

FREQUENTLY ASKED QUESTIONS (FAQs)

Definitions:

Q) Who is an NRI?

A) A 'Non-resident Indian' (NRI) is a person resident outside India who is a citizen of India, in either case:

- (i) For taking up employment outside India or
- (ii) For carrying on outside India a business or vocation outside India, or
- (iii) For any purpose, in such circumstances as would indicate his intention to stay outside India
for an uncertain period.

For income tax purpose, a non-resident is a person who has been living out of India for more than 182 days in the preceding financial year.

Q) Who is a PIO?

A): A 'Person of Indian Origin (PIO)' is a person resident outside India who is a citizen of any country other than Bangladesh or Pakistan or such other country as may be specified by the Central Government, satisfying the following conditions:

- a. Who was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or
- b. Who belonged to a territory that became part of India after the 15th day of August, 1947; or
- c. Who is a child or a grandchild or a great grandchild of a citizen of India or of a person referred to in clause (a) or (b); or
- d. Who is a spouse of foreign origin of a citizen of India or spouse of foreign origin of a person referred to in clause (a) or (b) or (c)

A PIO will include an 'Overseas Citizen of India' cardholder within the meaning of Section 7(A) of the Citizenship Act, 1955. Such an OCI Card holder should also be a person resident outside India.

Q) Who is an OCI?

A) An 'Overseas Citizen of India' is a foreign national:

- (i) Who was a citizen of India at the time of, or at any time after 26th January, 1950; or
- (ii) Who was eligible to become a citizen of India on 26th January, 1950; or
- (iii) Who belonged to a territory that became part of India after 15th August, 1947; or
- (iv) Who is a child or a grandchild or a great grandchild of such a citizen; or
- (v) Who is a minor child of such persons mentioned above; or
- (vi) Who is a minor child and whose both parents are citizens of India or one of the parents is a citizen of India

Above are eligible for registration as OCI cardholder. Besides, spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India Cardholder and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application is also eligible for registration as OCI cardholder. However, no person, who or either of whose parents or grandparents or great grandparents is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as an Overseas Citizen of India Cardholder.

Q) What is OCB?

A) Overseas Corporate Body or OCB are companies, partnership firms, societies and other corporate bodies which are owned, directly or indirectly, to the extent of at least 60% by individuals of Indian nationality or origin resident outside India as also overseas trusts in which at least 60% of the beneficial interest is irrevocably held by such persons.

DEPOSIT ACCOUNTS

Q) What types of deposit accounts can a Non Resident Indian (NRI) maintain?

A) A non-resident Indian can mainly maintain following accounts:

a) In Rupees: **Non Resident External Account (NRE)/ Non Resident Ordinary Account (NRO)**

b) In Foreign Currency: **Foreign Currency Non Resident (Banks) (FCNR (B)).**

Q) Can an NRI maintain multiple accounts with different banks in India, simultaneously?

A) Yes, there is no prohibition to open and maintain multiple accounts a/cs.

Q) Can an NRI open an account with Zero balance?

A) Yes, an individual taking up an employment, business, vocation etc. can complete the account opening formalities prior to going abroad with zero balance. Subsequently, he must remit funds to make the account operative within a reasonable time, whereafter only cheque book will be issued.

Q) What type of account can a resident/returning NRI or PIO maintain?

A) Resident Foreign Currency (RFC) account.

NRE ACCOUNT

Q) Who can open NRE account?

A) NRIs and PIOs can maintain the NRE account with authorized dealer bank. Individual/entities of Pakistan and Bangladesh shall require prior approval of the Reserve Bank of India

Q) What are the types of NRE account?

A) Saving, Current, Term deposit and Recurring deposit. NRE term deposit account can be maintained for 1 to 3 years.

Q) Can NRE account have joint holder?

A) May be held jointly in the names of two or more NRIs/ PIOs.

NRIs/ PIOs can hold jointly with a resident relative on 'former or survivor' basis (relative as defined in Companies Act, 2013). The resident relative can operate the account as a Power of Attorney holder during the life time of the NRI/ PIO account holder.

Q) What is the NRE account denominated in?

A) Indian rupees.

Q) What type of money can be credited in NRE account?

A) Credits permitted to this account are inward remittance from outside India, interest accruing on the account, interest on investment, transfer from other NRE/ FCNR(B) accounts, maturity proceeds of investments (if such investments were made from this account or through inward remittance).

Current income like rent, dividend, pension, interest etc.

Q) What are the permissible debits in NRE account?

A) Permissible debits are local disbursements, remittance outside India, transfer to other NRE/ FCNR(B) accounts and investments in India.

Q) Are the funds in NRE account repatriable?

A) Yes, the NRE account funds are freely repatriable.

Q) Are they taxable in India?

A) No, it is exempted from income tax and wealth tax.

Q) Can I have a nominee for my NRE account?

A) Yes, nomination facility is available for NRE account.

Q) Can I have Power of Attorney holder in India?

A) Yes.

Q) Can Power of Attorney holder in India on behalf of a NRI open/close NRE account?

A) No

Q) Can resident Power of Attorney holder operate on the NRE accounts?

A) Yes, provided such operations are restricted to withdrawals for local payments. In case where the account holder is eligible to make investments in India, the power of attorney holder may be permitted by authorized dealer branch to operate the account to facilitate such investments.

Q) Can resident Power of Attorney holders repatriate funds held in the NRE account out of India?

A) The resident Power of Attorney holders shall not be allowed to repatriate outside India funds held in the NRE account under any circumstances other than to the account holder himself nor to make payment by way of gift to a resident on behalf of the account holder or transfer funds from the account to another NRE account.

Q) Can Resident Power of Attorney holder credit proceeds of foreign currency notes, bank notes and travelers cheques to the NRE accounts?

A) No

Q) Can loans be granted on NRE deposit account?

A) AD can sanction loans in India to the account holder/ third parties without any limit, subject to usual margin requirements. These loans cannot be repatriated outside India and can be used in India only for the purposes specified in the regulations.

In case of loans sanctioned to a third party, there should be no direct or indirect foreign exchange consideration for the non-resident depositor agreeing to pledge his deposits to enable the resident individual/ firm/ company to obtain such facilities.

In case of the loan sanctioned to the account holder, it can be repaid either by adjusting the deposits or through inward remittances from outside India through banking channels or out of balances held in the NRO account of the account holder.

The facility for premature withdrawal of deposits will not be available where loans against such deposits are availed of.

The term "loan" shall include all types of fund based/ non-fund based facilities.

Q) What should be done when with NRE account when its holder becomes a resident Indian?

A) NRE accounts should be designated as resident accounts or the funds held in these accounts may be transferred to the RFC accounts, at the option of the account holder, immediately upon the return of the account holder to India for taking up employment or on change in the residential status.

NRO ACCOUNT

Q) Who can open NRO account?

A) Any person resident outside India for putting through bonafide transactions in rupees.

Individuals/ entities of Pakistan nationality/ origin and entities of Bangladesh origin require the prior approval of the Reserve Bank of India.

Post Offices in India may maintain savings bank accounts in the names of persons resident outside India and allow operations on these accounts subject to the same terms and conditions as are applicable to NRO accounts maintained with an authorised dealer/ authorised bank.

Q) Can NRO account be held jointly?

A) May be held jointly in the names of two or more NRIs/ PIOs. May be held jointly with residents on 'former or survivor' basis.

Q) What is the NRO account denominated in?

A) Indian rupees.

Q) What are the type of NRO accounts?

A) Savings, Current, Recurring, Fixed Deposit.

Q) What are the permissible credits in NRO account?

A) Inward remittances from outside India, legitimate dues in India and transfers from other NRO accounts are permissible credits to NRO account. Rupee gift/ loan made by a resident to a NRI/ PIO relative within the limits prescribed under the Liberalized Remittance Scheme may be credited to the latter's NRO account.

Q) What are the permissible debits in NRO account?

A) The account can be debited for the purpose of local payments, transfers to other NRO accounts or remittance of current income abroad. Apart from these, balances in the NRO account cannot be repatriated abroad except by NRIs and PIOs up to USD 1 million, subject to

conditions specified in Foreign Exchange Management (Remittance of Assets) Regulations, 2016. Funds can be transferred to NRE account within this USD 1 Million facility.

Q) Are the funds in NRO account repatriable?

A) Not repatriable except for all current income. Balances in an NRO account of NRIs/ PIOs are remittable up to USD 1 (one) million per financial year (April-March) along with their other eligible assets.

Q) Are the funds in NRO account taxable?

A) Yes.

Q) Can loan be provided on NRO deposits?

A) Loans against the deposits can be granted in India to the account holder or third party subject to usual norms and margin requirement. The loan amount cannot be used for relending, carrying on agricultural/ plantation activities or investment in real estate. The term "loan" shall include all types of fund based/ non-fund based facilities.

Q) Is power of attorney allowed in NRO accounts and what are the power of power of attorney holde?

A) Operations in the account in terms of Power of Attorney is restricted to withdrawals for permissible local payments in rupees, remittance of current income to the account holder outside India or remittance to the account holder himself through normal banking channels. While making remittances, the limits and conditions of repatriability will apply.

Q) What happens to NRO account when its holder turns to a resident Indian?

A) NRO accounts may be designated as resident accounts on the return of the account holder to India for any purpose indicating his intention to stay in India for an uncertain period. Likewise, when a resident Indian becomes a person resident outside India, his existing resident account should be designated as NRO account.

Foreign Currency Non Residents(Bank) Account

Q) Who can open a FCNR (B) account ?

A) The account can be opened in the name of NRI individuals (single/ joint) or with resident Indians on 'former or survivor' basis.

Q) Which type of accounts can be opened under FCNR (B) ?

A) Only Term Deposit with maturity of minimum 1 year & maximum 5 years.

Q) These accounts can be opened with which funds ?

A) These accounts can be opened as per depositor's choice, in any of the permitted currencies, out of the funds received as foreign inward remittances in convertible currency through normal banking channel. The Foreign Currency Travellers Cheques / Notes may be accepted during temporary visits of the NRI, for credit to account.

Q) Can these accounts be opened jointly with Indian residents ?

A) Yes, but with their resident close relative (Relative as defined in Section 6 of the Companies Act, 1956) on 'former or survivor' basis.

Q) Whether nomination is permitted in FCNR (B) Account ?

A) Nomination in favour of NRI/PIO or a resident is allowed in the account.

Q) What are the maturity periods under the scheme ?

A) Minimum 1 year and Maximum 5 year

Q) Whether interest income from FCNR (B) account is taxable under Income Tax ?

A) No. Interest income from FCNR (B) accounts is exempt from Income Tax.

Q) Whether deposit held under FCNR (B) a/cs is taxable under Wealth Tax ?

A) No. Deposit held under FCNR (B) a/cs is not taxable under Wealth Tax.

Q) Whether resident Indian holder of Power of Attorney is permitted to operate the account?

A) Yes. He can give instructions about operations in the account, but can remit the amount abroad only to the account holder.

Q) Is the addition or deletion of name/s of joint account holders allowed ?

A) At the request of all the joint holders, Bank may allow the addition or deletion of name/s of joint account holder/s as per rules.

Q) Is the amount held under FCNR deposit repatriable ?

A) Yes. Funds (Principal & Interest) is fully repatriable in foreign currencies.

Q) Is the proceeds of the account also repatriable to third parties ?

A) Yes. As per the instruction, subject to Bank being satisfied about such repatriations.

Q) Is transfer of funds from existing FCNR (B)/NRE a/c to FCNR (B) and viceversa permitted without the prior approval of RBI ?

A) Yes.

Q) What is the manner of payment of interest on FCNR (B) account ?

A) For deposits up to one year, without any compounding effect. For deposits for over 1 year, compounding at intervals of 180 days each and thereafter for the remaining actual number of days.

Q) How the interest is to be paid on term deposit maturing on Sundays / holidays / Nonbusiness working days ?

A) Bank to pay interest at the originally contracted rate on the deposit amount for abovementioned days, intervening between the due date and the actual date of payment, on the succeeding working day.

Q) Is there any facility for granting Loan / overdrafts against FCNR (B) Deposits to account holder/ third party?

A) Yes, Refer to the circular letter no. 40/2014-15

Q) How interest is payable on FCNR deposits to NRIs on return to India?

A) Banks may allow FCNR (B) deposits NRIs/PIOs, who return to India for permanent settlement, to continue till maturity at the contracted rate of interest, if desired, as per rules.

Q) Is the premature withdrawal of deposits allowed?

A) Yes. At the request of the depositor, Bank allows premature withdrawal.

Q) How interest is payable on FCNR deposits on the settlement of Deceased account.

A) 1. A deceased individual depositor, or

2. Two or more joint depositors, where one of the depositor died, interest should be paid in the manner indicated below:

a. at the contracted rate on the maturity of the deposit

b. if it is claimed before the maturity date, the bank should pay interest at an applicable rate prevailing on the date of placement of the deposit, without charging penalty

c. In the event of death of the depositor before the date of maturity of the deposit and the amount of the deposit being claimed after the date of maturity, the branch should pay interest at the contracted rate till the date of maturity. From the date of maturity to the date of payment, the branch should pay simple interest at the applicable rate operative on the date of maturity, for the period for which the deposit remained with the branch beyond the date of maturity. However, in the case of death of the depositor after the date of maturity of the deposit, the branch should pay interest at a rate operative on the date of maturity in respect of savings deposits held under RFC Account Scheme, from the date of maturity till the date of payment

Q) What is the process of crystallization of foreign currency deposit ?

A) At the end of third year from the date of maturity, branch shall convert the balances lying in the foreign currency denominated deposit in to Indian rupee at the exchange rate prevailing as on that date.

Q) Is nomination available in FCNR(B) Deposit account?

A) Yes.

Q) How to open an NRO/NRE/FCNR(B) Account?

A) Opening any of the above account is very simple. Just follow the below guidelines.

- 1) Download account opening form from our website www.psbindia.com. Complete it in all respects. Ensure that all columns including your personal details, contact numbers, special instructions etc. are complete.
- 2) Fill up the nomination form.
- 3) Attach relevant page of passport containing your personal information including visa page self certified.
- 4) Paste current passport size color photograph of all proposed account holders on account opening form duly signed across.

5) **Verification of signatures can also be made by an official of Indian Embassy/ High**

Commission/ Consulate/ Notary Public.

6) Attach initial payment instrument or remittance can follow after opening of account.

7) Any other document like employment letter etc.

Q) Which deposit account facility can be provided to returning NRIs/PIOs?

A) Returning NRIs/PIOs can be granted Resident Foreign Currency (RFC) deposit account facility.

Resident Foreign Currency(RFC) account

Q) What type of funds can be deposited in RFC account?

A) Any legal income earned by NRIs/PIOs when they were resident outside India. Proceeds of assets held outside India at the time of return, can be credited to RFC account.

Q) In what currency is the RFC account denominated?

A) Returning NRIs/PIOs may open, hold and maintain with an authorized dealer in India a RFC account in any permitted currency.

Q) What are the types of RFC account?

A) Saving, Current and Term deposit.

Q) Is there any restriction on utilization of funds held in RFC account?

A) The funds in RFC account are free from all restriction regarding utilization of foreign currency balances including any restriction on investment in any form outside India.

Q) What can be the tenure of RFC term deposit account?

A) Minimum 1 year and Maximum 3 years. No interest will be paid if the RFC term deposit account is encashed within 1 year of opening.

LIBERALISED REMITTANCE SCHEME (LRS)

Q) What is the Liberalised Remittance Scheme (LRS) of USD 2,50,000 ?

A) Under the Liberalised Remittance Scheme, all resident individuals, including minors, are allowed to freely remit up to USD 2,50,000 per financial year (April – March) for any permissible current or capital account transaction or a combination of both. Further, resident individuals can avail of foreign exchange facility for the purposes mentioned in Para 1 of Schedule III of FEM (CAT) Amendment Rules 2015, dated May 26, 2015, within the limit of USD 2,50,000 only.

In case of remitter being a minor, the LRS declaration form must be countersigned by the minor's natural guardian. The Scheme is not available to corporates, partnership firms, HUF, Trusts etc.

Q) What are the prohibited items under the Scheme?

A) The remittance facility under the Scheme is not available for the following:

- i. Remittance for any purpose specifically prohibited under Schedule-I (like purchase of lottery tickets/sweep stakes, proscribed magazines, etc.) or any item restricted under Schedule II of Foreign Exchange Management (Current Account Transactions) Rules, 2000.
- ii. Remittance from India for margins or margin calls to overseas exchanges / overseas counterparty.
- iii. Remittances for purchase of FCCBs issued by Indian companies in the overseas secondary market.
- iv. Remittance for trading in foreign exchange abroad.
- v. Capital account remittances, directly or indirectly, to countries identified by the Financial Action Task Force (FATF) as "non- cooperative countries and territories", from time to time.
- vi. Remittances directly or indirectly to those individuals and entities identified as posing significant risk of committing acts of terrorism as advised separately by the Reserve Bank to the banks.

Q) What are the purposes under FEM (CAT) Amendment Rules, 2015, under which a resident individual can avail of foreign exchange facility?

A) Individuals can avail of foreign exchange facility for the following purposes within the LRS limit of USD 2,50,000 on financial year basis:

- i. Private visits to any country (except Nepal and Bhutan)
- ii. Gift or donation
- iii. Going abroad for employment
- iv. Emigration
- v. Maintenance of close relatives abroad
- vi. Travel for business, or attending a conference or specialised training or for meeting expenses for meeting medical expenses, or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/ check-up
- vii. Expenses in connection with medical treatment abroad
- viii. Studies abroad
- ix. Any other current account transaction which is not covered under the definition of current account in FEMA 1999.

The AD bank may undertake the remittance transaction without RBI's permission for all residual current account transactions which are not prohibited/ restricted transactions under Schedule I, II or III of FEM (CAT) Rules, 2000, as amended or are defined in FEMA 1999. It is for the AD to satisfy themselves about the genuineness of the transaction, as hitherto.

Q) Under LRS are resident individuals required to repatriate the accrued interest/dividend on deposits/investments abroad, over and above the principal amount?

A) No, the investor can retain and reinvest the income earned from portfolio investments made under the Scheme.

However, a resident individual who has made overseas direct investment in the equity shares and compulsorily convertible preference shares of a Joint Venture or Wholly Owned Subsidiary outside India, within the LRS limit, then he/she shall have to comply with the terms and conditions as prescribed under [Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations 2004 as amended from time to time] Notification No. 263/ RB-2013 dated August 5, 2013.

Q) Can remittances under the LRS facility be consolidated in respect of family members?

A) Remittances under the facility can be consolidated in respect of close family members subject to the individual family members complying with the terms and conditions of the Scheme. However, clubbing is not permitted by other family members for capital account transactions such as opening a bank account/investment/purchase of property, if they are not the co-owners/co-partners of the investment/property/overseas bank account. Further, a resident cannot gift to another resident, in foreign currency, for the credit of the latter's foreign currency account held abroad under LRS.

Q) Is the AD required to check permissibility of remittances based on nature of transaction or allow the same based on remitters declaration?

A) AD will be guided by the nature of transaction as declared by the remitter in Form A2 and will thereafter certify that the remittance is in conformity with the instructions issued by the Reserve Bank in this regard from time to time. However, the ultimate responsibility is of the remitter to ensure compliance to the extant FEMA rules/regulations.

Q) Is it mandatory for resident individuals to have PAN number for sending outward remittances under the Scheme?

A) Yes., however, PAN card need not be insisted upon for remittance made towards permissible current account transactions up to USD 25,000 per financial year.

Q) Are there any restrictions on the frequency of the remittance?

A) There are no restrictions on the frequency of remittances under LRS. However, the total amount of foreign exchange purchased from or remitted through, all sources in India during a financial year should be within the cumulative limit of USD 2,50,000.

Once a remittance is made for an amount up to USD 2,50,000 during the financial year, a resident individual would not be eligible to make any further remittances under this scheme, even if the proceeds of the investments have been brought back into the country.

Q) Resident individuals (but not permanently resident in India) can remit up to net salary after deduction of taxes. However, if he has exhausted the limit of USD 2,50,000 as net salary remittance and desires to remit any other income under LRS is it permissible as the limit will be over and above USD 2,50,000?

A) Resident individuals (but not permanently resident in India) who have remitted their entire earnings and salary and wish to further remit 'other income' may approach RBI with documents through their AD bank for consideration.

Q) Para 5.4 of AP DIR Circular 106 dated June 01, 2015 states that the applicants should have maintained the bank account with the bank for a minimum period of one year prior to the remittance for capital account transactions. Whether this restriction applies to current account transactions?

A) No. The rationale is that remittance facility is up to the LRS limit of USD 250, 000 for current account transactions under Schedule III of FEM (CAT) Amendment Rules, 2015, such as for private and business visits which can also be provided by FFMCS. As FFMCS cannot maintain accounts of remitters the proviso (as mentioned in para 5.4 of the circular *ibid*) has been confined to capital account transactions. However, FFMCS, are required to ensure that the "Know Your Customer" guidelines and the Anti-Money Laundering Rules in force have been complied with while allowing the current account transactions.

Q) Are there any restrictions towards remittances to Mauritius and Pakistan for permissible current account transactions?

A) No, there are no restrictions towards remittances for current account transactions to Mauritius and Pakistan.

Remittances directly or indirectly to countries identified by the Financial Action Task Force (FATF) as “non- cooperative countries and territories”, from time to time; and remittances directly or indirectly to those individuals and entities identified as posing significant risk of committing acts of terrorism as advised separately by the Reserve Bank to the banks are not permissible.

Q) What are the requirements to be complied by the remitter?

A) The individual will have to designate a branch of an AD through which all the capital account remittances under the Scheme will be made. The applicants should have maintained the bank account with the bank for a minimum period of one year prior to the remittance.

For remittances pertaining to permissible current account transactions, if the applicant seeking to make the remittance is a new customer of the bank, Authorised Dealers should carry out due diligence on the opening, operation and maintenance of the account. Further, the AD should obtain bank statement for the previous year from the applicant to satisfy themselves regarding the source of funds. If such a bank statement is not available, copies of the latest Income Tax Assessment Order or Return filed by the applicant may be obtained. He has to furnish Form A-2 regarding the purpose of the remittance and declare that the funds belong to him and will not be used for purposes prohibited or regulated under the Scheme.

Q) Can remittances be made only in US Dollars?

A) The remittances can be made in any freely convertible foreign currency.

Q) Are intermediaries expected to seek specific approval for making overseas investments available to clients?

A) Banks including those not having operational presence in India are required to obtain prior approval from Reserve Bank for soliciting deposits for their foreign/overseas branches or for acting as agents for overseas mutual funds or any other foreign financial services company.

Q) Are there any restrictions on the kind/quality of debt or equity instruments an individual can invest in?

A) No ratings or guidelines have been prescribed under LRS of USD 2,50,000 on the quality of the investment an individual can make. However, the individual investor is expected to exercise

due diligence while taking a decision regarding the investments which he or she proposes to make.

Q) Whether credit facilities (fund or non-fund based) in Indian Rupees or foreign currency can be extended by AD banks to resident individuals?

A) LRS does not envisage extension of fund and non-fund based facilities by the AD banks to their resident individual customers to facilitate remittances for capital account transactions under LRS.

However, AD banks may extend fund and non-fund based facilities to resident individuals to facilitate current account remittances under the Scheme.

Q) Can bankers open foreign currency accounts in India for residents under LRS?

A) No.

Q) Can an Offshore Banking Unit (OBU) in India be treated on par with a branch of the bank outside India for the purpose of opening of foreign currency accounts by residents under the Scheme?

A) No.

Q) What are the documents required for withdrawal/remittance of foreign exchange for purposes mentioned in para 1 of Schedule III to FEM (CAT) Amendment Rules, 2015?

A) RBI will not prescribe any documentation to be submitted to ADs except Form A2. All other documentation may be done as advised by the AD.

For small amounts aggregating up-to USD 25,000 per year, ADs need not obtain any document including Form A-2, except a simple letter from the applicant (containing the basic information, viz., names and the addresses of the applicant and the beneficiary, amount to be remitted and the purpose of remittance) as long as the foreign exchange is being purchased for a permissible current account transaction (not included in the Schedules I and II of FEM (CAT) Rules). AD banks shall prepare dummy A-2 for statistical inputs for Balance of Payment.

Q) Whether documents viz 15 CA, 15 CB have to be taken in all outward remittance cases including remittances for maintenance etc.?

A) In terms of A. P. (DIR Series) circular No. 151 dated June 30, 2014, Reserve Bank of India will not issue any instructions under the FEMA, regarding the procedure to be followed in respect of deduction of tax at source while allowing remittances to the non-residents. It shall be mandatory on the part of ADs to comply with the requirement of the tax laws, as applicable.

Q) Will the expenses incurred by an LLP to sponsor the education expense of its partners who are pursuing higher studies for the benefit of the LLP will be outside the LRS limit of such individuals (partners)?

A) LLP is a body corporate and has a legal entity separate from its partners. Therefore, if the LLP incurs/sponsors the education expense of its partners who are pursuing higher studies for the benefit of the LLP, then the same shall be outside the LRS limit of the individual partners and would instead be deemed as residual current account transaction undertaken by the LLP without any limits.

Q) Clarification on remittance by sole proprietor under LRS.

A) In a sole proprietorship business, there is no legal distinction between the individual / owner and as such the owner of the business can remit USD up to the permissible limit under LRS. If a sole proprietorship firm intends to remit the money under LRS by debiting its current account then the eligibility of the proprietor in his individual capacity has to be reckoned. Hence, if an individual in his own capacity remits USD 250,000 in a financial year under LRS, he cannot remit another USD 250,000 in the capacity of owner of the sole proprietorship business as there is no legal distinction.

Q) Whether prior approval is required to open, maintain and hold foreign currency account with a bank outside India for making remittances under the LRS?

A) No.

Q) What are the facilities under Schedule III of FEM (CAT) Amendment Rules, 2015 available for persons other than individual?

A) The following facilities are available to persons other than individuals:

- a. Donations up-to one per cent of their foreign exchange earnings during the previous three financial years or USD 5,000,000, whichever is less, for- (a) creation of Chairs in reputed educational institutes, (b) contribution to funds (not being an investment fund) promoted by educational institutes; and (c) contribution to a technical institution or body or association in the field of activity of the donor Company.
- b. Commission, per transaction, to agents abroad for sale of residential flats or commercial plots in India up to USD 25,000 or five percent of the inward remittance whichever is less.
- c. Remittances up to USD 10,000,000 per project for any consultancy services in respect of infrastructure projects and USD 1,000,000 per project, for other consultancy services procured from outside India.
- d. Remittances up to five per cent of investment brought into India or USD 100,000 whichever is less, by an entity in India by way of reimbursement of pre-incorporation expenses.
- e. Remittances up to USD 250,000 per financial year for purposes stipulated under Para 1 of Schedule III to FEM (CAT) Amendment Rules, 2015. However, all residual current account

transactions undertaken by such entities are otherwise permissible without any specified limit and are to be disposed off at the level of AD, as hitherto. It is for the AD to satisfy themselves about the genuineness of the transaction.

Anything in excess of above limits requires prior approval of the Reserve Bank of India.

Q) Can a resident individual make a rupee loan to a NRI/PIO who is a close relative of resident individual, by of crossed cheque/ electronic transfer?

A) A resident individual is permitted to make a rupee loan to a NRI/PIO who is a close relative of the resident individual ('relative' as defined in Section 2(77) of the Companies Act, 2013) by way of crossed cheque/ electronic transfer subject to the following conditions:

(i) The loan is free of interest and the minimum maturity of the loan is one year.

(ii) The loan amount should be within the overall LRS limit of USD 2,50,000, per financial year, available to the resident individual. It would be the responsibility of the lender to ensure that the amount of loan is within the LRS limit of USD 2,50,000 during the financial year.

(iii) The loan shall be utilised for meeting the borrower's personal requirements or for his own business purposes in India.

(iv) The loan shall not be utilised, either singly or in association with other person, for any of the activities in which investment by persons resident outside India is prohibited, namely;

- a. the business of chit fund, or
- b. Nidhi Company, or
- c. agricultural or plantation activities or in real estate business, or construction of farmhouses, or
- d. trading in Transferable Development Rights (TDRs).

Explanation: For the purpose of item (c) above, real estate business shall not include development of townships, construction of residential / commercial premises, roads or bridges.

(v) The loan amount should be credited to the NRO a/c of the NRI /PIO. Credit of such loan amount may be treated as an eligible credit to NRO a/c.

(vi) The loan amount shall not be remitted outside India.

(vii) Repayment of loan shall be made by way of inward remittances through normal banking channels or by debit to the Non-resident Ordinary (NRO)/ Non-resident External (NRE) / Foreign Currency Non-resident (FCNR) account of the borrower or out of the sale proceeds of the shares or securities or immovable property against which such loan was granted.

Q) Can a resident individual make a rupee gift to a NRI/PIO who is a close relative of resident individual, by of crossed cheque/ electronic transfer?

A) A resident individual can make a rupee gift to a NRI/PIO who is a close relative of the resident individual [relative' as defined in Section 2(77) of the Companies Act, 2013] by way of crossed cheque /electronic transfer. The amount should be credited to the Non-Resident (Ordinary) Rupee Account (NRO) a/c of the NRI / PIO and credit of such gift amount may be treated as an eligible credit to NRO a/c. The gift amount would be within the overall limit of USD 250,000 per financial year as permitted under the LRS for a resident individual. It would be the responsibility of the resident donor to ensure that the gift amount being remitted is under the LRS and all the remittances made by the donor during the financial year including the gift amount have not exceeded the limit prescribed under the LRS.

HANDLING OF FOREIGN EXCHANGE

Q) How much foreign currency can be provided to the client for abroad travel in the form of notes and coins?

A) 1. Travellers proceeding to countries other than Iraq, Libya, Islamic Republic of Iran, Russian Federation and other Republics of Commonwealth of Independent States-not exceeding USD 3000 per visit or its equivalent.

2. Travellers proceeding to Iraq or Libya - not exceeding USD 5000 per visit or its equivalent.

3. Travellers proceeding to Islamic Republic of Iran, Russian Federation and other Republics of Commonwealth of Independent States – full exchange may be released.

4. Travellers proceeding for Haj/Umrah pilgrimage – full amount of entitlement in cash or up to the cash limit specified by the Haj Committee of India, may be released.

Q) What are the modes of payment in INR for receipt of foreign currency for foreign travel?

A) 1. Cash up to RS 50,000.

Above INR 50,000.

1. Crossed cheque drawn on the applicant's bank account.

2. Crossed cheque drawn on the bank account of the firm/company sponsoring the visit of the applicant.

3. Banker's cheque/ Pay Order / Demand Draft

Q) What is the period of surrendering of foreign exchange?

A) 180 days from the date of receipt/realization/ unspent/ acquisition/ date of return of the traveler, depending upon the case. In case the foreign exchange purchased for a specific

purpose is not utilized for that purpose, it could be utilized for any other eligible purpose for which drawal of foreign exchange is permitted under the relevant rules/ regulations.

The above limit is applicable only to resident individuals and in areas other than export of goods.

Q) How much unspent foreign currency can be retained ?

A) A person returning from abroad is permitted to retain with him, foreign currency, travellers' cheques and currency notes up to an aggregate amount of USD 2000 or equivalent and foreign coins without ceiling beyond 180 days. The retained amount can be used by the traveler for his future travel.

Q) What is to be done if resident receives a foreign inward remittance through various instruments like TTs, MTs, Drafts, Bills etc.?

A) There is no restriction for a resident individual for receiving inward remittances from abroad through TTs, MTs, Drafts, Bills etc. But these instruments have to be sold to authorized dealer bank within 180 days from the date of receipts.

Q) What is a currency declaration form (CDF)?

A) Currency Declaration Form (CDF) is a declaration to Customs Authorities in the following case:

1. If a traveler brings in to India foreign exchange in the form of currency notes, bank notes or travellers' cheques brought in at any one time exceeds USD 10,000 or its equivalent and/or the aggregate value of the foreign currency notes brought in at any one time exceeds USD 5000 or its equivalent.

Q) How a CDF should be handled?

A) Particulars of the encashment of foreign exchange made should be endorsed on the reverse of the CDF giving number and date of the encashment certificate issued to the tenderer under the stamp and signature of the Authorized Dealer. If the entire foreign exchange covered by the CDF is encashed, CDF should not be returned to the tenderer, but to be retained by Authorized Dealer.

Q) What should be kept in mind if a client requests an outward remittance abroad?

A) The following should be kept in mind:

1. No cash is to be received in office account for debit towards outward remittance.
2. Client's account should be credited through normal banking channel with the money to be utilized for outward remittance.
3. Signed form A2 should be received from the client which will serve as self-declaration form for general outward remittances which don't require prior permission from RBI.

Disclaimer: 1. The above content is for informative purpose only.

2. For extensive guidelines please refer RBI, FEDAI and H.O Foreign Exchange circulars.