Concerns for Expatriates working in India

For a foreign national coming to India on employment/ business purpose, here are the relevant guidelines:

Q1. What are the requirements for an expat coming to India on employment or business purpose?

Ans. The first requirement for an expat is to apply for work permit, i.e, employment visa (E-visa) or business visa.

An **employment visa** will be granted to a foreign national if his or her salary exceeds US$25,000 per annum. The salary threshold of US$25,000, however, does not apply to ethnic cooks, language teachers (other than English teachers), translators and staff working for the concerned embassy or the High Commission in India.
It is initially valid for one year, which can subsequently be extended at the local FRRO office.

Unlike employment visas, business visa applicants usually work on behalf of a foreign company for a limited time and won't be working for a local employer. The **business visa** is for entrepreneurs or investors wishing to set up a business, purchase or sell industrial products, or establish business ties with a company in India.
You cannot convert a business visa into an employment visa while staying in India.
Business visas are generally issued with six month's validity or more, and provide for multiple entries.

All visa applications must consist of the following:

- a completed application form
- valid passport with two blank pages facing each other,
- the correct fee for the type of visa you are applying for,
- 2 passport-sized photographs,
- supporting documents, as may be required depending on the type of visa applied for. All details about visa fees, registration requirements and additional guidelines are available with the Indian Embassy.

**Employment visa applicants will need to provide proof of employment such as a contract with an Indian employer. Business visa applications may need to be accompanied by letters from the applicant's employer and the local organization they'll be doing business with.*

Q2. What should an expat do soon after arriving in India?

Ans. Firstly, expats who have a visa that's valid for more than 180 days (and/or those who intend to stay in India for more than 180 days) will need to register with the Foreigners' Regional Registration Office (FRRO) within 14 days of arrival to receive a residential permit.
Simultaneously, person who is liable to pay taxes in India must apply for a tax registration number i.e. Permanent Account Number (PAN) with the Indian Income Tax Authorities in Form 49AA as applicable together with the prescribed documents.
It can be applied online using below link: https://tin.tin.nsdl.com/pan/form49AA.html

PAN is generally allotted within 15 days of submitting prescribed documents. The PAN is to be applied immediately on arrival since it is also required for foreigners' registration with the Foreigners' Regional Registration Office (FRRO). Instructions and documents required for PAN application are provided in below link. https://tin.tin.nsdl.com/pan/Instructions49AA.html#instruct_documents

Q3. What are the tax compliances an expat must follow?

Ans. An expat is liable to pay taxes in India based on his/her tax residency during a fiscal year. Tax residency is dependent on the stay of that person in India, irrespective of the purpose of such stay. Salary income/ remuneration earned by an individual for services rendered in India during the assignment period is taxable in India (irrespective of where the payment has been received). This will include salary for any holiday period during the assignment. In addition, any sum that is relatable to the India service period and received preceding/ succeeding the assignment period will also form part of salary income.
An individual who is resident of a country with which India has entered into DTAA (i.e., Double Taxation Avoidance Agreement) could avail the treaty benefits to either eliminate taxation in one of the countries or avail credit of taxes paid in the country of residence. The person would require a **tax residency certificate (TRC)** from the tax authorities of the resident country to avail treaty benefits in the India tax return. In addition, prescribed details are to be submitted in Form 10F if not already mentioned in the TRC.

Grossing-up of taxes: Expatriates coming into India and working in various companies are generally tax equalized i.e., the tax payable in India on their salary and perquisites is borne by the employer. This is to ensure that they remain tax neutral in respect of their Indian assignment. In other words, the expatriate employees are assured net-of-tax salary income. Consequently, their income is grossed up for determining the tax payable in India. In other words, tax payable by them is added to their salary being remitted and determined on gross figure.

Filing tax return: The due date for filing the India tax return is 31st July following the end of every fiscal year. The return can be filed either manually or electronically using the link http://www.incometaxindia.gov.in/Pages/default.aspx.

Q4. **Can an expat use tax planning to accelerate or defer residence?**

Ans. Expats can use careful tax planning to avoid becoming a tax resident in India, and can thus avoid paying taxes on a worldwide income. Expatriates seeking to accelerate or defer tax residence in India should consider all the rules related to the residential status mentioned above. Pay special attention to the ROR criteria, noting the number of days for which it is necessary an individual remains in India to satisfy this status. For example, splitting the time spent in India for a lengthy assignment between two financial years can help an individual avoid tax residence status.

Q5. Is there any other regulatory compliance an expat must follow?

Ans. As per the provisions of the **Provident Fund scheme**, both employer as well as employee will contribute **12% of monthly pay**. Out of the employer's contribution 8.33% of monthly pay will be towards the pension fund and balance 3.67% will be towards Provident Fund.
Salary will include the total salary whether received in India or abroad.
An employer needs to deposit the PF by the 15th of the next month. The details of the assignees also need to be provided on a monthly basis in a prescribed form.
Foreign nationals i.e. International Workers (IWs) working in establishments in India to which Employees' Provident Fund (PF) regulations apply are required to contribute to the PF (on gross salary) except those who have been specifically exempted under the regulations.

Persons from countries with whom India has signed an SSA (i.e., **Social Security Agreement**), contributing towards the social security of the home country and holding Certificate of Coverage (COC) from the home country will not be required to contribute towards the Indian social security. The COC needs to be filed with the PF authorities.

At the time of departure: Employee is required to furnish with the income tax authorities, an **undertaking from the employer** to the effect that the tax payable by the employee shall be paid by the employer. This undertaking is required to be presented to the immigration authorities at the time of departure from India.