

## **ACQUISITION AND TRANSFER OF IMMOVABLE PROPERTY IN INDIA BY NRI, PIO, DIPLOMATS AND FOREIGN NATIONALS [ February 2010]**

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

1.1 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 / 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 only to Indian citizens permanently residing in India.

1.2. 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 :-

- a) 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.
- b) By way of gift from a person resident in India or a NRI or a PIO.
- c) By way of inheritance from 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.

1.3 A PIO may transfer any immovable property other than agricultural land/Plantation property/farmhouse 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..

1.4 A PIO may transfer agricultural Land / Plantation property / farmhouse in India by way of sale or gift to person resident in India who is a citizen of India

## **2. 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.

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

A person resident outside India who has a branch, office or other place of business, (excluding a liaison office) in India for carrying on his business activity, 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 the Reserve Bank, within ninety days from the date of such acquisition. The non-resident is eligible to transfer by way of mortgage the said immovable property to an authorised dealer bank as a security for any borrowing.

## **4. 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 funds 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.

iv) 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 calendar year, provided that the property has been held for a period not less than 10 years or for a combined period of 10 years partly as property and as sale proceeds in NRO account and subject to production of undertaking by the remitter and a certificate from the Chartered Accountant in the formats prescribed by the CBDT.

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

5.1 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.

5.2 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.

5.3 Foreign Nationals of non Indian origin who have acquired immovable property in India with the specific approval of the Reserve Bank cannot transfer such property without prior permission of the Reserve Bank.

**For any queries please feel free to contact us at [www.rksassociate.com](http://www.rksassociate.com) / Email:[enquiry@rksassociate.com](mailto:enquiry@rksassociate.com)**