

Remittance of Assets by Non-residents

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Objectives

- Introduction
- What is Remittance???
- Who are Non-residents???
- Relevant Notifications and Circulars
- Which assets can be remitted?
- How are assets remitted?
- Legal Compliances (*In special cases*)

Introduction (1/3)

NRO

Non-Resident (Ordinary) Account

- **Eligible persons** - Any Person resident outside India, Individuals/Entities of Bangladesh/Pakistan requires prior approval from RBI.
- **Types of Accounts** - Current, Savings, Recurring or Fixed Deposits (Permitted joint accounts with Residents/ Non- Residents).
- **Denominated Currency** – INR
- Transfers from and transfer to other NRO accounts is permissible.
- Balances in NRO accounts are eligible for remittance outside India only with the general or specific approval of RBI.
- Remittance outside India of current income in India of the account holder net of applicable taxes.
- Funds received by the way of remittance from outside India in Foreign Exchange which have not lost their identity as remittable funds will only be considered by RBI for remittance outside India.

Introduction (2/3)

NRE

Non-Resident (External) Rupee Account

- **Eligible persons** - Non-Resident Indians (NRI's) & Persons of Indian Origin (PIO's).
- **Types of Accounts** - Savings, Current, Recurring Deposit or Fixed Deposit etc.
- **Denominated Currency** – INR
- **Rate of Interest** - As prescribed by RBI from time to time.
- Transfers from and to other NRE/FCNR(B) accounts is permissible.
- Remittances outside India is allowed.

Introduction (3/3)

FCNR(B)

Foreign Currency (Non-Resident) Bank Account

- **Eligible persons** - Non-Resident Indians (NRI's) & Persons of Indian Origin (PIO's).
- **Types of Accounts** - Term Deposit (Recurring Deposits are not accepted under FCNR (B)).
- **Denominated Currency** - Permitted currency as per Regulation 2(v) of FEMA 14/2000-RB dated May 3, 2000.
- **Rate of Interest** - As prescribed by RBI from time to time.
- Remittances outside India is allowed.
- All Debits/ Credits permissible in respect of NRE Accounts shall be permissible in respect of FCNR(B) Accounts.

Remittance ???

- **“Remittance of asset”** means remittance outside India of funds representing:
 - Deposit with a Bank or a Firm or a Company
 - Provident Fund balance or Superannuation benefits or claims or maturity proceeds of Insurance policy
 - Sale proceeds of shares, securities, immovable property or
 - Any other asset held in India.

Who is an NRI & PIO ???

- **Non-Resident Indian (NRI):** Person resident outside India who is a citizen of India.
- **Person of Indian Origin (PIO):** Person resident outside India who is a citizen of any country other than Bangladesh or Pakistan or such other country satisfying following conditions:
 - a) who was a citizen of India by virtue of The Constitution of India or Citizenship Act, 1955
 - b) who belonged to a territory that became part of India after 15th August, 1947 or
 - c) who is a child or grandchild, or great grandchild of persons referred in clause (a) or (b) or
 - d) Spouse of foreign origin of citizen of India or spouse of foreign origin of person referred in clause (a) or (b).

Relevant Notifications and Circulars

- The remittance of assets outside India by a person whether resident in India or not, are subject to the provisions of Foreign Exchange Management (Remittance of Assets) Regulations, 2000. Reserve Bank has notified these regulations by issue of a [Notification No. FEMA.13/2000-RB](#) and [Notification No. FEMA.21/2000-RB](#) both dated 3rd May, 2000 as amended from time to time.



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Various remittances (1/5)

➤ **Remittance out of the balances held in NRO account :**

- USD One Million per financial year out of the balances held in his/her Non-resident (Ordinary) Rupee (NRO) Account/sale proceeds of the assets (inclusive of assets acquired by way of inheritance or settlement).

➤ **Remittance of sale proceeds of the immovable property acquired out of Rupee funds:**

- USD One Million per financial year
- No lock-in-period for remittance
- Balance in the NRO accounts may also include sale proceeds of immovable property acquired by NRIs out of the resources in India.

Various remittances (2/5)

➤ **Remittance of sale proceeds of assets acquired by way of inheritance or legacy or settlement* or gift :**

- No lock-in period
- NRIs/PIO may submit documentary evidence at the time of remittance all applicable taxes in India, if any are paid.

**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 the owner/parent without any legal procedures/hassles and helps in avoiding delay and inconvenience in applying for probate, etc.,*

➤ **Repatriation of maturity proceeds of NRE/FCNR account deposits :**

- AD Category-I banks and authorized banks are permitted to make remittance of the maturity proceeds of FCNR deposits to the third parties outside the India provided the transaction is authorized and bonafide.

Various remittances (3/5)

➤ Remittance of current income :

- ❑ rent, dividend, pension and interest etc., of NRIs/PIO 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 all applicable taxes have been paid.

➤ ESOP to NRI Employees :

- ❑ AD's are permitted to grant Rupee loans to NRI employees of Indian companies for acquiring shares of the companies under the ESOP Scheme. The loan should be as per the policy approved by the Bank's Board and subject to the conditions indicated in **AP (DIR Series) Circular No.7 dated August 22, 2007.**

Various remittances (4/5)

➤ Facilities for students :

- ❑ Students going abroad for studies are treated as NRIs and are eligible for all the facilities available to NRIs under the provisions of FEMA. As an NRI, they will be eligible to receive remittances from India up to **USD One Million** from close relatives in India on self-declaration towards maintenance and studies.

➤ Refund of application/earnest money/purchase consideration :

AD may permit repatriation of amounts pertaining to

- ❑ refund of application
- ❑ earnest money (money paid to confirm contract)
- ❑ refund of purchase consideration paid by the buyer (i.e. NRIs/PIO) on account of non-allotment of flat/plot/cancellation of bookings/deals for purchase of residential/commercial property together with interest if any,
- ❑ provided original payment was made out of Non-Resident (External) Rupee Account (NRE)/Foreign Currency (Non-Resident) Account (FCNR).

Various remittances (5/5)

- **Repatriation of sale proceeds of residential property purchased by NRIs/PIO out of Foreign Exchange:**
 - Two properties
 - No lock-in period for repatriation of sale proceeds

- **Repatriation of sale proceeds of residential accommodation purchased by NRIs/PIO out of funds raised by them by way of loans :**
 - Repatriation of sale proceeds of residential accommodation purchased by NRIs/PIO out of funds raised by them by way of loans from the ADs/housing finance institutions to the extent of such loans repaid by them out of foreign inward remittances.

Non-Indian Origin and Foreign Companies remittances (1/4)

➤ Retirement from an employment/Inherited asset :

- ❑ A foreign national of non-Indian origin who has retired from an employment in India or
- ❑ who has inherited assets from a person in India or who is a widow of an Indian citizen resident in India may remit an amount up to **USD One Million per financial year** on production of documentary evidence in support of payment of applicable taxes in India.

Note:

- ❖ Where the remittance is made in more than one installment, the remittance of all installments shall be made through the same AD.
- ❖ This remittance facility is not available to a citizen of Nepal and Bhutan.

Non-Indian Origin and Foreign Companies remittances (2/4)

➤ Remittance to foreign student after completion of studies :

The balance in the account should be of:

- Remittances received from abroad through normal banking channels or
- Rupee proceeds of foreign exchange brought and sold to an AD or
- Stipend/scholarship received from the Government or any Organization in India.

Non-Indian Origin and Foreign Companies remittances (3/4)

➤ Remittance of Provident Fund/Superannuation/Pension Fund by Indian Entity :

- ❑ An Indian entity may remit the amount being its contribution towards the provident fund/superannuation/pension fund in respect of expatriate staff in its employment who are resident in India but not permanently resident.
- **Expatriate staff:** Person whose provident fund/superannuation fund/pension fund is maintained outside India by his Principal Employer.
- **Not permanently Resident:** Person resident in India for employment for a specified duration or for specific job/assignment duration of which is not more than 3 years.

Non-Indian Origin and Foreign Companies remittances (4/4)

➤ **Remittance of salary by foreign nationals or Indian nationals employed by an Indian company/foreign company in India :**

- ❑ A citizen of a foreign State, resident in India, being an employee of a foreign company or
- ❑ a citizen of India, employed by a foreign company outside India and in either case on deputation to the office/branch/subsidiary/joint venture in India of such foreign company may open, hold and maintain a foreign currency account with a bank outside India and receive whole salary payable to him for the services rendered to the office/branch/subsidiary/joint venture in India of such foreign company.

- ❑ A citizen of a foreign State, resident in India being in employment with a company incorporated in India may open, hold and maintain a foreign currency account with a bank outside India and remit the whole salary received in India in Indian Rupees to such account provided all applicable taxes are paid.

Legal Compliances (1/3)

Reserve Bank prior permission to make remittance of assets in the following cases:

- **Remittance exceeding US \$ 1,000,000 (USD One Million only) per financial year**
 - ❑ Legacy
 - ❑ bequest or
 - ❑ inheritance to a citizen of foreign state, permanently resident outside India and
 - ❑ By a NRI/PIO out of the balances held in NRO account/sale proceeds of assets/assets in India acquired by way of inheritance/legacy.

- **Remittance to a person resident outside India on the ground that hardship will be caused to such a person if remittance from India is not made**

➤ **Remittance of winding up proceeds of a branch/office in India of a person resident outside India :**

- ❑ Copy of the Reserve Bank's permission for establishing branch/office in India
- ❑ Auditor's certificate indicating
 - Manner in which remittable amount has been arrived and supporting statement of assets and liabilities of the applicant
 - Manner of disposal of assets
 - Confirming that all liabilities in India including arrears of gratuity and other employee benefits etc., have been paid either fully or adequately provided for
 - Confirming that no income accruing from sources outside India has remained unrepatriated to India
- ❑ No-objection or Tax clearance certificate from Income Tax Authority for the remittance and
- ❑ Confirmation from the applicant that no legal proceedings in any court in India are pending and there is no legal impediment to the remittance.

➤ Remittance of winding up of companies :

- ❑ Reserve Bank has delegated the powers to AD Category-I banks to permit remittance of out of assets of Indian companies under liquidation under the Companies Act, 1956.

- ❑ No remittance shall be made unless following documents are submitted:
 - Documentary evidence in support of payment of applicable taxes in India, if any.
 - Auditor's certificate confirming that all liabilities in India have been paid either fully or adequately provided for
 - Auditor's certificate to the effect that the winding up of a company is in accordance with the provisions of the Companies Act, 1956
 - In case of voluntary winding up of a company, an Auditor's certificate to the effect that there are no legal proceedings pending in any court in India against the applicant or a company under the liquidation and there is no legal impediment in permitting the remittance.

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Thank you!!!

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