

US Tax Compliance for Indian Citizens, Companies and NRIs

For SIRC Hyderabad

Presenter



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Accounting, Bookkeeping, Payroll, Individual & Business Taxation, Business Formation, CFO Services, Repatriation India Business & Individual Taxes



- **Anvaya Capital**
Real Estate: MF, Rtl/Comm, SFR, ALC, Land
Private Equity: Start Up Investments
Portfolio - \$146M



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Business Structure for Indian Companies/Individuals in USA

Start Up

Who can start

- A EAD, GC, Citizen, Foreign Individual can start a business*
- H/L Visa holders can invest in a business*
- Opening a business - doesn't cost a lot of money
- Incorporation is simple unlike in other countries e.g. Dubai or India

Things to Consider

- Business Plan, Location, Structure, Name etc
- Business Segment, competition, complexity, TTM
- Kind of business and its liability- protection
- Which state to form the business and its tax implications
- Required Licenses, Permits and GL Insurance
- Investments, Investors, VC Friendly (Investment through IRA)
- Federal & State Compliance for foreign nationals



**Conditions apply*

Expansion

Simple Approach

- Structure US Business to limit to US Income limitations
- Shareholding Structure
- Non Resident Tax Compliance for Individuals (ITIN)
- Subjective to DTAA
- IPR trade and complexities, JVs, M&As,

Global Approach

- Structuring Business in Multiple Countries
- Decentralize business streams
- Tax haven myths & Complexities (Cayman Islands, UAE)
- Taxation complexities
- Discovery of the process could be very costly – Use professionals



Compliance for Non-Residents (US Tax Residents)

US Taxation (In a Nutshell)



Income tax

	If taxable income is over	But not over	The tax is	Of the amount over
Married/Filing jointly and qualifying widow(er)s	\$0	\$20,550	\$0.00 + 10%	\$0
	\$20,550	\$83,550	\$2,055 + 12%	\$20,550
	\$83,550	\$178,150	\$9,615 + 22%	\$83,550
	\$178,150	\$340,100	\$30,427 + 24%	\$178,150
	\$340,100	\$431,900	\$69,295 + 32%	\$340,100
	\$431,900	\$647,850	\$98,671 + 35%	\$431,900
	\$647,850		\$174,253.50 + 37%	\$647,850
Single	\$0	\$10,275	\$0.00 + 10%	\$0
	\$10,275	\$41,775	\$1,027.50 + 12%	\$10,275
	\$41,775	\$89,075	\$4,807.50 + 22%	\$41,775
	\$89,075	\$170,050	\$15,213.50 + 24%	\$89,075
	\$170,050	\$215,950	\$34,647.50 + 32%	\$170,050
	\$215,950	\$539,900	\$49,335.50 + 35%	\$215,950
	\$539,900		\$162,718 + 37%	\$539,900
Estates and trusts	\$0	\$2,750	\$0.00 + 10%	\$0
	\$2,750	\$9,850	\$275 + 24%	\$2,750
	\$9,850	\$13,450	\$1,979 + 35%	\$9,850
	\$13,450		\$3,239 + 37%	\$13,450

Tax on capital gains and qualified dividends

Single	Income Married/Filing jointly/Qualifying Widow(er)	Tax rate
\$0-\$41,675	\$0-\$83,350	0%
Over \$41,675 but not over \$459,750	Over \$83,350 but not over \$517,200	15%
Over \$459,750	Over \$517,200	20%

Additional 3.8% federal net investment income (NII) tax applies to individuals on the lesser of NII or modified AGI in excess of \$200,000 (single) or \$250,000 (married/filing jointly and qualifying widow(er)s). Also applies to any trust or estate on the lesser of undistributed NII or AGI in excess of the dollar amount at which the estate/trust pays income taxes at the highest rate (\$13,450).

Child tax credit

- \$2,000 per “qualifying child” (who has not attained age 17 during the year); phased out as modified AGI exceeds \$400,000 (married/filing jointly) or \$200,000 (all other); \$1,500 per child is refundable
- \$500 nonrefundable credit for qualified dependents other than qualifying children (with some modified AGI phaseouts)

Standard deductions

	Annual	Additional age 65+ or blind
Married/Filing jointly and qualifying widow(er)s	\$25,900	\$1,400
Single	\$12,950	\$1,750

Health savings accounts contribution limits

Individual	\$3,650
Family	\$7,300

Catch-up contribution: Taxpayers who are 55 or older in 2022 may contribute an additional \$1,000, or a total of \$4,650 for individuals and \$8,300 for families.

Deduction for mortgage interest

- Deduction on interest for qualifying mortgages up to \$750,000 (\$375,000 if married/filing separately); homes under agreement before 12/15/17 for purchase prior to 1/1/18 (provided purchase occurred by 4/1/18) grandfathered under previous \$1,000,000 (\$500,000 if married/filing separately) limits
- Interest on home equity lines of credit (HELOC) deductible in certain cases where proceeds are utilized to acquire or improve a residence

Deduction for state and local taxes

Individuals may deduct state and local income (or sales) taxes and real and personal property taxes up to \$10,000 (\$5,000 if married filing separately) in the aggregate.

Traditional IRA deductibility table

Filing status	Covered by employer's retirement plan	Modified AGI 2022	Modified AGI 2021	Deductibility
Single	No	Any amount	Any amount	Full
	Yes	\$68,000 or less	\$66,000 or less	Full
	Yes	\$68,001–\$77,999	\$66,001–\$75,999	Partial
	Yes	\$78,000 or more	\$76,000 or more	None
Married/ Jointly	Neither spouse covered	Any amount	Any amount	Full
Married/ Jointly	Both spouses covered	\$109,000 or less	\$105,000 or less	Full
		\$109,001–\$128,999	\$105,001–\$124,999	Partial
		\$129,000 or more	\$125,000 or more	None
Married/ Jointly	Yes, but spouse is not covered	\$109,000 or less	\$105,000 or less	Full
		\$109,001–\$128,999	\$105,001–\$124,999	Partial
		\$129,000 or more	\$125,000 or more	None
Married/ Jointly	No, but spouse is covered	\$204,000 or less	\$198,000 or less	Full
		\$204,001–\$213,999	\$198,001–\$207,999	Partial
		\$214,000 or more	\$208,000 or more	None

Roth IRAs

Maximum annual contribution

- Lesser of compensation or \$6,000
- Up to \$6,000 contribution can also be made for nonworking spouse
- Catch-up contributions (age 50 and over): \$1,000

Contribution eligibility

Modified AGI is less than \$129,000 (single) or \$204,000 (married/filing jointly); phaseouts apply if modified AGI is \$129,000–\$143,999 (single) or \$204,000–\$213,999 (married/filing jointly).

Deductibility

Contributions to Roth IRAs are not deductible.

Conversion eligibility

There is no income restriction on eligibility for a Roth IRA conversion.

Maximum compensation subject to FICA taxes

OASDI (Social Security) maximum \$147,000

HI (Medicare) maximum No limit

OASDI and HI tax rate: 12.4% OASDI and 2.9% HI (15.3% combined) for self-employed; 6.2% and 1.45% (7.65% combined) for employees. An additional 0.9% HI tax imposed on individuals with wages or self-employment income in excess of \$200,000 (single and qualifying widow(er)s) or \$250,000 (married/ filing jointly).

Higher education tax credits

Modified AGI phaseouts for American Opportunity Tax Credit

Married/Filing jointly \$160,001–\$179,999

Others \$80,001–\$89,999

Modified AGI phaseouts for Lifetime Learning Credit

Married/Filing jointly \$160,001–\$179,999

Single \$80,001–\$89,999

Foreign Tax Implications



FBAR

(Foreign Bank Account Reporting)

- Financial interest in or signature authority over foreign financial accounts (banks, FDs, Stocks, LIC, MFs) must file an FBAR
- Aggregate value of the foreign financial accounts exceeds \$10,000 at any time during the calendar year.
- Spouses file separately

FATCA

(Foreign Account Tax Compliance Act)

- Foreign financial assets with an aggregate value of more than \$100,000
- Should be reported, which must be attached to the taxpayer's annual income tax return

Income

(Regular & Rental Income)

- Salaries, Interests, Dividends reportable in US tax return,
- DTAA – Any tax paid in India can be taken as credit in US tax return
- Rental Income should be reported and at the same time the EMI (Interest only), Maintenance expenses can be claimed

Gifts

Inheritance

- Can receive up to \$250K from India residents (relatives)
- Funds received above \$100K in gifts its reportable to IRS

Sale of Foreign Assets



- Tax year of US is **Jan – Dec** hence the **tax year varies** from India
- The **Cost Basis** is Dollar value @acquisition time – **No indexation**
- **Tax Credit** allowed while filing US taxes.
 - **Underpaid** – remaining taxes to be paid in USA (State tax req)
 - **Overpaid – Foreign tax credit** carryover to future years
- India **Capital gain scheme** cannot be used as a tax deferment while filing US taxes, hence taxable event **subjective to US tax**
- For **Inheritance – step up basis** to be calculated while filing taxes
- Any US **capital losses** can be used to **offset** foreign **capital gains**
- Most of the US Tax Firms may not be fully aware of foreign tax **reporting & compliance.**
- Capital Gain tax planning/filing needs to be done in **both USA & India consecutively** to maximize benefits for clients.



Passive Foreign Investment Company



- A **PFIC** generally is any foreign corporation if (US Cannot track easily):
 - (1) at **least 75% if its gross income** for the year is passive; or
 - (2) at **least 50% of the assets** it held during the year produce passive income or are held for the production of passive income.

Common types of passive income may include **rent, royalty, dividends, and interest**. PFICs are commonly found as investments in **foreign mutual funds** or owned through **investment partnerships**. Special rules apply to PFICs when they make distributions to U.S. persons or if a U.S. person sells an interest in a PFIC. The **taxation** of income related to **PFIC** stock is **complex** and generally punitive compared to regular rules.

- **PFIC** is required to be **filed** by any individual who is treated as a resident for Tax purposes. This should be filed **every year** irrespective of taxable event or changes to tax election methods.
- There currently is no penalty for failure to file; however, failure to file this form will hold open the statute of limitations on your entire tax return indefinitely.

Foreign Corporation that is not PFIC

- Taxpayers with ownership in a foreign corporation that is a **Controlled Foreign Corporation (“CFC”)**.
- A foreign corporation is considered to be a CFC
 - if it is **more than 50% owned by U.S. shareholders**. U.S. shareholders are U.S. persons (U.S. citizens or residents, domestic partnerships, domestic corporations, or non-foreign estates or trusts) that own 10% or more of the stock of a foreign corporation by vote or value.

GILTI

- GILTI Tax (Global Intangible low taxed income) – If you are **US shareholder and 10%** of Controlled Foreign Corporation. This applies even if Corporate does not distribute income to US Shareholder
 - Patents
 - Copyrights
 - Trademarks

Foreign Partnership

- U.S. persons are generally required to report their ownership in a foreign partnership when their ownership exceeds 10%.
- A 10% interest in the foreign partnership is considered an interest in 10% of the capital, profits, or deductions or losses of the partnership.
- To determine your ownership interest percentage in a foreign partnership, you need to consider your direct, indirect, and constructive ownership in the entity.
- Extensive reporting is required for Taxpayers with ownership in a foreign partnership that is a Controlled Foreign Partnership (“CFP”).
- A foreign partnership is considered to be a CFP if it is owned than 50% owned by U.S. persons.
- A Taxpayer with control (>50% ownership) in a CFP, is generally required to report all financial information related to the foreign partnership including an ownership, income statement, computation of partners’ distributive share items, balance sheet, analysis of partners’ capital accounts, related party transactions, and information on the purchase and sale of the entity.

Compliance



A US Person who files US tax return is required to file additional forms if they meet below criteria

- A US Person with reportable event during the year under IRC section 6046A. There are 3 types of reportable events
- Event 1 – Acquisitions
 - US Person acquires 10% or greater interest in the foreign partnership or
 - US Person already owned a greater than 10% interest, and in the current period they increased their ownership by another 10% or greater
- Event 2 – Dispositions
 - US Person already owned a 10% or more and sold enough units to fall below the 10% threshold
 - US Person already owned a 10% or more and sold enough units to have a 10% reduction
- Event 3 – Changes in proportional interest
 - US Person's direct proportional interest changes by 10% (up & down) because of other partners entering or leaving the partnership

Taxes for Non-US Person (India Tax Residents)

Taxes on US Source Income



For Indian Tax Residents

- Taxes on US Sourced Fixed Determinable Annual or periodical **(FDAP) Income**
 - **Dividends, Interest & Royalties**, these types of income is sourced to the location of the payor
 - **Capital Gains** on sale of US Stocks not subjective to taxation. Personal property sourced to location of the seller. IRC Section 865(a)(2)
- Taxes on US source trade or business income
 - Personal services performed in the USA. IRC Section 861(a)(3) & 862(a)(3)
 - Owner in a single member disregarded LLC or a partnership that is engaged in US Trade or Business and generates US Source effectively connected income. IRC Section 871(b). Files 1040-NR
- Taxes on US Real Estate Investments
 - Rental income can be treated as US Source effectively connected income and the non-US person pays taxes
 - Sale of US real estate is subject to FIRPTA Withholding. Broker must withhold 15% of sale proceeds and send the taxes to IRS

Non US Person Buying US Real Estate



- What is your intended use of the property ? Rental property, vacation home, move to US to live part time or full time
- Buying share/partnership in US company that purchases/hold US Real property. Subjective to Foreign LLC/Corp taxation
- Rental income can be treated as US Source effectively connected income and the non-US person pays taxes
- Sale of US real estate is subject to FIRPTA Withholding. Broker must withhold 15% of sale proceeds and send the taxes to IRS
- If a Non-US person dies holding US Real property in their name personally, is subjective to Estate tax 18%-40% (with \$60K deduction)
- Mitigate by purchasing real estate through Corp or LLC and have the Corp or LLC own by a Foreign Corp to eliminate estate tax exposure

FDI - Compliance

- A **Foreign Individual** or a corporation that either Owns or acquires ownership in a US Partnership or a corporation
 - Is Subjective to file compliance with IRS, US Bureau
 - If the value is less than \$3M USD, required to file the exemption
 - If the value is greater than \$3M USD, required to file mandatory necessary compliance forms

Opportunities for Accountants

Accounting Services - TAM



The global accounting services market is expected to grow from **\$1.17 trillion in 2021 to \$1.32 trillion in 2022** at a compound annual growth rate (**CAGR**) of **12.7%**. The rise in the accounting services market growth rate is mainly due to companies rearranging their operations and recovering from the COVID-19 impact, which had earlier led to restrictive containment measures involving social distancing, remote working, and the closure of commercial activities that resulted in operational challenges. The market is expected to reach **\$2.01 trillion in 2026** at a **CAGR of 11.1%**. North America was the largest region in Accounting services market accounting for nearly 42.4% of the total in 2021

Accounting Services Market Segmentation

The accounting services market is segmented by type, by service provider, and by end-user.

By Type -

The accounting services market is segmented by type:

- a) Payroll Services
- b) Tax Preparation Services
- c) Bookkeeping, Financial Auditing And Other Accounting Services – **83.6%**

Low Hanging Opportunities



- Average Accountant salary in India is Rs 12 Lpa vs Rs 60 Lpa (\$67,000). So Hybrid accountants will play a crucial role.
- Expand your existing client base with individuals with US Presence or ask for referrals for NRI taxes or accounting work for US Companies (with your existing client base)
- If you want a quick start rather than waiting for right opportunity, start Freelancing
- Some of Freelancing websites where you can earn \$30-\$80/hour
 - Upwork
 - Fiverr
 - Bark
 - Flexjobs
 - Themomproject
 - guru



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