

## **ACQUISITION AND TRANSFER OF IMMOVABLE PROPERTY IN INDIA**

### **Acquisition and Transfer of Immovable Property in India**

A person resident outside India who is a citizen of India (NRI) can acquire by way of purchase, any immovable property in India other than agricultural land/plantation property/farm house. He can transfer any immovable property other than agricultural or plantation property or farm house to:

a) A person resident outside India who is a citizen of India or b) A person of Indian origin resident outside India or c) A person resident in India.

He may transfer agricultural land/ plantation property / farm house acquired by way of inheritance, only to Indian citizens permanently residing in India.

Payment for acquisition of property can be made out of:

- I. Funds received in India through normal banking channels by way of inward remittance from any place of India or
- II. Funds held in any non-resident account maintained in accordance with the provisions of the Foreign Exchange Management Act, 1999 and the regulations made by Reserve Bank Of India from time to time.

Such payment can not be made either by traveller's cheque or by foreign currency notes or by other mode than those specially mentioned above. A person resident outside India who is a person of Indian Origin (PIO) can acquire any immovable property in India other than agricultural land / farm house / plantation property:-

- i. By way of purchase out of funds received by way of inward remittance through normal banking channels or by debit to his NRE/ FCNR(B)/ NRO account.
- ii. By way of gift from a person resident in India or a NRI or a PIO.

By way of inheritance from any a person resident in India or a person resident outside India who had acquired such property in accordance with the provisions of the foreign exchange law in force or FEMA regulations at the time of acquisition of the property.

A PIO may transfer any immovable property other than agricultural land / Plantation property / farm house in India

- a) By way of sale to a person resident in India.
- b) By way of gift to a person resident in India or a Non resident Indian or a PIO.

A PIO may transfer agricultural land / Plantation property / farm house in India by way of sale or gift to person resident in India who is a citizen of India.

### **Purchase/ Sale of Immovable Property by Foreign Embassies / Diplomats / Consulate General**

Foreign Embassy / Consulate as well as Diplomatic personnel in India are allowed to purchase / sell immovable property in India other than agricultural land / plantation property / farm house provided (i) clearance from Government of India, Ministry of External Affairs is obtained for such purchase / sale, and (ii) the consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channel.

### **Acquisition of Immovable Property for carrying on a permitted activity**

A branch, office or other place of business, (excluding a liaison office) in India of a foreign company established with requisite approvals wherever necessary, is eligible to acquire immovable property in India which is necessary for or incidental to carrying on such activity provided that all applicable laws, rules, regulations or directions in force are duly

complied with. The entity/concerned person is required to file a declaration in the form IPI with Reserve Bank, within ninety days from the date of such acquisition. The non-resident is eligible to transfer by way of mortgage the said the said immovable property to an AD bank as a security for any borrowing.

### **Repatriation of sale proceeds**

In the event of sale of immovable property other than agricultural land / farm house / plantation property in India by NRI / PIO, the authorized dealer will allow repatriation of sale proceeds outside India provided;

- i. The immovable property was acquired by the seller in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of FEMA Regulations;
- ii. The amount to be repatriated does not exceed (a) the amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels or out of fund held in Foreign currency Non-Resident Account or (b) the foreign currency equivalent as on the date of payment, of the amount paid where such payment was made from the funds held in Non-Resident External account for acquisition of the property.
- iii. In the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.

In the case of sale of immovable property purchased out of Rupee funds, ADs may allow the facility of repatriation of funds out of balances held by NRIs/PIO in their Non-resident Rupee (NRO) accounts upto US\$ 1 million per financial year subject to production of undertaking by remitter and a certificate from the Chartered Accountant in the formats prescribed by the CBDT.

### **Prior permission for acquisition or transfer of immovable property in India by citizen of certain countries**

No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan shall acquire or transfer immovable property in India, other than lease, not exceeding five years without prior permission of

Reserve Bank. **Foreign nationals of non Indian origin** resident outside India are not permitted to acquire any immovable property in India unless such property is acquired by way of inheritance from a person who was resident in India.

Foreign Nationals of non Indian origin who have acquired immovable property in India by way of inheritance with the specific approval of RBI can not transfer such property without prior permission of RBI.

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Provided for Information purposes by NRI Information.

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