GUIDE TO TAXATION IN INDIA

This guide looks at the tax treatment of an RL360 plan for an individual who is Resident and Ordinarily Resident in India.

RESIDENCY STATUS IN INDIA

An individual's residential status in India could be classed as:

- Resident and Ordinarily Resident; or
- Not Ordinarily Resident; or
- Non-Resident.

Where an individual is classed as **Resident and Ordinarily Resident** in any tax year they are subject to taxation in India on their worldwide income. Therefore, any gain received from a withdrawal or surrender of an RL360 plan would be taxable in India.

The tests used to determine an individual's residential status are complex and outside of the scope of this guide.

TAXATION OF AN RL360 PLAN

For the purpose of taxation in India, the RL360 plan is classed as securities and taxable as capital assets.

This means that providing the funds held within the plan are for personal investment and not business assets, on withdrawal or surrender the gain is taxable under the heading 'Capital Gains'.

GROSS ROLL UP – A VALUABLE TAX DEFERRAL BENEFIT

A key benefit of an offshore plan is **gross roll-up**. Investments inside the plan can grow without taxation arising simply because the value increases. This means more of the money can stay invested and grow over time.

Simple example: USD 200,000 invested with a 5% annual return

Investment route	Tax position in the year	Amount left invested after year one
Direct investment	For a higher-rate taxpayer, a return on investment made up of interest and dividends of USD 10,000 may be subject to taxation, reducing the amount available to remain invested.	**Less than USD 210,000 after tax**
RL360 plan	The plan benefits from **gross roll-up**. No tax arises simply because the plan value has increased, so the full gain remains invested within the plan.	**USD 210,000**

RL360 advantage: More of the investment growth remains invested within the plan and can continue to benefit from compounding rather than being reduced by an immediate tax liability.

RL360 Insurance Company Limited is based in the Isle of Man and no tax is payable by us on any income or gains that accumulate within the plan. With the exception of any non-recoverable withholding taxes, for example on US share dividends.

TAXATION WHEN ACCESSING BENEFITS

Benefits may be taken from the plan by way of:

- Regular withdrawals;
- Partial withdrawals;
- Surrender of individual plan segments (where available); or
- Full surrender of the plan.

It is only the gain arising that will be taxable and this will depend on how long the plan has been held:

- Gains arising within 24 months of ownership are classed as **short-term gains** and will be taxable at an individual's marginal rate of income tax plus any surcharge and the Health and Education Cess.
- Gains arising after 24 months or more of ownership will be classed as **long-term gains**. Individuals will be liable to tax at a flat rate of 12.5%, plus any surcharge and the Health and Education Cess.

TAXATION ON DEATH

India does not currently impose estate duty or inheritance tax. Accordingly, the transfer of assets on death is not generally subject to a separate inheritance tax charge.

The tax treatment of any death benefit payable under the plan will depend upon the specific circumstances, including whether plan ownership passes to a beneficiary, whether the plan continues following the death of a life assured and the nature of any benefits paid.

- For a capital redemption plan, or where there is a surviving life assured, the transfer of the plan ownership to a nominee/beneficiary is also not taxable in India. Any gain accessed when the new plan owner takes a withdrawal from or surrendering from the plan would be taxable as either **short** or **long-term gains**.
- Where the last life assured has died, the plan is unable to continue and must be surrendered and the proceeds paid out. In this case, the sum payable is taxable as either **short** or **long-term gains** in the hands of the nominee.

Where the new plan owner receives the plan by succession or inheritance, it may generally be possible for the new owner to include the period of ownership of the previous owners when determining if **short** or **long-term gains** apply.

GIFTING A PLAN

The assignment of an RL360 plan by way of gift may result in tax implications.

Where the value of a gifted asset exceeds INR 50,000, the recipient may be subject to taxation unless a specific exemption applies. The amount subject to taxation will depend upon the fair market value of the plan and any consideration paid by the recipient.

An Indian resident recipient is exempt from any taxation in India if the gift was:

- made to a family member who qualifies as a relative;
- made on the occasion of marriage;
- made under a will;
- received by way of inheritance;
- made in contemplation of the death of the donor.

Where the assignment of the plan is between two individuals that are both resident in India, or from a resident individual to a person that is resident outside of India, the transfer of the plan may require prior approval of the Reserve Bank of India (RBI).

RL360 is not responsible for checking that any required approval from the RBI has been obtained before transferring the ownership of the plan.

DISCLOSURE OF FOREIGN ASSETS

There is a requirement, on an annual basis, for an individual that is classed as a Resident and Ordinarily Resident to disclose details of Foreign Assets held on their Income Tax Return form. In relation to the RL360 plan, this could include:

- Name and address of the financial institution where plan is held
- Date of acquisition of the plan
- The cash or surrender value of the plan
- Total gross amount of premiums paid to the plan during the relevant period

IMPORTANT NOTES

Every care has been taken to ensure that the information provided is correct and reflects our current understanding of the relevant law.

However, we cannot act as an individual taxation adviser and recommend that independent advice is obtained.

RL360 cannot accept any responsibility for any action taken or refrained from being taken as a result of this information.

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