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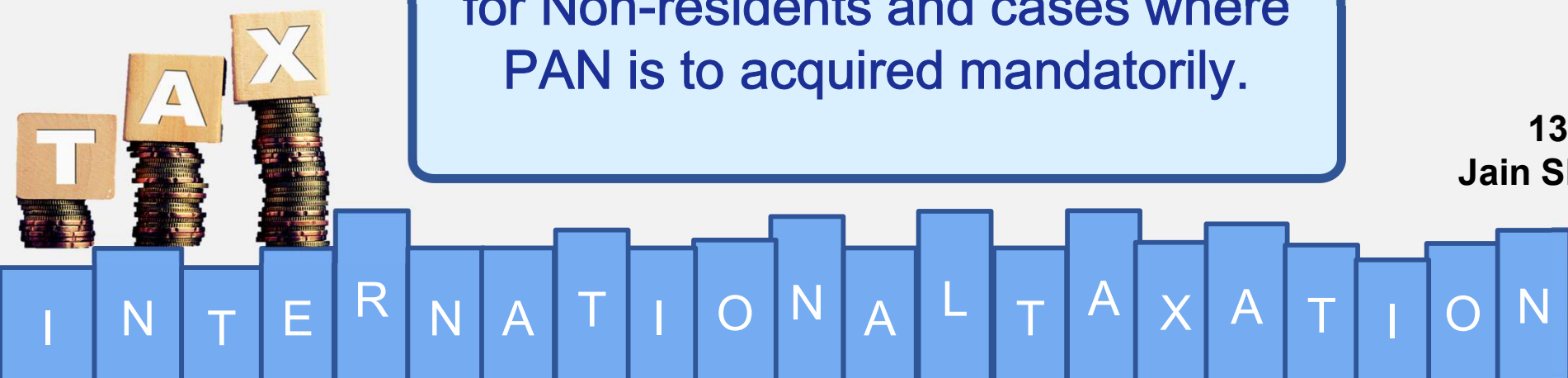
Income tax return filing requirements for Non-residents and cases where PAN is to be acquired mandatorily.

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Requirement to obtain PAN for NRs

- ❖ For NRs Section 139A stipulates that any person, including non-residents, must obtain a PAN if they fall under specific conditions. The key circumstances include:
 1. **Income Tax Liability:** If the non-resident has income that is chargeable to tax in India.
 2. **Business Transactions:** If the non-resident is involved in business or professional activities in India that necessitate filing an income tax return.
 3. **Specified Financial Transactions:** Engaging in transactions specified by the Central Board of Direct Taxes (CBDT) where quoting a PAN is mandatory, such as:
 - a) Payments exceeding Rs. 50,000 in a for the **purchase of mutual fund** units.
 - b) **Opening a bank account** in India.
 - c) Purchasing or selling **immovable property**.

Rebates and tax slabs for non-resident

❖ NRs are generally not required to file ITR based on their non-resident status. However, they must file if they meet certain income thresholds:

1. **Old Tax Regime** : if their **total income in India** exceeds **₹2.5 lakhs** in a financial year.
2. **New Tax Regime** : if their **total income in India** exceeds **₹3 lakhs** in a financial year.

Hence, a non-resident earning less than **₹3 lakhs** during a financial year is not required to file ITR for that particular year.

Notes :- 1) While calculating total income of NR in India, we **should consider income earned by minor child or any other person in respect of which NR is assessable** under the Act in India.

2) If the NR is **earning any special rate income**, he will be liable to file his return of income even if he earns a single rupee.

3) **87A rebate is not available to non-residents**, hence even if they earn income below Rs. 7 lakhs or 5 lakhs in new or old regime respectively, he will be liable to pay tax.

Do Non-residents need to file ITR?

- ❖ Further, there are other scenarios where non-residents are required to file ITR even if his total income during the year exceeded the maximum amount which is not chargeable to income-tax
 1. The deposit in savings bank account is rupees **fifty lakh** or more during the year; (seventh proviso to section 139)
 2. If **TDS/TCS deducted** during the year is **twenty-five thousand rupees** or more. (Rule 12AB)
 3. If a person has incurred expenditure of an amount **exceeding two lakh rupees for himself or any other person for travel to a foreign country.** (seventh proviso to section 139)

However, as per section 115G, **Non-resident Indian** is **not required** to file his return of income if his income :-

1. constitutes **only of investment income** or income by way of **long-term capital gains** or both; and
2. **TDS has been deducted** on such Income.

Exemption from filing ITR u/s 115A

- ❖ Further, section 115A states that it shall **not be necessary for NRs to file ITR** if :-
 1. His total income during the year **consisted only of income covered u/s 115A;**
and
 2. **TDS has been deducted** on such income **according to the rate specified as per section 115A.**

Hence, if **TDS** is deducted **as per income tax act**, NR is **exempt** from filing ITR, however, if TDS is deducted at lower rate **as per any DTAA**, he will be **required to file his return of income.**

- ❖ However, if total income of such person constitutes income specified u/s 115A and **income other than specified income u/s 115A**, he will be **required to file his ITR even if his total income is below Rs. 3 lakhs as he is earning special rate income and now in this case**, he is not exempt from filing ITR u/s 115A as his income constitutes income which is not covered us 115A.

Whether all the income earned by NR is special rate?

- ❖ **Q.** Whether **all the income earned by NR is special rate** income, as taxability income of NR is generally covered under section **115A**, which gives special rates of taxability of income earned by NR. Accordingly, **will NRs be required to file ITR if they earn any type income.**
- ❖ **Ans.** Section **115A** covers only a few types of income such as **dividends, interest on loans provided to Indian companies or the Government of India, FTS, royalty etc.** However, **Interest income on saving bank account or FD, rental income from house property i.e. rental income, salary incomes** are **neither covered under 115A nor** these incomes are **special rate** incomes in general provisions of Income Tax Act.
Hence, if a NR earns these income during the year, **below the limit of Rs. 3 lakhs, he will not be required to file ITR.**

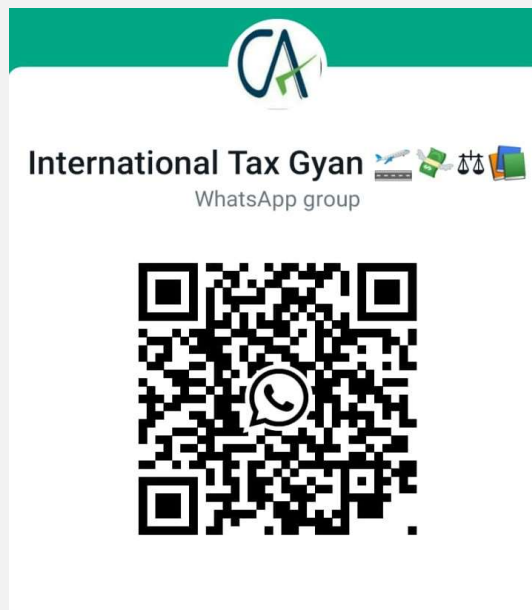
Benefits of filing ITR

❖ There are certain benefits of filing return of income by a non-residents:-

1. **Claiming refund** of TDS if tax liability is less than tax deducted at source.
2. Filing an ITR allows an assessee to **carry forward losses** (such as business losses or capital losses) to future years, **which can be set off against future income**, reducing the tax liability in subsequent years.
3. **Establishing Financial Record:-** Filing an ITR helps establish a **financial record and proof of income in India**. This can be useful for various financial transactions, such as applying for loans, visas, or credit cards.
4. Regularly filing ITRs helps in maintaining a clean legal record and avoids potential future legal issues related to tax evasion or non-compliance.

Important pointers for non-resident while filing ITR

1. Always check your AIS for each year to determine income reported in India.
2. Shifting income to relatives in India without shifting the asset would still attract clubbing of income and taxation of such income would be in the hands of non-resident.
3. Not filing a return of income thinking that you have incurred loss in shares could result in Income tax notice as they would only consider the sale consideration of shares and could send notice for non-filing of return of income.
4. **NR and RNOR are not required to provide details of their foreign asset in Indian Income tax return.**
5. If non-resident who are not Indian individual and who are foreign company cannot claim exemption u/s 115G of the Act.



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