

# Taxation of Global Remote Workers / Digital Nomads

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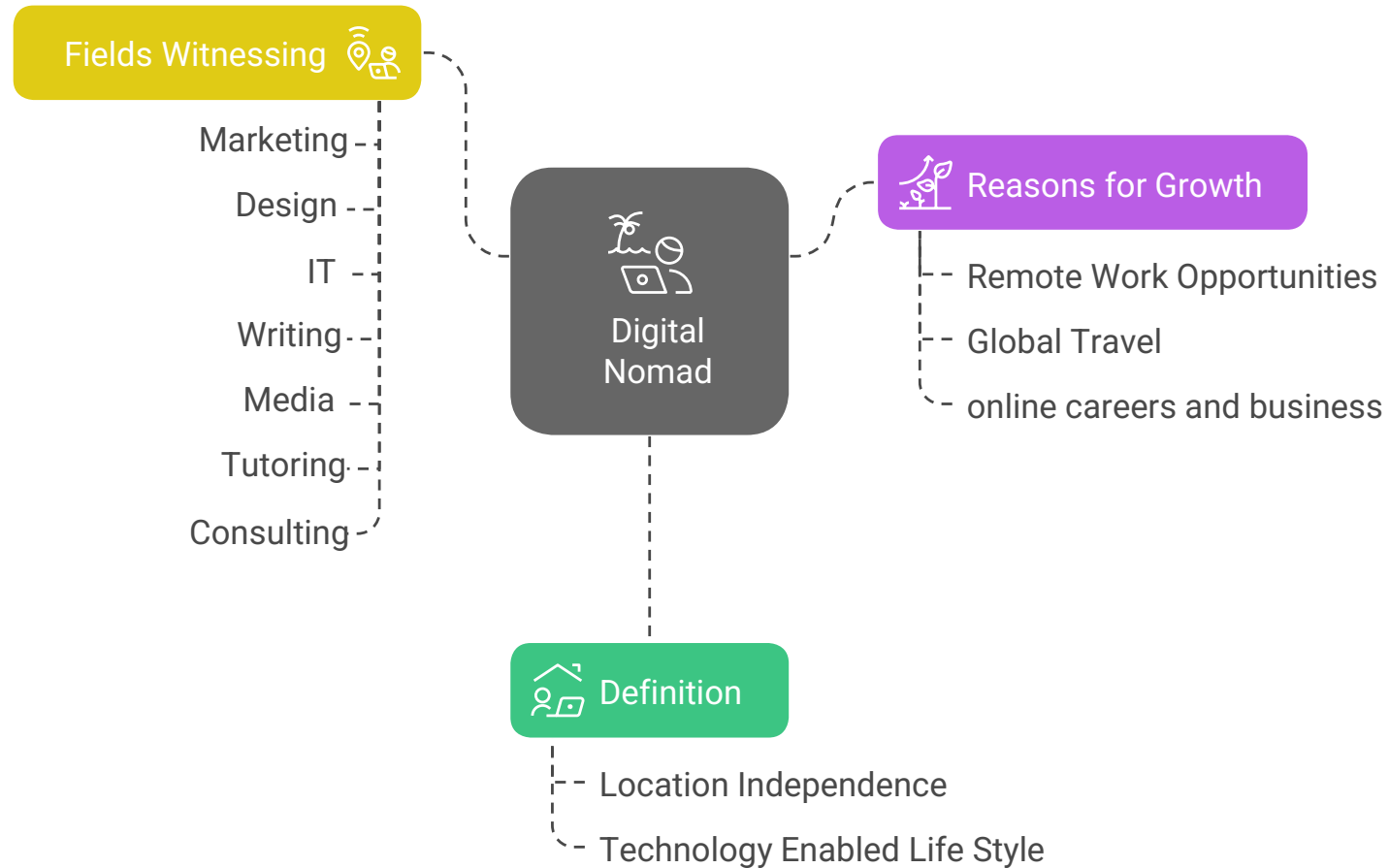
Venue: Ernakulam

## Agenda

Sl. No	Particulars
1	Meaning of Digital Nomads / Global Remote Workers and features
2	Taxation aspects of Digital Nomads / Global Remote Workers
3	Treaty Position
4	Recent Judicial Rulings

# Meaning and features

# Meaning of Digital Nomads / Global Remote Workers and features



## Meaning of Digital Nomads / Global Remote Workers and features

**Digital Nomad**: The term digital nomad refers to a “**location-independent, technology-enabled lifestyle**”.

**Reason for growth**: More and more employees, freelancers and self-employed entrepreneurs choose remote work to **combine global travel and online careers and business**.

**Which fields are witnessing Digital Nomadism? Digital-intensive sectors like**

**Marketing,**

**Design,**

**IT,**

**Writing,**

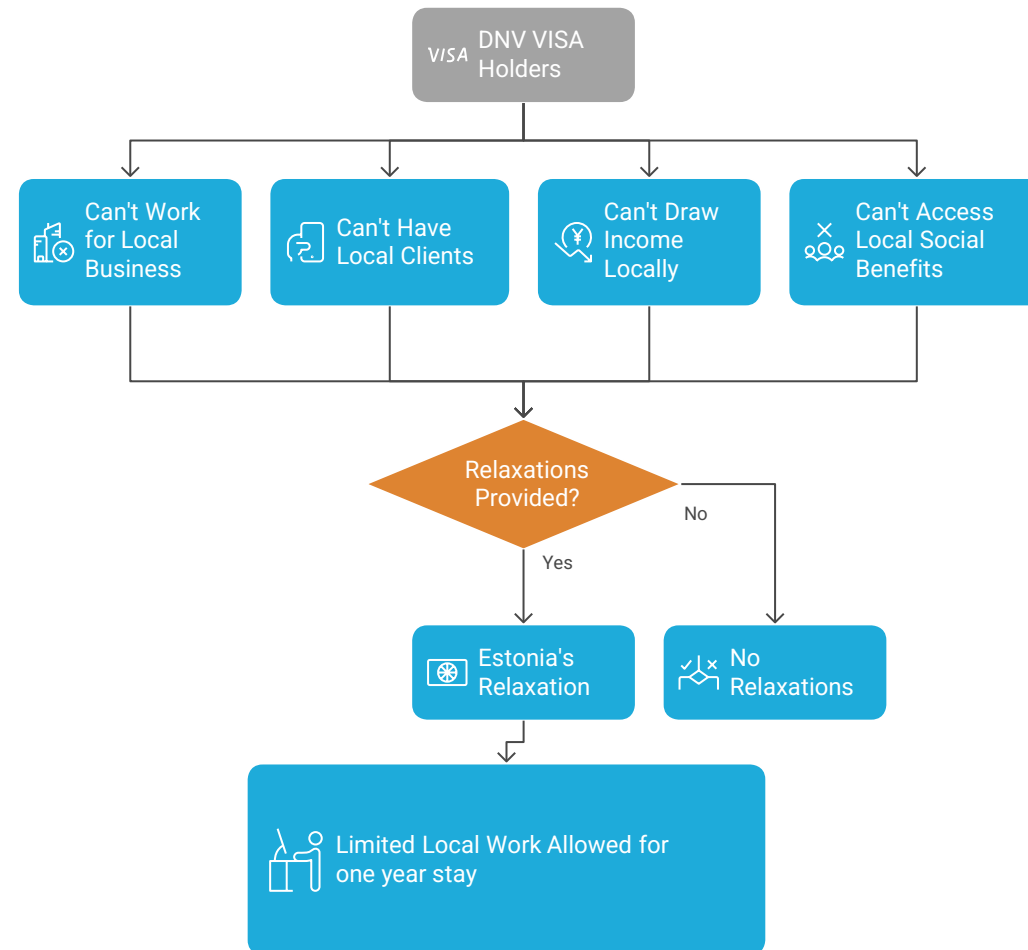
**Media,**

**Tutoring,**

**Consulting etc,. are witnessing Digital Nomadism.**

# Meaning of Digital Nomads / Global Remote Workers and features (Contd.....)

## Digital Nomad Visa Limitations and Relaxations



## Meaning of Digital Nomads / Global Remote Workers and features (Contd.....)

### What the Digital Nomads cannot do? [Limitations on DNV VISA Holders]

#### DNV VISA holders

- Can't work for local business,
- Can't have local clients,
- Can't draw income locally, and
- Can't access LOCAL social benefits and services.

However, few countries provided limited relaxations to the above. Thus, the Digital Nomads / Cross border remote workers may earn active income from employed / self employed activities abroad.

**Relaxation provided by Estonia :** Eligible foreign remote workers residing in Estonia are allowed to perform limited local work during their one-year stay. No additional work authorization is required, as long as the main purpose of their stay remains remote work.

## Meaning of Digital Nomads / Global Remote Workers and features (Contd.....)

**Which countries offer Digital Nomad Visas [DNVs]?**

**6 OECD Countries offering DNVs [(i) Costa Rica; (ii) Estonia; (iii) Greece; (iv) Hungary; (v) Iceland; (vi) Latvia]**

**22 Non-OECD Countries offering DNVs [Antigua and Barbuda, Aruba, Argentina, The Bahamas, Barbados, Bermuda, Brazil, Cape Verde, Cayman Islands, Croatia, Curacao, Dominica, Georgia, Malta, Mauritius, Montserrat, Panama, Romania, Seychelles, Sri Lanka, St. Lucia, the United Arab Emirates (Dubai)].**

**Countries which are exploring of offering DNVs: {Albania, Ecuador, Grenada, Indonesia, Panama, Thailand and other emirates in the UAE}.**

## Meaning of Digital Nomads / Global Remote Workers and features (Contd.....)

### Why countries offer Digital Nomad Visas [DNVs]?

- Attract people who will consume locally
- Attract sought-after mobile talent or capital
- Regularize practices which escaped oversight
- Visa Fees is the source of revenue in few cases. {In the Non OECD Countries, the fee for DNV ranged from 2000 USD to 3000 USD (e.g. USD 2 000 fee in Barbados, 3 000 for a family in Antigua and Barbuda).}

### Why self employed / free lancers prefer Digital Nomad Visas [DNVs]?

- The DNV may be a way to test the local lifestyle prior to making a decision to start a business or seek local employment.
- Nothing prevents digital nomads from networking, frequenting local businesses and meeting potential local investors while staying in the country – as long as they have no business relationship. Some of them might be willing to enter the local market, extend their activities and shift from a DNV status to longer or permanent residency.

# Taxation Aspects of DNV holder

## Taxation aspects of DNV holder [Digital Nomad Visa Holder]

- **Tax resident after 183 days:** Under most – but not all – DNV schemes, DNs are considered tax residents after 183 days.
- **Tax Concessions:** Some Countries provide generous tax relief as part of their DNV Schemes. Several non-OECD countries have provided income tax exemptions for up to one or two years (Croatia, Barbados, Dubai, Mauritius, Cape Verde, etc.). Costa Rica is the only OECD country to exempt DNV primary holders from income tax and from taxes on importing technological work equipment throughout their stay. DNVs may benefit from tax reductions offered to new residents. Greece, for example, offers a seven-year 50% tax break to any newly-arrived or temporary resident, holding a DNV or any other residence permit.
- **Individuals may have additional obligations in the country of origin:** In some cases, individual taxpayers may also still have some tax obligations in their country of origin.
- **May give rise to PE risk in the case of employees of firm / company are sent on DNV Scheme; Employers may be required to remit social security contributions:** Tax implications will be further reaching for employees of firms. Indeed, for firms, employing remote workers based abroad may, depending on circumstances, trigger a “permanent establishment” risk and, with it, an obligation for the company to pay corporate taxes in another jurisdiction. In addition, if an employee becomes tax resident in another country, employers may be requested to remit personal income tax and social security contributions to that country. Generally, this suggests that these schemes will be more attractive to self-employed/freelance workers than to employees.

## Taxation aspects of DNV holder [Digital Nomad Visa Holder]

### Sec 6(1A) and Sec 6(6)(d) of the ITA, 1961:

#### Sec 6: For the purposes of this Act,-

(1): An individual is said to be resident in India in any previous year, if he-

(a) is in India in that year for a period or periods amounting in all to 182 days or more ; or

(b) ----

(1A): Notwithstanding anything contained in clause (1), an individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year shall be deemed to be resident in India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

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(6): A person is said to be “not ordinarily resident” in India in any previous year if such person is-

(a)----

(b)----

(d): a citizen of India who is deemed to be resident in India under clause (1A).

# Treaty Position

## Treaty Position [Article 14 = Independent Personal Services]

Treaty Position [Article 14 of UN MC : Independent Personal Services] [No separate article in OECD. It is clubbed in Article 7 dealing with business profits in OECD MC.]

The General Right to tax IPS is given to the Country of Residence. However, in the cases of FB Regularly Available / Stay exceeding specified number of days, right is given to the Source State also:

The Essence of the Article 14 is that, the right to tax the income under this Article mainly lies with the country of residence of the taxpayer (residence rule). However, the Article provides that Income can also be taxed in the country from where such income is sourced (source rule) if the following conditions are satisfied:

- Such income is in respect of **professional services or other activities of an independent character;**
- **The person has either:**
  - ❑ **A fixed base regularly available to him in the country of source for “performing his activities”;**
  - or
  - ❑ **His aggregate stay in the country of source amounts to or exceeds 183 days in any period of 12 months commencing or ending in the relevant fiscal year.**

## Treaty Position [Article 15 = Income from employment]

### Treaty Position [Article 15 of OECD MC / UN MC : Income from Employment / Dependent Personal Services]

#### OECD: Income From Employment

**Para 1:** Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State **unless the employment is exercised in the other Contracting State.** If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

#### UN Model : Dependent Personal Services

**Para 1:** Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State **unless the employment is exercised in the other Contracting State.** If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

**Article 16 = Director's Rem; Article 18 = Pensions, etc,; Article 19 = Government Service**

## Treaty Position [Article 15 = Income from employment] [Contd.....]

### Treaty Position [Article 15 of OECD MC / UN MC : Income from Employment / Dependent Personal Services]

#### OECD: Income From Employment

**Para 2:** Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State **in respect of an employment exercised in the other Contracting State** shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, **and**
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, **and**
- (c) the remuneration is not borne by **a permanent establishment** which the employer has in the other State.

#### UN Model : Dependent Personal Services

**Para 2:** Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State **in respect of an employment exercised in the other Contracting State** shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; **and**
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; **and**
- (c) the remuneration is not borne by **a permanent establishment or a fixed base** which the employer has in the other State.

## Treaty Position [Article 15 = Income from employment] [Contd.....]

### Treaty Position [Article 15 of OECD MC / UN MC : Income from Employment / Dependent Personal Services]

#### OECD: Income From Employment

**Para 3:** Notwithstanding the preceding provisions of this Article, remuneration **derived by a resident of a Contracting State** in respect of an employment, as a member of the regular complement of a ship or aircraft, **that is exercised aboard a ship or aircraft operated in international traffic**, other than aboard a ship or aircraft operated solely within the other Contracting State, **shall be taxable only in the first-mentioned State.**

#### UN Model : Dependent Personal Services

**Para 3:** Notwithstanding the preceding provisions of this Article, remuneration **derived by a resident of a Contracting State** in respect of an employment, as a member of the regular complement of a ship or aircraft, **that is exercised aboard a ship or aircraft operated in international traffic**, other than aboard a ship or aircraft operated solely within the other Contracting State, **shall be taxable only in the first-mentioned State.**

**As a member of the regular complement of a ship or aircraft.** These words are broad enough to cover any employment activities performed in the course of the usual operation of the ship or aircraft, including, for example, the activities of employees of restaurants aboard a cruise ship or the activities of a flight attendant who would only work on a single flight before leaving his employment; they would not cover, however, employment activities that may be performed aboard a ship or aircraft but are unrelated to its operation (e.g. an employee of an insurance company that sells home and auto insurance to the passengers of a cruise ship).

# Recent Judicial Rulings

## Centrica India Offshore (P.) Ltd [SC]

Where in terms of 'secondment agreement' employees of overseas companies {UK and Canadian entities} used their technical knowledge and skills while assisting assessee {the Indian entity} in conducting its business of quality control and management, amounts reimbursed by assessee to overseas companies towards salaries of seconded employees amounted to 'fee for technical services' liable to tax in India.

{Centrica India Offshore (P.) Ltd Vs Commissioner of Income-tax-I, New Delhi [2014][51 Taxmann.com 386][SC]}

Points to ponder : 'Pay to Employees as salaries after recruiting them in Indian company payrolls.' [Will this strategy save?]

## Northern Operating Systems (P.) Ltd [SC]

Where employees were seconded to assessee by group overseas entity, assessee was service recipient for manpower recruitment and supply services; assessee would be liable to pay service tax under reverse charge basis. [\[Analogy applies in GST also\]](#)

The relevant terms of the agreement to understand the activity are as follows:

- When required Appellants requests the group companies for managerial and technical personnel to assist in its business and accordingly the employees are selected by the group company and they would be transferred to Appellants.
- The employees shall act in accordance with the instructions and directions of Appellants. The employees would devote their entire time and work to the employer seconded to.
- The seconded employees would continue to be on the payroll of the group company (foreign entity) for the purpose of continuation of social security/retirement benefits, but for all practical purposes, Appellants shall be the employer. During the term of transfer or secondment the personnel shall be the employee of Appellants. Appellants issue an employment letter to the seconded personnel stipulating all the terms of the employment.
- The employees so seconded would receive their salary, bonus, social benefits, out of pocket expenses and other expenses from the group company.
- The group company shall raise a debit note on Appellants to recover the expenses of salary, bonus etc. and the Appellants shall reimburse the group company for all these expenses and there shall be no mark-up on such reimbursement. [{C.C.,C.E. & S.T. Bangalore Vs Northern Operating Systems \(P.\) Ltd} \[2022\]\[138 taxmann.com 359 \(SC\)\]](#) Points to ponder : 'Pay to Employees as salaries after recruiting them in Indian company payrolls.' [\[Will this strategy save?\]](#)

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The Views / Comments in the above slides  
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# Thank You

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