

What NRIs & Expats should Know about Tax Filing Here

Vidyalaxmi explains the changes in the tax filing norms for NRIs and expatriates

Filing income tax return is a daunting task for many working professionals in India. The process gets even more cumbersome for the non-resident Indians (NRIs) or expatriates who have to look at tax laws of more than one country while filing their tax returns. This year, non-resident Indians will have even more trouble because CBDT has introduced several changes in the tax filing space for NRIs. These changes in tax filing rules and the tax return forms affect the expatriates working in India. As per a recent change in the Income Tax Act, 1961, ordinarily resident individuals and HUFs having assets (including financial interest in any entity) outside India or a signing authority in any account outside India are required to file their returns online, says Vineet Agarwal, director, KPMG.

This is irrespective of their income level. Hence, if an NRI/expatriate or any of his family members qualify as ordinarily resident and have foreign assets, they will be required to file their returns online, he adds. Tax implications are determined by residential status (three categories listed below) of individuals in a particular financial year. They are Non-Resident (NR), Resident and Ordinarily Resident (ROR) and Resident but not Ordinarily Resident (RNOR). Needless to say, non-residents will have to disclose their foreign assets in the tax return form. The government's intention of the legislature may be to track illegitimate transfer of money from India to create assets overseas. This will also help the government understand the nature of the assets and potential tax impact in India, says Mayur Shah, director-tax & regulatory services, Ernst & Young. This will also give information regarding global assets of a resident since the income from such assets is taxable in India, he adds.

There is a category of residents called Not Ordinarily Resident (RNOR) and the income of a Not Ordinarily Resident individual from assets located outside India is not taxable in India. It has been clarified that the provision for compulsory filing of income tax return in relation to assets located outside India would not apply to a person, who is Not Ordinarily Resident, says Mayur Shah. This amendment will take effect retrospectively from April 1, 2012; and will, accordingly, apply in relation to tax year 2012-13 and subsequent assessment years. The reporting requirement for details of assets held outside India has been made mandatory without specifying any minimum threshold for value of assets to be reported.

TAX LIABILITY ON INDIAN SHORES

The taxability depends upon the nature of income (accrual/receipt) and residential status in a particular financial year. The residential status is in turn dependent on actual days stay in India in a particular financial year. It is generally observed that in case of individuals qualifying as NR/RNOR, only income received/deemed to be received/ accrued or arisen/deemed to accrue or arise in India is taxable in India. However, for individuals qualifying as ROR, the worldwide income comes within the ambit of taxation in India, says Mayur Shah. As a general rule, non-residents are required to offer only the Indian income for taxation. For most non-residents, this income would be from sources such as interest on deposits in India, rental income from properties in India and capital gains on shares/mutual funds in India, says Vaibhav Sankla, director, H&R Block India. An expatriate who is ordinarily resident in India will have to report his worldwide income in the India tax return. However, an expatriate who is a Resident but not Ordinarily Resident (RNOR) can reflect only his Indian income in India tax return. Typically, expatriates coming to India for the first time, enjoy RNOR status for the first two financial years, he adds.

PROCEDURE FOR FILING RETURNS

The procedure of filing returns is no different from that of a resident Indian. In case the tax filing deadline (July 31, 2012 for FY 2011-12) is missed, there is a provision for filing a belated tax return. However, a belated tax return cannot be revised, losses cannot be carried forward for the purposes of being set off in subsequent years; and interest under sections 234A, 234B and 234C of the Act may be levied.

THINGS TO REMEMBER

NRIs/expatriates should evaluate their residential status based on the number of days of their physical stay in India. If they qualify as Ordinarily Residents, they should also prepare a list of their assets outside India, says Vineet Agarwal. They should also evaluate the correct forms that they can use for filing tax returns online. If their income is above 10 lakh, they can file returns in ITR 1 (SAHAJ), ITR 2, ITR 3, ITR 4S (SUGAM) or ITR 4. However, if they are Ordinarily Residents and have foreign assets, they cannot use the SAHAJ and SUGAM forms. After filing the return online, they should ensure that the acknowledgment (ITR-V) is signed in blue ink and sent within 120 days to the Central Processing Centre at Bengaluru, he adds. NRIs should ensure that the agency they use for mailing the signed ITR-V form can actually deliver it to the Post Box Number. Courier agencies cannot deliver documents to a Post Box Number. An alternative for them could be to send it to their family members in India by courier. The family member in turn can post the signed document to the Post Box Number assigned to the CPC, says

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