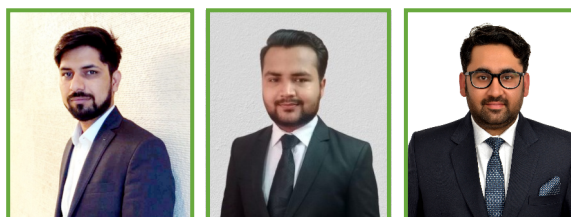


TAX IMPLICATIONS ON REAL ESTATE TRANSACTIONS BY NRIS



- CA Om Rajpurohit , CA Sagar Agrawal & CA Shubham Gulati | AMRG & Associates

While Selling Property

■ **Taxability:**

If holding period of property is more than 24 months then the gain arises from sale of such property shall be considered as Long term capital gains and taxed at rate 20%

If the holding period is less than 24 months than the gain arises from sale of such property shall be considered as short term gains and taxed at the applicable income tax slab rates for the based on the total taxable income in India. Please note that the above mentioned period of holding is very important, since the tax rates would vary according to the fact whether capital gain is '**short term**' or '**long term**'.

■ **TDS:**

In case of long term capital gain, the buyer is liable to deduct TDS @ **20%** (plus applicable surcharge & education cess) on **total sales consideration**.

In case of Short term capital gain, the applicable rate of TDS would be **30%** (plus applicable surcharge & education cess) on **total sales consideration**.

■ **Lower withholding certificate :**

From the above, it is evident that the buyer is liable to withheld taxes on '**total sale consideration**' instead of '**taxable capital gain amount**'. Considering the same and in order to take the benefit of purchase cost and cost of improvement at the time of deduction of TDS, then NRI may apply for lower withholding certificate with their jurisdictional tax officer to reduce the tax rates.

■ **PAN:**

Please note that for availing the claim of TDS credit through filing return of income; or filing application for lower withholding certificate; the NRI is required to have PAN number in India.





- **Return of income :**

If the total taxable income in India exceed amount chargeable to tax (i.e. INR 0.25 Million) and also in order to claim the credit of TDS withheld, NRI is required to file return of income under section 139(1) of the Income Tax Act, 1961.

While buying of property

- **Taxability:**

At the time of buying of property there is no tax incidence in the hand of buyer.

- **TDS**

If seller is Indian resident, then buyer is liable to deduct TDS @ 1% on purchase consideration if the same exceeds INR 5 million.

If seller is also NRI then:

- In case of long term capital gain, the buyer is liable to deduct TDS @ **20%** (plus applicable surcharge & education cess) on **total sales consideration**.
- In case of Short term capital gain, the applicable rate of TDS would be **30%** (plus applicable surcharge & education cess) on **total sales consideration**.

- **Taxability under head house property**

There is no tax implication in case where NRI is holding up to 2 properties in India and none of them is renting out. However, in a case where the NRI owns more than two residential property and none of them is renting out, then he is eligible to claim 2 property of his choice as self-occupied property and rest of all other houses will be treated as deemed let out and a notional rent is taxable under the head Income from House Property.





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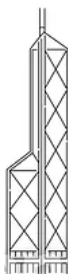
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