Planning for the Global Clients

At present when many NRI Clients are increasingly seeking investment opportunities in India, here is an understanding on the opportunities and challenges that financial planners need to cope with when doing Financial Planning for these clients.

Narayan Krishnamurthy

The world is increasingly smaller and increasing Indian professionals are moving for employment and residences in multiple countries. No, this is not about the rich and the mighty, but scores of average Indians be it techies, doctors, mid-level executives or labourers in the Gulf and other countries. It is common to meet friends and relatives who work outside India and continue to have investments in India. These Non Resident Indians (NRIs) are lucky to have a comfortable life, and are smart enough to know that they should be able to continue living this way till they retire and come back to India in most cases. With these developments, cross-border financial planning issues have become more prevalent and significant.

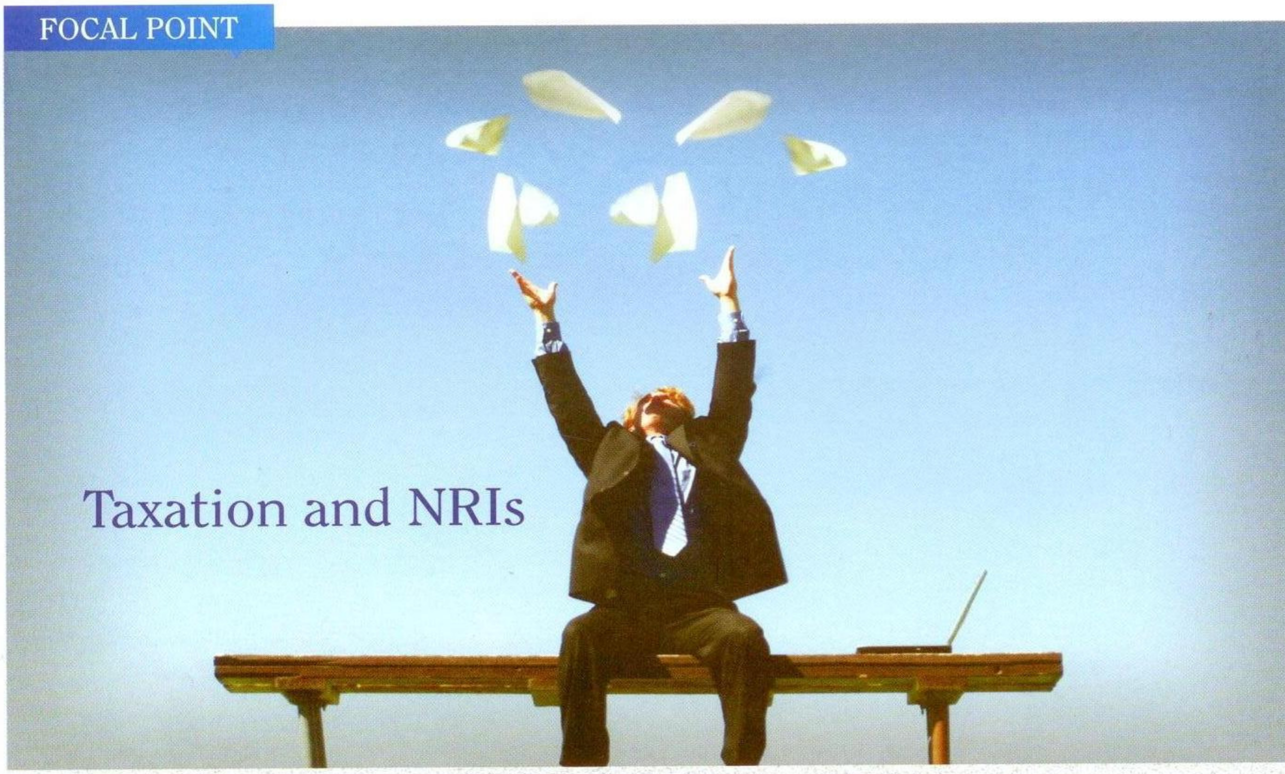
Cross border Financial Planning is becoming important as more Indians work outside India and continue to have savings and Investments in India. Before going further, it is important to understand who the NRIs are. An Indian citizen or a foreign citizen of Indian origin who stays abroad for employment or carrying on business or vocation or under circumstances indicating an intention for an uncertain duration of stay abroad is generally termed as a Non Resident Indian (NRI). At the same time those Indian who stay abroad on business visit, medical treatment, study or such other purposes which do not indicate an intention to stay there for an indefinite period will not be considered as NRIs.

Is Planning Different?

Financial Planning by itself does not change whether it is for a resident Indian or an NRI. However, what changes is the complexity, process and the issues when handling NRI clients. "The biggest factor that comes into play when dealing with NRIs is the issues pertaining taxation," says Hemant Beniwal, CFP^CM^. However, taxation is not the issue. NRIs can be classified into four categories; those who are abroad for a short duration of say less than three years, those who stay for less than ten years and finally those who have decided to settle outside India and lastly those who have decided to eventually retire in India.

Different complications arise with each of these classes of NRIs, more so because it takes a while before anyone can be slotted into one of these categories. For those NRIs who are out of India on work assignments and intend coming back, it makes sense to invest a large proportion of their money, say about 80-90 per cent in India itself. On the other hand, for NRIs settled abroad with intention of relocating to India after their retirement, a small portion of the investment portfolio 20-25 per cent may be dedicated to India, with real estate a definite addition, especially to take care of their post retirement needs.

Says Arnav Pandya, CFP^CM^ "There are clients who move abroad for short stints to further their career prospects, their requirements are simple; advance some of their goals or contribute more into a running plan." However, it is not as simple as it appears; many tend to recast their plans by altering their financial goals by value or purpose. Take for instance; the additional income for short durations comes with its share of additional expenses which is ignored by such clients. There is a higher cost towards travel if the family decides to travel to India more than once a year. There are issues around maintaining two establishments, which has its share



Taxation and NRIs

A person who is non-resident is liable to tax on that income only which is earned by her/him in India. Income is earned in India if it is directly or indirectly received in India or it accrues in India or the law construes it as having accrued in India.

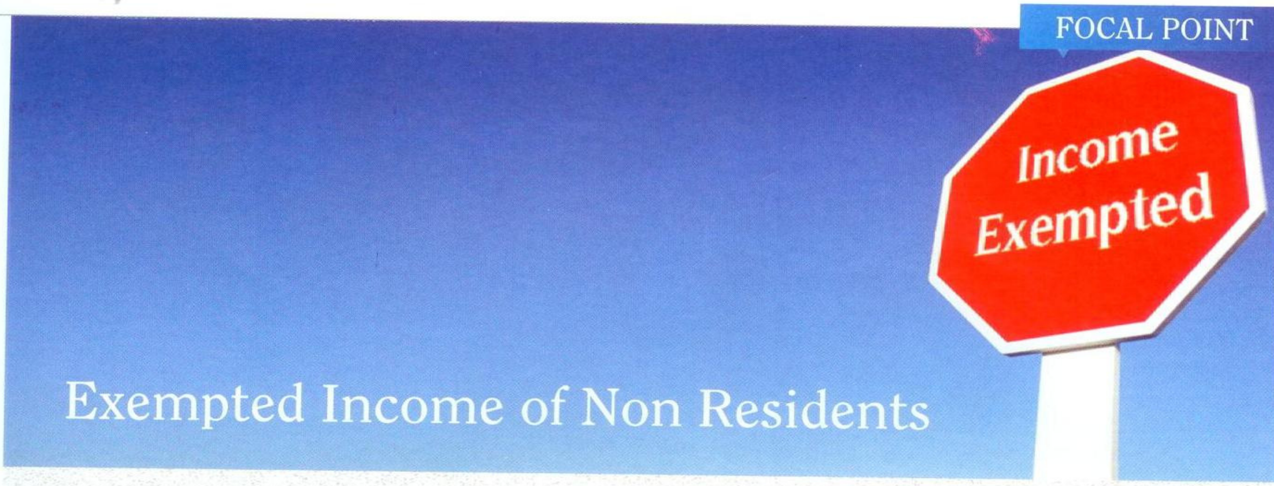
The following are some of the instances when the law construes and income to have accrued in India:

1. Income from business arising through any business connection in India
2. Income from property if such property is situated in India
3. Income from any asset or source if such asset or source is in India
4. Income from salaries if the services are rendered in India. In such cases salary for rest period or leave period will be regarded as earned in India if it forms part of service contract
5. Income from salaries payable by the Government to a citizen of India even though the services are rendered outside India
6. Income from dividend paid by an Indian company even if the same is paid outside India
7. Income by way of interest payable by Government or by any other person in certain circumstances
8. Income by way of Royalty if payable by the Government or by any other person in certain circumstances
9. Income by way of fees for technical services if such fees is payable by the Government or by any other person in certain circumstances.

The following income even though appearing to be arising in India is construed as not arising in India:

1. If a non-resident running a news agency or publishing newspapers, magazines etc. earns income from activities confined to the collection of news and views in India for transmission outside India, such income is not considered to have arisen in India.

2. In the case of a non-resident, no income shall be considered to have arisen in India if it arises from operations which are confined to the shooting of any cinematography film. This applies to the following types of non-residents: individual who is not a citizen of India or firm which does not have any partner who is a citizen of India or who is resident in India or company which does not have any shareholder who is resident in India.



Exempted Income of Non Residents

Certain income of non-residents is totally exempt from income tax. To avoid difficulties in working out the net income of a NRI from his gross receipts in India, the law provides for taxation or most of the income of non-resident on 'Gross income basis', which means that the tax liability is determined on the basis of gross receipts without going into the question of expenses incurred in earning those receipts. Such gross receipt basis taxation operates in two ways.

1. By laying down the rate of tax to be applied on gross receipts. The rates are determined at a figure lower than the general rate of tax applicable to total income as it takes account of the possible expenses in earning the income. Such provisions are:-

    a. Tax on dividend (other than dividend from domestic companies), interest, royalty, fee for technical services and income from Units.
    b. Tax on income and capital gain in respect thereto from units purchased in foreign currency by off shore funds.
    c. Income and capital gain in respect thereto from Bonds and shares purchased in foreign currency or acquired in resulting or amalgamated company as a result of demerger or amalgamation.
    d. Tax on income other than dividend of Foreign Institutional Investors from Securities & Capital gains arising from their transfer.
    e. Income of sportsman or Sports association.

2. By laying down a percentage to be applied on gross receipts to determine the net income. The tax is then calculated at the normal rate of tax on such presumptive income. Such provisions are:-

    a. Profits of shipping business.
    b. Profits of business of providing services etc. to be used in the business of prospecting, exploration or production of mineral oils.
    c. Profits from operation of aircraft.
    d. Profit from business of civil construction etc. in certain turnkey power projects.

Income tax incidents	Resident but not ordinary resident	NRI
Income received in India; whether accrued in India or outside	Yes	Yes
Income deemed to b e received in India whether accrued in India or outside	Yes	Yes
Income arising or accruing in India whether received in India or outside	Yes	Yes
Income deemed to accrue in India whether received in India or outside	Yes	Yes
Income accrued and received outside India from a business controlled from a profession set up in India	Yes	No
Income accrued and received outside India from a business controlled or profession set up outside India	No	No
Income earned and received outside India but later remitted to India	No	No

Differentiating NRE, NRO and FCNR Accounts

Balances held in NRE accounts can be repatriated abroad freely, whereas funds in NRO accounts cannot be remitted abroad but have to be used only for local payments in rupees. Funds due to the non-resident accountholder which do not qualify, under the Exchange Control regulations, for remittance outside India are required to be credited to NRO accounts. The FCNR Accounts is the term given to Foreign Currency Non Resident Accounts which are maintained by NRIs in foreign currencies like USD, GBP, Yen, Euro etc. and they are repatriable

RNOR or NRI?

Resident but Not Ordinary Resident or RNOR is referred about a person residing in India, but who has been an NRI in some previous years is called a Resident but Not Ordinary Resident. For the sake of income tax returns a person is a RNOR for a given financial year if s/he fulfills the following conditions for that financial year: S/he is in India in that year for 182 days or more irrespective of whether the stay is a continuous period of 182 days, or in multiple parts or in the 4 years preceding that year, s/he has been in India for a total of 365 days or more and has been in India for 60 days or more in that year, irrespective of whether the stay is a continuous or in multiple parts.

Also if s/he is in India for more than 182 days in less than nine out of the ten previous years or s/he is in India for less than a total of 730 days or more during the seven previous years.

A Non Resident Indian (NRI) is an Indian Citizen, who stays outside India for an uncertain duration of stay. A person is a NRI for a given financial year if s/he fulfills any of the following conditions for that financial year: s/he is in India in that year for 182 days or more, irrespective of whether the stay is a continuous period of 182 days, or in multiple parts. In the 4 years preceding that year, s/he has been in India for a total of 365 days or more and has been in India for 60 days or more in that year, irrespective of whether the stay is a continuous or in multiple parts. Further, a HUF is considered a NRI in a year if its management is done from outside India during that year.

Tax Deducted at Source(Applicable to the NRI Investors)		
	Short Term Capital gains	Long Term Capital Gains
Equity Oriented Schemes	15.450%	NIL
Other than Equity oriented schemes (Listed)	30.900%	20.60%#
		#After Providing for Indexation

"Impact of currency fluctuation, tax efficient structures, product specific regulations, repatriation laws are some of the operational requirements needed specific to NRIs."

Lovaii Navlakhi, CFP[CM]
Founder and CEO
International Money Matters Pvt. Ltd.

of costs to consider.

However, the biggest challenge is in the form of a planner's ability to handle complexities. "Planners should be equipped to handle operational requirements specific to NRIs and a fair understanding on differences between various bank accounts, regulations pertaining to various products, repatriation rules, currency fluctuations, tax efficient structures," says Lovaii Navlakhi, CFP[CM]. These factors along with the remotely located client are among the few big differences when handling resident Indian clients and NRIs. Then there is the issue of executing a financial plan in the case of a NRI. "Many clients tend to be not sure of certain goals and the place of their execution. For instance, many debate getting their children educated in India or abroad, which will decide where they should invest and save," adds Beniwal. Other than such complications, financial planning per se is same for anyone.

Making it Work

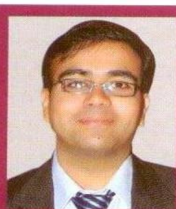
Not only planners need to make the plans work, they also ought to know the basic issues a client will face as an NRI and the planner himself would face when dealing with them. A basic checklist is essential to ensure consistency and completeness in carrying out a task. While becoming an NRI is easy, the transition leaves a lot to be done by the client to enable easy and smooth transition of their finances when investing in India. "The foremost need is of a bank account, wherein even an existing savings bank account in India can be converted into an NRO or NRE account (See Box: Differentiating between NRO and NRE Accounts) before anything else," says Pandya. An NRO or non-resident ordinary account is like an ordinary savings bank account that gives a domestic rate of interest

This account can be used by the client to deposit domestic earnings like rent, interest and dividends and remittances from abroad into this account. Through this account cheques can be issued for EMI and investment, but there are restrictions for transferring money to the country of residence and money in this account is non-repatriable. Clients can transfer current income earned in India, but transfer of sales proceeds of property and investments can be only to the extent of $1 million in a financial year. Moreover, a certificate from a chartered accountant, declaring that all taxes have been paid has to be furnished. It is important noting that the interest in an NRO account invites a tax of about 30.9 per cent at source.

On the other hand, an NRE or Non-Resident External account can be opened with foreign currency when the client wishes to transfer substantial money to the country of their residence. There is neither restriction to remittance nor any taxes in this account, but they would only get a low rate of interest. This account offers no facility to receive incomes in the shape of rent, interest and dividends, but they can make local payment in rupees, invest money and receive proceeds from sale of investments and property. It is much easier to open both these accounts in India, however, if the client is already stationed abroad; it is mandatory to get an attestation from the Indian embassy or notary before sending it to the bank branch.

Clients will need to close their domestic demat account and open a non-resident ordinary (NRO) demat account under the Portfolio Investment Scheme (PINS). This is mandatory, as there are restrictions to the amount of investment that an NRI can make in the shares and stocks in Indian companies; it should not exceed 5 per cent of the paid–up capital of any Indian company. "Clients need to transfer their existing share holdings also into this account," adds Beniwal. There is also the possibility to have two types of separate demat accounts for repatriable and non-repatriable shares and this account is to be separate from other bank accounts. Normally, the demat service provider would help on submission of copies of passport and visa. And once the cient returns to India, they can close the PINS demat account.

Lastly, to maintain continuity with investments, clients need to provide power of attorney to someone they trust in India to manage financial transactions in bank accounts, buying and selling real estate, renting out property and signing up tax forms. "POA to planners is common, but for safety, a family member should be involved" feels Pandya. The power of attorney could be general, where the authority entrusted holds good for banking as well as real estate transactions or could be specific, where the authority is restrictive to only certain transactions. Planners feel that it would not be a bad idea to consult a lawyer before taking a decision on the POA. Once the POA is created, attested copies of the same needs to be sent to concerned people like banks and mutual funds, because it is essential to do so. Finally, clients should update their NRI status for various compliances like Know Your Customer (KYC) compliance. "So mutual fund, bank and insurance companies need to be informed by submitting the updated



"Most NRIs have a clear idea of settling in India for their retirement and hence the focus with their plans is for the long-term, with real estate an important asset class in their portfolio."

Hemant Beniwal, CFP[CM]
Director
Ark Financial Planners

KYC forms stating the change of status as an NRI," says Navlakhi.

Opportunity and Challenges

Planners are finding more NRIs seeking financial planning assistance in India, which opens a new window to planners. "Clients find us more cost effective compared to planners in the west, if they find one there," says Beniwal. The costs are definitely an advantage for NRIs to consider Indian planners, who cost a fraction compared to similar service providers in many of the developed countries. Moreover, many NRIs continue to engage with Indian planners because they have clear ideas of savings and investments options in India. Whatever the reason, the role of planners in India is increasing with the advent of NRIs using their services.

"We need not explain what Financial Planning is and the services offered to convince clients who are NRIs, unlike domestic clients," feels Pandya. Awareness amongst most NRIs is higher about the need for Financial Planning as well as the available avenues to save and invest in India. There are a number of options available for the NRIs to invest in India such as bank deposits, shares, mutual funds, bonds and real estate. Such investment options make the role of the financial planner important and widely sought to manage client needs. To succeed in handling NRIs, planners definitely need to have a basic knowledge and understanding of issues pertaining to income tax and the documentation needed when handling such clients.

There are clients who are in dual citizenship marriage or those with professional and personal assets both in India and abroad and need financial advice, investment planning and wealth and estate planning in accordance with securities regulations in both the countries. "It is important to be aware of general rules and laws pertaining to popular global destinations when handling such clients," augurs Navlakhi. Most Indian planners engage specials charted accountants who are experts and understand dual taxation laws to advice clients and planners on tricky issues and potential tricky issues. Having a panel or access to such external resources is important. Even a temporary relocation

"Taxation is important when dealing with NRIs. Understanding of double taxation and its impact helps to suggest tax efficient investments and options to them."

Arnav Pandya, CFP[CM]

requires a calculation by the planner to determine whether or not they face any specific tax related issues.

Planners could also face with potential challenges when handling clients who marry foreign citizens as the rules of taxation and laws will now depend on how marriage is viewed and treated. After all, a client who finds himself in multiple tax jurisdictions needs sophisticated advice. Issues related to pension and wealth tax are far more complicated. Planners will also do well by segregating what clients own before they get into cross-border situations including assets, liabilities, net worth and cash flows. Further, if one of the spouse moves and the other doesn't, then there are separate planning issues around that. "It may be a good idea to place assets into the hands of the spouse who is not moving," adds Pandya.

In case a client is very unsure of his tenure outside India and does not wish to convert the remittances to rupees, FCNR (foreign currency non resident) account can be opened. Once the proceeds have been remitted to India, they can be used for the purpose of investing into different kinds of investments. What planners need to realise is that like any other plan, there is no 'one size fits all' cross-border financial planning and investment strategy. Therefore, it is important to partner with a qualified team of tax, legal and investment professionals who specialise in dual taxation and legal issues.

The overall issues related to financial planning such as asset allocation, investment avenues remain the same irrespective who and where the client resides. With the advent of technology; interacting with clients is not an issue either, given the easy access on phone or skype. "It is also not a bad idea to make a trip to a country or city outside India once in a while if you have several clients residing there," adds Pandya. This practice has its advantages; planners not only build long-term relations with clients, they also get exposure to possible new client acquisition which is worth the trip. Planners can also use their CFP marks outside India as long as they follow the cross-border usage policy for CFP marks usage.

r ara ian nit @gr iail com

FPJ