	0.125	Purchaser
Sale of a futures in securities	0.02	Seller
Sale of a unit of an equity oriented fund to the Mutual Fund.	0.001	Seller
Sale or surrender or redemption of a unit of an equity oriented fund to an insurance company, on maturity or partial withdrawal, with respect to unit linked insurance policy issued by such insurance company on or after the first day of February, 2021	0.001	Seller
Sale of unlisted equity shares under an offer for sale referred to in sub-clause (aa) of clause (13) of section 97	0.2	Seller
Sale of unlisted units of a business trust under an offer for sale referred to in sub-clause (ab) of clause (13) of section 97	0.2	Seller

Summary – Tax Rates applicable to non-resident Individual

Comparison of old vs new relevant tax rates.

Nature of income for non-residents Individual	Earlier applicable tax rates and limits	Current applicable tax rates and limits	Effective date
LTCG referred to in section 112A (i.e. STT paid equity shares, units of equity-oriented fund and business trust) exceeding INR 125,000	10%	12.5%	23 July 2024
All other LTCG (without indexation)	10%	12.5%	23 July 2024
STCG referred to in section 111A (i.e. STT paid equity shares, units of equity-oriented fund and business trust)	15%	20%	23 July 2024
All other STCG	As per slab wise	As per slab wise	
Exemption limit available for LTCG referred to in section 112A	INR 100,000	INR 125,000	23 July 2024
Dividend	As per slab rates	As per slab rates	
Interest income	As per slab rates	As per slab rates	
Interest on NRE and FCNR Accounts	Exempt from Tax	Exempt from Tax	

Summary – Tax Rates applicable to FPIs

Comparison of old vs new relevant tax rates

Nature of income for non-residents	Earlier applicable tax rates and limits	Current applicable tax rates and limits	Effective date
LTCG referred to in section 112A (i.e. STT paid equity shares, units of equity-oriented fund and business trust) exceeding INR 125,000	10%	12.5%	23 July 2024
All other LTCG	10%	10%*	23 July 2024
STCG referred to in section 111A (i.e. STT paid equity shares, units of equity-oriented fund and business trust)	15%	20%	23 July 2024
All other STCG	30%	30%	23 July 2024
Exemption limit available for LTCG referred to in section 112A	INR 100,000	INR 125,000	23 July 2024
Tax rate applicable to foreign companies	40%	35%	1 April 2024
Dividend Income	20%	20%	
Interest Income	20%	20%	
Dividend / Interest/ income from securities by specified fund	10%	10%	

Treaty Rates on Dividend / Interest / Other Sources

in %

	Type of Income			
	UK	USA	UAE	Singapore
Interest	15	15	12.5	15
Dividend	10	25	10	15
Capital Gains	Taxable as per Indian Income tax provisions		Shares taxable Other securities – not taxable	
Other sources	Taxable as per Indian Income tax provisions		Not taxable	Taxable

Polling question - 3

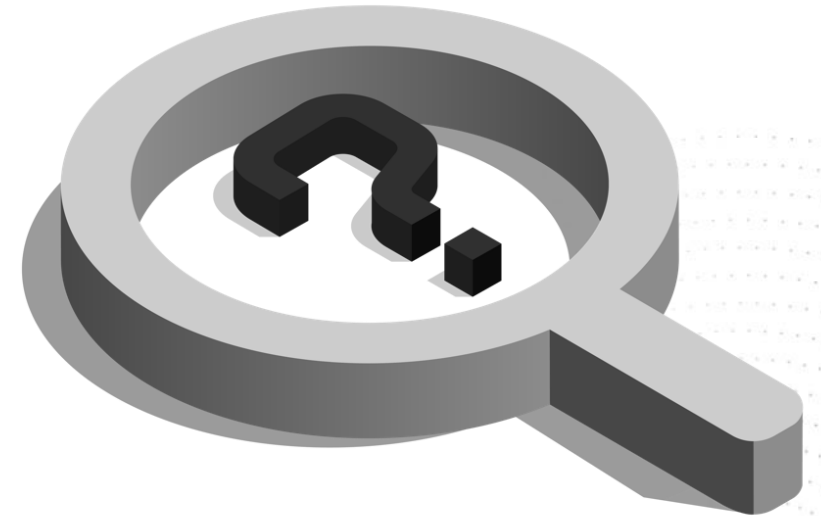


Should non-residents pay tax in India on the capital gains on sale of securities through the stock exchange

Yes

No

Not sure



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**Income-tax on investment in securities
in GIFT IFSC**

Tax Implications for non-resident investors in IFSC

Particulars

any transfer of a capital asset, being (including notified as on date)—

- bond or Global Depository Receipt referred to in sub-section (1) of section 115AC; or
- rupee denominated bond of an Indian company; or
- derivative; or
- foreign currency denominated bond;
- unit of a Mutual Fund;
- unit of a business trust;
- unit of Alternative Investment Fund;
- unit of REIT or InvIT registered under the IFSC (Fund Management (FM)) Regulations;
- unit of a scheme of a fund management entity launched under IFSC (FM) Regulations;
- unit of a Exchange Traded Fund launched under IFSC (FM) Regulations
- foreign currency denominated equity share of a company;
- Bullion Depository Receipt with underlying bullion;]

made by a non-resident on a recognised stock exchange located in IFSC and where the consideration for such transaction is paid or payable in foreign currency.

Dividend received by the non-resident from unit in IFSC

Non-resident

- Not a taxable transfer for a non-resident per section 47(viiab)
- Eligible foreign investor not required to obtain PAN if this is the only income from India subject to providing specified information to the stock-broker (name, contact details, NR declaration, TIN)
- Eligible foreign investors that fulfil the above conditions are not required to furnish return of income in India
- STT not applicable
- Stamp duty not applicable
- No withholding tax applicable on the transaction (194Q) as well as capital gains (195)

**10% plus applicable surcharge and cess
section 115A**

Tax Implications for non-resident investors in IFSC

Particulars

- Any income accruing or arising to, or received by, a non-resident unit holder from a specified fund or on transfer of units in a specified fund
- Specified fund means:
 - A. A fund established or incorporated in India that fulfils the following conditions;
 - ✓ Have been granted a certificate of registration as Category-III AIF by SEBI or IFSCA or have been granted a certificate as a retail scheme or an Exchange Traded Fund by the IFSCA under IFSCA (Fund Management) Regulations, 2022
 - ✓ Is located in IFSC
 - ✓ All the units are held by non-residents except units held by sponsor or manager
 - B. Investment Division of an Offshore Banking Unit being a non-resident located in IFSC that fulfils the following conditions:-
 - Has been granted a certificate of registration as a Category-I FPI by SEBI;
 - Its operations have been commenced on or before 31-03-2025; and
 - It maintains separate books of accounts for investment division.

Taxpayer

- exempt from tax under section 10(23FBC) and so no requirement to withhold tax
- Foreign investor not required to obtain PAN
 - ✓ if the investor does not earn any income other than income from investment in specified fund
 - ✓ Investor provides specified information to the stock-broker (name, contact details, NR declaration, TIN)
 - ✓ Any other income-tax due on the investment income has been withheld by the specified fund
- Foreign investors that fulfil the above conditions are not required to furnish return of income in India

Tax Implications for non-resident investors in IFSC

Particulars

Following income accrued or arisen or received by a “specified fund” which is attributable to units held by a non-resident (not having a PE in India) or to the investment division of offshore banking unit:

- A. Income from transfer of a capital asset as referred to in Section 47(viiab) on a recognised stock exchange located in IFSC and consideration is paid or payable in ‘convertible foreign exchange’;
- B. Income arising from transfer of securities (other than shares in a company resident in India);
- C. Income from securities issued by a non-resident (not being a PE of a non-resident in India) and where such income otherwise does not accrue or arise in India;
- D. Income from a securitization trust which is chargeable under the head ‘Profits and gains from business or profession’; or

Taxation of interest and other income from securities held by specified Fund in IFSC and investment division of OBU in IFSC calculated as prescribed and attributable to units held by non-residents

Taxpayer

- Specified Income earned by the specified fund in IFSC be exempt from tax.
- Specified Income earned by the investment division of offshore banking unit should be exempt from Tax

10% per section 115AD of the Act - no surcharge and cess

Tax Implications for non-resident investors in IFSC

Particulars

- ✓ **Any income received by a non-resident from portfolio of securities or financial products or funds, provided:**
 - It is managed or administered by any portfolio manager on behalf of such non-resident.
 - If income arises in an account maintained with an Offshore Banking Unit in IFSC.

The CBDT may also notify specified activity carried out by specified person that will fall under scope of section 10(4G) exemption.

Non-resident's investment in a financial product, made in accordance with the contract with a capital market intermediary has been notified.

- ✓ **Any income by way of interest payable to a non-resident by a unit located in an International Financial Services Centre in respect of monies borrowed by it on or after the 1st day of September 2019. (whether borrowing includes deposits)**
- ✓ **Income on transfer of NDF contracts, offshore derivatives or over the counter derivatives executed with BU, subject to conditions**
- ✓ **Distribution of income on offshore derivatives executed with BU, subject to conditions**

Taxpayer

- ✓ Exempt from tax for the non-resident but will be limited to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India
- ✓ **Exempt from tax for the non-resident and no requirement to withhold tax by the IBU**
- ✓ **Exempt from tax for the non-resident**
- ✓ **Exempt from tax for the non-resident**

Polling question - 4

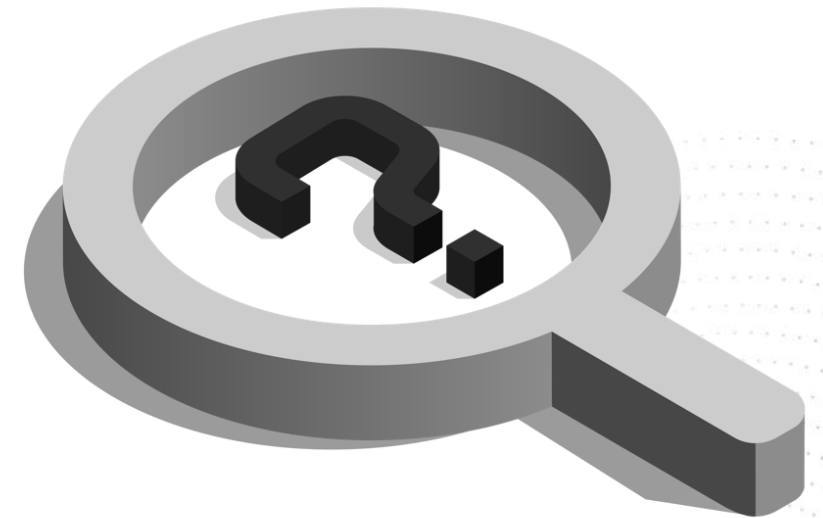


Should resident Indians also get tax exemptions on investment in securities in GIFT IFSC?

Yes

No

Not sure



Thank you!

Kindly spare a minute to help us with your feedback for today's session...

For any queries, please feel free to write to us at intax@deloitte.com



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