

REMITTANCE FACILITY FOR NRIs/ PIOs/FOREIGN NATIONALS

Remittance facilities for Non Resident Indians (NRIs)/persons of Indian Origin (PIO) and Foreign Nationals

The Regulations for transfer of assets outside India by a person whether resident in India or not are given in the Notifications No. FEMA 13/2000-RB and FEMA 21/2000-RB both dated May 3, 2000 and the related amendments to these Notifications. Accordingly, remittance of capital assets in India held by a person whether resident in or outside India would require approval of the Reserve Bank except to the extent provided in FEMA or Rules or Regulations made there under.

Definition of NRI/PIO

NRI for this purpose is defined as a person resident outside India who is citizen of India. In terms of Regulation 2 FEMA Notification No. 13 dated May 3, 2000, Non-Resident Indian (NRI) means a person resident outside India who is a citizen of India. Person of Indian Origin (PIO) means a citizen of any country other than Bangladesh or Pakistan who had (a) at any time held Indian passport or (b) he or either of his parents or any of his grandparents was a citizen of India by virtue of the Constitution of India or the Citizenship Act 1955 or (c) the person is a spouse of an Indian citizen or a person referred to in (a) or (b).

Remittance of Current Income

Remittance of current income like rent, dividend, pension, interest etc. of NRIs/PIO even those who do not maintain NRO account is freely allowed, on the basis of appropriate certification by a Chartered Accountant certifying that the

Amount proposed to be remitted is eligible for remittance and that applicable taxes have been paid / provided for.

NRIs/PIO have the option to credit the current income to their Non-Resident (External) Rupee account, provided the authorized dealer bank is satisfied that the credit represents current income of the non-resident account holder and income tax thereon has been deducted / provided for.

Remittance of Assets by a Foreign National of Non-Indian Origin

A foreign national of non-Indian origin who has retired from employment in India or who has inherited assets from a person resident in India or who is a widow of an Indian citizen who was resident in India, may remit an amount not exceeding USD one million, per financial year (April-March), on production of documentary evidence in support of acquisition / inheritance of assets, an undertaking by the remitter and certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes vide their Circular No.10/2002 dated October 9, 2002.

These remittance facilities are not available to citizen of Nepal and Bhutan.

Remittance Of Assets By NRI/ PIO

A Non-Resident Indian (NRI) or a Person of Indian Origin (PIO) may remit an amount up to USD one million, per financial year, out of the balances held in his Non-Resident (Ordinary) Rupee (NRO) account / sale proceeds of assets (inclusive of assets acquired by way of inheritance of settlement), for all bonafide

Purposes, to the satisfaction of the authorized dealer bank, on production of an undertaking by the remitter and certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes vide their Circular NO.10/2002 dated October 9, 2002.

NRI/PIO may remit sale proceed of immovable property purchased by him out of Rupee funds (or as a person in India) as indicated above without any lock in-period.

In respect of remittance of sale proceed of assets acquired by way of inheritance of legacy or settlement for which there is no lock-in-period, NRI/PIO may submit documentary evidence in support of inheritance or legacy of assets, an undertaking by the remitter and certificate by Chartered Accountant in the prescribed formats. Settlement is also a mode of inheritance from the parent, the only difference being that the property under the settlement passes to the beneficiary on the death of owner/parent without any legal procedures/hassles and helps in avoiding delay and inconvenience in applying probate, etc. Here it is clarified that in case settlement is done without retaining any life interest in the property it would tantamount to regular transfer by way of gift. Therefore, if property is received by NRI/PIO by way settlement without the settler retaining life interest it may be reckoned as transfer by way of gift and remittance of sale proceeds of such property would be guided by the extant instructions on remittance of balance in the NRO account.

The remittance facility in respect of sale proceeds of immovable property is not available to citizens of Pakistan, Bangladesh, Sri Lanka, China, Afghanistan, Iran, Nepal and Bhutan.

The facility of remittance of sale proceeds of other financial assets is not available to citizens of Pakistan, Bangladesh, Nepal and Bhutan.

Repatriation of Sale Proceeds of Residential Property Purchased By NRIs/PIO out of Foreign Exchange

Repatriation of sale proceeds of residential property purchased by NRI/PIO is permitted to the extent of the amount paid for acquisition of immovable property in foreign exchange received through banking more than two such properties. Authorized dealer banks may permit repatriation of amounts representing the refund of application / earnest money/ purchase consideration made by the house building agencies/ seller on account of non-allotment of flat/ plot/ cancellation of booking/ deals for purchase of residential/ commercial property, together with interest, if any (net of income tax payable thereon), provided the original payment was made out of NRE/ FCNR (B) account of the holder, or remittance from outside India through normal banking channels and the authorized dealer bank is satisfied about the genuineness of the transaction. Such funds may also be credited to the NRE/FCNR (B) account of the NRI/PIO, if they so desire. Authorized dealer banks may allow repatriation of sale proceeds of residential accommodation purchased by NRIs/PIO out of funds raised by way of loans from the authorized dealer banks/ housing finance institutions to the extent of such loans repaid by them out of foreign inward remittances received through normal banking channel or by debit to their NRE/FCNR (B) accounts.

Authorization to Regional Rural Banks (RRBs)

With a view to make foreign exchange services available to the NRIs/PIO on a wider scale, RRBs are now authorised to open and maintain FCNR (B) Deposit accounts also by NRIs/PIO.

Repatriation of maturity proceeds of FCNR (B) deposits

Authorised Dealer banks are permitted to make remittance or the maturity proceeds of FCNR (B) deposits to the third parties outside India provided the transaction is specifically authorised by the account holder and the authorised dealer is satisfied about the bonafide of the transaction.

ESOP to NRI Employees

Authorised Dealer Banks are permitted to grant Rupee loans to NRIs employees of Indian companies for acquiring shares of the companies under the ESOP Scheme. The loan scheme should be as per the policy approved by the bank's Board and would further be subject to the following conditions:

- (i) The loan amount should not exceed 90 per cent of the purchase price of the shares or Rupees 20 lakh per NRI employee, whichever is lower.
- (ii) The rate of interest and margin on such loans may be decided by the banks, subject to the directives issued by the Reserve Bank from time to time.
- (iii) The amount shall be paid directly by the bank to the company and should not be credited to the borrowers' non-resident accounts in India.
- (iv) The loan amount should be repaid by the borrower by way of inward remittances or by debit to his NRO/NRE/FCNR (B) account.
- (v) The loans will be included for reckoning capital market exposures and the bank will ensure compliance with prudential limits, prescribed by the Reserve Bank (DBOD) from time to time, for such exposure to capital market.

Facilities for Students

Students going abroad for studies are treated as Non-Resident Indians (NRIs) and are eligible for all the facilities available to NRIs under FEMA.

As Non-Residents, they will be eligible to receive remittances from India

(i) up to USD100,000 from close relatives in India on self declaration towards maintenance, which could include remittances towards their studies also and

(ii) up to USD 1 million per financial year, out of sale proceeds of assets/balances in their NRO account maintained with an AD bank in India.

All other facilities available to NRIs under FEMA are equally applicable to the students. Educational and other loans availed of by them as residents in India will continue to be available as per FEMA regulations.

Income-Tax Clearance

The remittances will be allowed to be made by the authorized dealer banks on production of an undertaking by the remitter and a Certificate from a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes, Ministry of Finance, Government of India in their Circular No.10/ 2002 dated October 9, 2002. [cf. A.P.(DIR Series) Circular] No.56 dated November 26, 2002.

International Credit Cards

Authorized dealer banks have been permitted to issue International Credit Cards to NRIs/PIO, without prior approval of Reserve Bank. Such transactions may be settled by inward remittance or out of balances held in the cardholder's FCNR (B) /NRE /NRO accounts.