

TDS deduction on rental property owned by NRI

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Indian taxpayers must deduct tax on the rent they pay to their landlords in certain circumstances, deposit to the PAN, and provide a form to the landlord stating the tax deducted and the rent paid. Non-resident Indians (NRIs) invest in properties in India and let it for rent. Does the rule apply to rent paid for properties owned by NRIs?

Read about the details of the Income Tax Act that makes it mandatory to deduct taxes on rent paid, here:

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1. Who can be considered as NRI?

An individual who is of Indian origin or a citizen of India but not a resident of India is known as an NRI. The residential status of an individual will be determined under Section 6. According to the section, an individual is a resident of India if he satisfies any of the following conditions:

- If he has resided in India for a minimum period of 182 days during the previous year.
- If he has resided in India for a minimum period of 60 days during the previous year and a minimum of 365 days during four immediately preceding previous years.

In this regard, an NRI is the one who does not satisfy any of the above criteria.

2. Provisions for TDS when renting an NRI property

Budget 2017 changed the rules for tax deduction at source on rent paid in India. Tenants paying rent on properties owned by NRIs are required to deduct 31.2% tax at source and submit the aggregate amount to the tax authorities. Upon payment, the tenant must fill-in Form 15CA and submit it online to the income tax department. In this case, TDS is mandatory on the rent paid irrespective of the amount payable.

3. Which tax rates are applicable

The tax must be deducted from the rent payable at the rate of 31.2%. This tax rate is applicable unless the NRI landlord has a certificate stating that his total income from India is below the exemption limit. A certificate under Section 197 for lower TDS received under Section 197 would require the deductor to deduct lower TDS as per the order of the AO.

4. How to deduct tax

First of all, tenants must get a tax account number (TAN) via the NSDL website at <https://tin.tin.nsdl.com/tan/form49B.html>. Once the TAN is received, the tenant can deduct tax every month and pay the remaining amount must be paid to the landlord.

The tax deducted at source from the rent paid in this calendar month must be paid by the seventh of following calendar month. You must pay the TDS on time. Otherwise, it attracts prosecution under Section 276B of the Income Tax Act, 1961. That is, it may lead to imprisonment ranging from three months up to seven years.

If you fail to deduct tax from the rent paid to an NRI landlord, you may attract a penalty equal to the tax not deducted as per Section 271C of the Income Tax Act; prosecution is not applicable in this case.

5. Illustration

Consider that Mr N is an NRI and owns a residential property in the outskirts of New Delhi. He has let out the property to Mr and Mrs Sharma for a monthly rent of Rs.8,000. When Mr Sharma interacted with Mr N for negotiating the rent, he got to know that the latter is an NRI.

Once Mr Sharma started paying rent, he started deducting 31.2% from agreed-upon rent and deposited it in his TAN. Mr Sharma's family moved-in to the house in the month of June 2019.

When he paid the rent for the month of June 2019 on 1 July 2019, he deducted Rs.2,496 from the rent and deposited this amount within 7 August 2019 to his tax account online. The remaining sum of Rs.5,504 is transferred to the landlord's account via electronic transfer.

6. How to file returns

Tenants must file returns within a month from the end of each quarter for the TDS paid on rent to an NRI landlord. For example, you must file returns by 31 July 2019 for the TDS on rent paid for April, May, and June 2019.

Alongside, the tenant must provide a TDS certificate by means of Form 16A to the landlord within a period of 15 days from the due date for filing quarterly TDS return.

7. Other information

- It is mandatory for tenants to fill Form 15CA on the income tax portal every time rent is paid.
- If the total rent paid per annum exceeds Rs.5 lakh, the tenant must obtain Form 15CB from a Chartered Accountant.

When you take a house on rent, it is your responsibility to find out if the landlord is an NRI. This makes it easy for you to deduct TDS on the rent paid and adhere to the Income Tax Act. Keep a track of any amendments to the tax rules.