ACQUISTIOIN AND TRANSFER OF IMMOVBLE P PROPERTY IN INDIA BY PERSON RESIDENT OUTSIDE INDIA

DEFINES:

- **PERSON RESIDENT IN INDIA**
  - A person residing in India for more than 182 days during the course of the preceding financial year
  - Any person or body corporate registered or incorporated in India
  - An office, branch or agency in India owned or controlled by a person resident outside India
  - An office, branch or agency outside India owned or controlled by a person resident in India

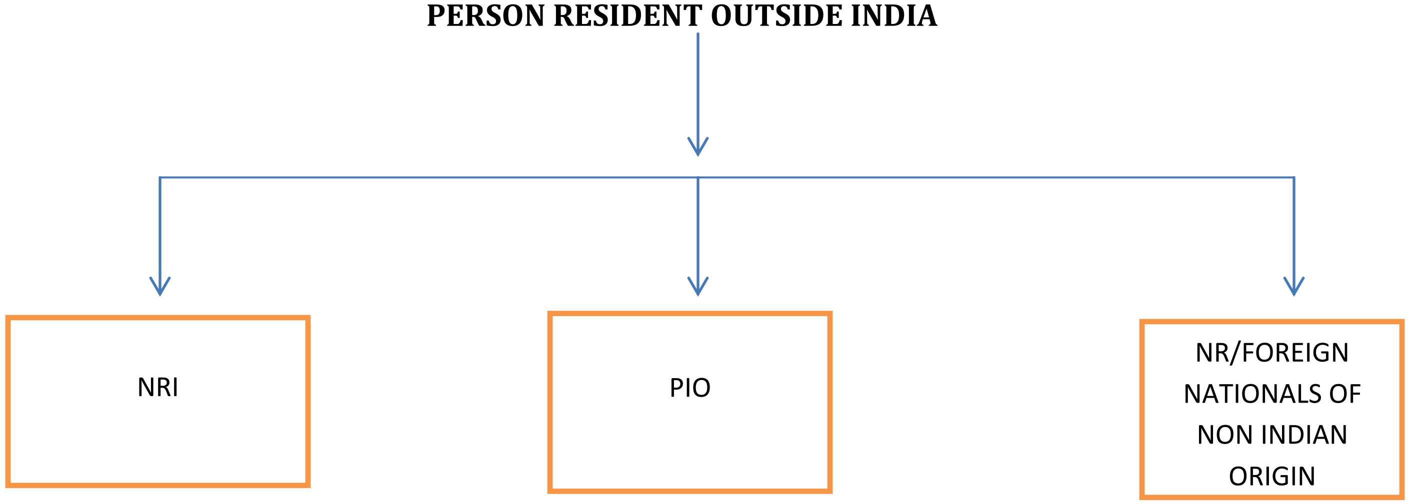
- **PERSON RESIDENTOUTSIDE INDIA**
  - Person resident outside India means a person who is not resident in India

- **NON-RESIDENT INDIAN (NRI)**
  - Non-Resident Indian (NRI) is a citizen of India resident outside India.

- **PERSON OF INDIAN ORIGIN (PIO)**
  - Person of India Origin Means Individual [not being the citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan] who

    I. At any time, held an Indian Passport (or)
    II. Who or either of whose father or mother or whose grandfather or grandmother was a citizen of India by virtue of the constitution of India or the Citizenship Act, 1955

PERSON RESIDENT OUTSIDE INDIA



PARTICUALRS	**NRI**	**PIO**	**NR/ FOREIGN NATIONAL**
ACQUISTION OF PROPERTY			
1. NATURE OF PROPERTY			
A) PURCHASE			
a) Residential/Commercial	Allowed	Allowed	Not Allowed
b) Agricultural Land/plantation property/ farm house	Not Allowed	Not Allowed	Not Allowed
Intimation to RBI	Not required	Not required	Not Applicable
Approval of RBI	Not required – General Permission	Not required – General Permission	Not Applicable
No Of House	No Limit	No Limit	NA
B) ACQUIRE BY GIFT			
GIFT	Allowed	Allowed	Not Allowed
Gift to be acquired from	1.Person resident in India 2.NRI 3.PIO	1.Person resident in India 2.NRI 3.PIO	Not Applicable
C) INHERIT OF PROPERTY			
Allowed / Not Allowed	Allowed	Allowed	Allowed
Inherit from	1.Person resident in India 2.Person resident outside India	1.Person resident in India 2.Person resident outside India	1.Person resident in India 2.Person resident outside India
PAYMENT FOR ACQUISITION			
Mode of Payment	1.Fund received in India through normal banking channels by way of inward remittances from outside India 2.From NRE/FCNR(B)/NRO account	1.Fund received in India through normal banking channels by way of inward remittances from outside India 2.From NRE/FCNR(B)/NRO account	Not applicable
Not Allowed	1.Travellers Cheque 2.Foreign currency notes	1.Travellers Cheque 2.Foreign currency notes	1.Travellers Cheque 2.Foreign

	3.Other Modes Except if permitted	3.Other Modes Except if permitted	currency notes 3.Other Modes Except if permitted
TRANSFER OF IMMOVABLE PROPERTY			
Sale of Property	Allowed	Allowed	Allowed
Approval from RBI	No Approval	No Approval	Prior Approval
Sale / Transfer to	1.Person resident in India 2.NRI 3.PIO	1.Person resident in India 2.NRI 3.PIO	1.Person resident in India 2.NRI 3.PIO
Conditions	The immovable property was acquired by the sellers in accordance with the provision of Foreign exchange law	The immovable property was acquired by the sellers in accordance with the provision of Foreign exchange law	The immovable property was acquired by the sellers in accordance with the provision of Foreign exchange law
Repatriation of Sales Proceeds	Allowed	Allowed	Allowed
Approval from RBI	No Approval	No Approval	Prior Approval
Limit	Amount Not Exceed: -The amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels (or) -the amount paid out of funds held in foreign currency Non residential account -The foreign currency equivalent of the amount paid where	Amount Not Exceed: -The amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels (or) -the amount paid out of funds held in foreign currency Non residential account -The foreign currency equivalent of the amount paid where	Same as NRI/PIO

	such payment was made from funds held in Non-residential external account for acquisition of the property	such payment was made from funds held in Non-residential external account for acquisition of the property	
In Case of Sales of Residential Property	Sales Proceeds is restricted to maximum two such properties	Sales Proceeds is restricted to maximum two such properties	Sales Proceeds is restricted to maximum two such properties
Sales of Inheritance property	Maximum of USD 1 Million per year	Maximum of USD 1 Million per year	Maximum of USD 1 Million per year
Approval of RBI	If Exceed USD 1 Million	If Exceed USD 1 Million	If Exceed USD 1 Million
Nature of Approval	Prior Approval	Prior Approval	Prior Approval

OTHER POINTS

- Foreign Nationals of Non-India origin resident outside India are permitted to acquire property in India if it is acquired by Inheritance from person who was resident in India and Acquire/transfer immovable property in India, on lease not exceeding five years.

- All the payment for acquisition and Sales proceeds are to be done through authorized dealers

- Foreign nationals of non-Indian origin cannot be a second holder to immovable property purchased by NRI/PIO

- A foreign company which has established a Branch Office or other place of business in India, in accordance with the Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000, can acquire any immovable property in India, which is necessary for or incidental to carrying on such activity. The payment for acquiring such a property should be made by way of foreign inward remittance through the proper banking channels. A declaration in form IPI should be filed with the Reserve Bank within ninety days from the date of acquiring the property. Such a property can also be mortgaged with an Authorized Dealer as a security for the purpose of borrowings. On winding up of the business, the sale proceeds of such property can be repatriated only with the prior approval of the Reserve Bank. Further, acquisition of immovable property by entities incorporated in Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Bhutan and who have set up Branch Offices in India and would require prior approval of the Reserve Bank.

- However, if the foreign company has established a Liaison Office in India, it cannot acquire immovable property. In such cases, Liaison Offices can acquire property by way of lease not exceeding 5 years.

- Refund of application / earnest money / purchase consideration made by the house building agencies / seller on account of non-allotment of flat / plot / cancellation of bookings / deals for purchase of residential / commercial property, together with interest, if any (net of income tax payable thereon) may be allowed by the Authorized Dealers by way of credit to NRE/FCNR (B) account, provided the original payment was made out of NRE / FCNR (B) account of the account holder or remittance from outside India through normal banking channels and the Authorized Dealer is satisfied about the bonafides of the transaction.

- A citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan, whether resident in India or outside India, cannot acquire or transfer immovable property in India, without the prior permission of the Reserve Bank. This restriction is not applicable where the immovable property is taken on lease for a period not exceeding five years.

- Before acquire property by NRI/PIO/NR check and confirm with the state government regulations

- Refund of application / earnest money / purchase consideration made by the house building agencies / seller on account of non-allotment of flat / plot / cancellation of bookings / deals for purchase of residential / commercial property, together with interest, if any (net of income tax payable thereon) may be allowed by the Authorized Dealers by way of credit to NRE/FCNR (B) account, provided the original payment was made out of NRE / FCNR (B) account of the account holder or remittance from outside India through normal banking channels and the Authorized Dealer is satisfied about the bonafides of the transaction.

Reference:

1. FEMA 21/2000-RB – 03/05/2000
2. FEMA 62/2002-RB – 13/05/2002
3. FEMA 65/2002-RB – 29/06/2002
4. FEMA 64/2002-RB – 29/06/2002
5. FEMA 93/2003-RB – 09/06/2003
6. FEMA 146/2006-RB – 10/02/2006
7. FEMA 200/2009-RB-05/10/2009
8. And relevant circulars
9. RBI-2012-13/4 Master circular No.4/2012-13