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NRIs – Overview of Capital Gains Tax regime in India

Q1. What are the common types of assets that NRIs sell and have to pay capital gains tax in India?

NRIs are generally liable to pay capital gains tax in India on the sale of the following assets which are not held for business, provided such assets are located in India or are deemed to be situated in India under Indian tax laws:

- ✓ Immovable Property (Land or Building or both);
- ✓ Shares of Indian Companies/ Mutual funds;
- ✓ Bonds/ debentures, Securities etc;
- ✓ Gold, silver, jewellery etc;
- ✓ Units of REITs and InvITs;
- ✓ Unit linked policy which are not eligible for exemption

Sale of personal effects (excluding jewellery and other items) or rural land (which is covered within the specified definition) are not subject to capital gains tax in India.

Q 2. What is the time frame which needs to be considered for period of holding for various class of assets for determining the type of capital gain?

The tax treatment of capital gains depends on how long you hold an asset before selling it. Here's a quick summary for the law relating to Financial Year 2024-25 onwards:

(i) Listed Shares, Equity Oriented Mutual Funds, Listed Bonds/ Debentures etc.:

- ✓ Held for more than 12 months → Long-term
- ✓ Held for 12 months or less → Short-term

(ii) Unlisted Shares, Specified Mutual Funds, Gold, Immovable Property (Land or Building or both):

- ✓ Held for more than 24 months → Long-term
- ✓ Held for 24 months or less → Short-term

This applies for transfers on or after July 23, 2024. Earlier transfers follow old rules wherein different period provided for Gold and certain mutual funds.

(iii) Specified Mutual Funds (bought on/after April 1, 2023), Market-linked Debentures, Unlisted Bond/Unlisted Debenture: All gains are Short-term, regardless of holding period.

Q 3. What is the rate of tax for various class of assets basis the type of capital gain?

Tax rates depend on the type of asset and whether the gain is short-term or long-term. Here’s a quick summary of the law relating to Financial Year 2024-25 onwards:

a) Listed Shares, Equity Mutual Funds, Listed Bonds/ Debentures etc.

(i) Long-Term Capital Gain (LTCG)

- ✓ 12.5% (plus surcharge & cess) if sold on/after July 23, 2024 and applicable STT paid
- ✓ 10% (plus surcharge & cess) if sold between April 1 – July 22, 2024 and applicable STT paid
- ✓ Exemption up to INR 1.25 lakh from Financial Year 2024-25 onwards

(ii) Short-Term Capital Gain (STCG)

- ✓ 20% (plus surcharge & cess) if sold on/after July 23, 2024 and applicable STT paid

- ✓ 15% (plus surcharge & cess) if sold between April 1 – July 22, 2024 and applicable STT paid

b) Unlisted Shares, Specified Mutual Funds, Gold, Immovable Property (Land or Building or both) etc.:

(i) LTCG

- ✓ 12.5% (plus surcharge & cess) if sold on/after July 23, 2024 with no indexation benefit available to non-residents
- ✓ 20% (plus surcharge & cess) if sold between April 1 – July 22, 2024 with indexation benefit
- ✓ 10% (plus surcharge & cess) if unlisted shares of an Indian company sold between April 1 – July 22, 2024

(ii) STCG

- ✓ Taxed at regular income tax slab rates (plus surcharge & cess)

c) Specified Mutual Funds (bought on/after April 1, 2023), Market-linked Debentures, Unlisted Bond/Unlisted Debenture: Taxed as Short-Term Capital Gains at normal slab rates (plus applicable surcharge & cess)

In all cases, gains = Sale Price – (Purchase Cost + Transfer Expenses)

In summary, the taxes on capital gains are summarized as follows:

Asset Type	**Holding Period (for sale on or after July 23, 2024)**	**LTCG Tax Rate**	**STCG Tax Rate**	**Notes**

Listed Shares, Equity MFs, Listed Bonds/, Debentures	LTCG > 12 months. Otherwise STCG	12.5% (from July 23, 2024) 10% (Apr 1–July 22, 2024)	20% (from July 23, 2024) 15% (Apr 1–July 22, 2024)	LTCG exemption up to INR 1.25 lakh from Financial Year 2024-25
Unlisted Shares, Certain Specified Mutual Funds, Gold, Immovable Property	LTCG > 24 months. Otherwise STCG.	12.5% (from July 23, 2024) 20% (Apr 1–July 22, 2024) with indexation. 10% for unlisted shares of Indian company (Apr 1–July 22, 2024)	Taxed at individual slab rates	No indexation for NRIs from Jul 23, 2024
Specified MFs (bought on/after Apr 1, 2023), Market-linked Debentures, Unlisted Bond/ Debenture	Not relevant – Always STCG	Not applicable	Taxed at individual slab rates	

If you are a resident of a country which has a Double Taxation Avoidance Agreement (DTAA) with India, you may be entitled to treaty benefits on fulfilment of certain conditions that could reduce your tax liability in India. Each case may require individual assessment to determine the applicable tax liabilities and relief.

The information provided herein is for general guidance and informational purposes only. The applicability of laws, regulations, and tax provisions may have some additional requirement and may vary significantly depending on the specific circumstances of each case. Therefore, it is strongly recommended to consult a qualified tax expert or legal professional for personalized advice tailored to your unique situation. We disclaim any liability for decisions made or actions

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