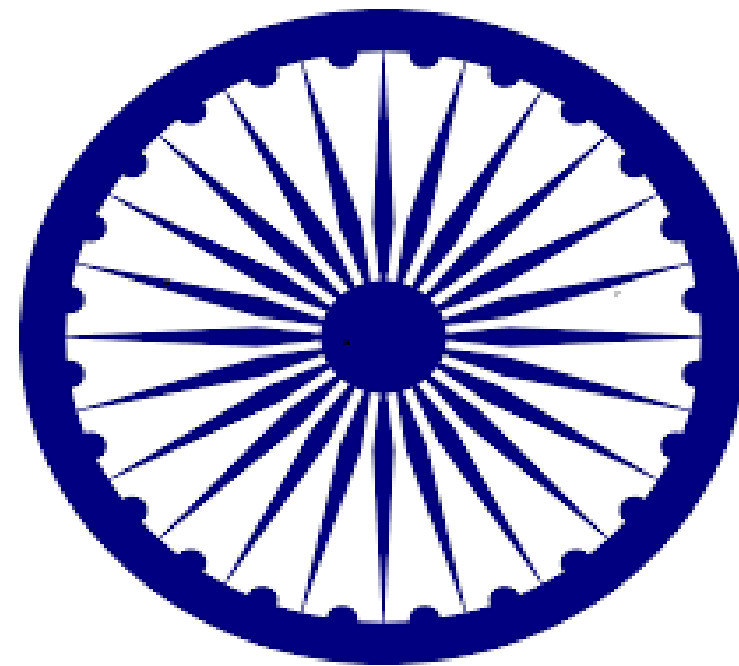




Section 115A (Tax on dividends, royalty and technical service fees in the case of foreign companies)

Whether NRI/ Foreign company is required to pay tax if it is earning only the interest income covered under Section 115, despite having total income less than Basic exemption limit.



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Analysis of Section 115A


- The special rates specified u/s **115A of Income Tax Act** shall be applicable to those income where such total income has arisen on account of dividend received from the shares held in the Indian company, income received on units purchased in foreign currency of a Mutual Fund [Section 10(23D)] or such income earned through Unit Trust of India or through interest received from various sources as specified below.
- The interest earned by such non- residents may be of different nature, for instance-
 - a) Interest received from investment in **Infrastructure Debt Fund**. [Section 10(47)]
 - b) Interest earned from **Indian company** i.e., specified company or Business Trust. [Section 194LC]
 - c) Interest earned from investment in **specified bonds or government securities** paid to FII. [Section 194LD]
 - d) Interest earned (distributed income) for its units payable by a **business trust to its unitholders**. [Section 194LBA].
- The income earned through Royalty or FTS by such non- resident or Foreign company shall be **taxable at the specified rate u/s 115A** which are outside the ambit of Section 44DA(1) of Income Tax Act.
- Now, let's discuss the **taxability on such income** specified in the section from the next slide.

Section	Nature of transaction	Rate of tax
115A(1)(a)(i)	Dividend income	20%
115A(1)(A)	Dividend Income received from unit located in IFSC	10%
115A(1)(a)(ii)	Interest from govt. or Indian concern on debt incurred	20%
115A(1)(a)(iia), (iiaa), (iiab)	Interest from Infrastructure Debt fund, 194LC, 194LD	5%
115A(1)(a)(iiac)	Interest from 194LBA (business trust)	10%
115A(1)(a)(iii)	Interest in foreign currency from units of mutual fund	20%
115A(1)(b)(A)	Royalty income (except the income referred in Section 44DA)	20%
115A(1)(b)(B)	FTS income (except the income referred in Section 44DA)	20%

What if????

The Basic exemption limit as per Indian Income Tax Act is Rs. 250,000. Now suppose one NRI is earning income less than such basic exemption limit, and such income only constitutes interest income covered u/s 115A.

The few Question that arises are-

- Whether such NRI is required to pay tax,
- If yes, then at what rate,
- Why slab rate benefit is not available for such NRI
- Whether the DTAA treaty benefit available to the NRI
- Lets understand this with an example in the next slide.... 

Understanding the concept through an example

Situation-1. A NRI (resident in Singapore) is **earning an interest income of Rs. 200,000, and such interest is covered in the section 115A.** He is not earning any other income from India. Is he required to pay tax in India on such income having total income less than Basic Exemption Limit.

Solution. The NRI is earning income less than the basic exemption limit specified in the Indian Income Tax Act. However, such interest income is covered in the definition specified u/s 115A and accordingly such income shall be taxable at the special rates as mentioned in the section. This means that such income shall be taxable irrespective of the total income and hence the benefit of Basic exemption shall not be available to the NRI assessee. Also, the assessee shall not be entitled for any slab rate benefit for such income.

Therefore, **NRI has to pay tax on such interest income** i.e., of Rs. 200,000.00 at special rates (as per Section 115A) even though it is less than basic exemption. However, the NRI shall get the benefit of DTAA if the rate mentioned in treaty is more beneficial to the assessee. So **if the rate specified in the treaty is more beneficial for the assessee than the rate mentioned in Section 115A, then such assessee can pay tax at such reduced rate, otherwise as per Section 115A Income Tax Act .**

Our Comments

- The tax rate as mentioned in the above table needs to be increased by the applicable **surcharge** and Cess as per Income Tax Act.
- The NRI assessee earning income covered under Section 115A shall have to **pay tax even if having total income less than Basic Exemption Limit**. However, such assessee **can take benefit of DTAA** treaty if the tax rate mentioned therein is more beneficial to the assessee.
- The income as specified in Section 115A taxable at specified rates shall **not be eligible for deductions** as referred in Chapter VI-A of Income Tax Act.
- It is pertinent to note that as section 112A, 111A, 112 are specific sections for taxing of Capital Gain income, similarly, Section 115A of Income Tax Act is a specific section for various types of income as mentioned in the above table. Accordingly, the **tax rate as mentioned in Section 115A will overrule the general tax rates** and such income shall be only chargeable to tax at such special rates.
- Nature of the income like Interest, Dividend, Royalty, FTS specified in the Section 115A shall be **taxable only at the rate as mentioned in the section 115A** i.e., the special rate of tax . Such rates has already been discussed in the table shown earlier.

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