

CAN AN NRI BUY PROPERTY IN INDIA?

Relevant for: International Relations | Topic: Indian Diaspora

Purchase and acquisition of immovable properties in India, by non-residents, are governed by Foreign Exchange Management Act (FEMA) and which is administered by Reserve bank of India (RBI). An Non Resident Indian (NRI) is an Indian citizen who is resident outside India for FEMA purposes. A non-Indian citizen who, or whose parents or grand-parents were born in India etc. are treated as OCI (Overseas Citizen of India). Since NRIs and OCI both are treated at par, for the purpose of investment in real estate, I will refer both as NRI for our further discussion. This discussion is restricted to the provisions as applicable to NRI and OCI.

Type of properties which NRIs can purchase in India and mode of payment

Reserve Bank of India issues directions from time to time explaining the law and giving general permission to NRIs for purchase of certain immovable properties in India without having to go to RBI for permission. Through these directions the RBI has given general permission to NRIs to buy certain immovable properties in India. Under these guidelines the NRIs are allowed to purchase residential or commercial properties in India but they are not allowed to purchase any agricultural land, farm house or plantation property in India. Since it is fashionable to own a farmhouse, it is imperative to understand that under the existing dispensations, NRIs cannot purchase a farmhouse in India. This way, as long as the investment being made by NRIs in India is either in residential property or commercial property, they are not even required to intimate the RBI about such purchases, even post conclusion of the transaction. Moreover, there is no restriction as to the number of residential or commercial property, an NRI can purchase in India.

Mode of payment for purchase of property in India

For purchasing permitted immovable properties in India, the NRI has to either pay through banking channel by remittance from abroad or the NRI can use balance in his NRE/NRO or FCNR account. Since the money for this purpose has to come only permitted channels including through banking channels, the payment cannot be tendered in the form of traveler's cheques or foreign currency in India. NRIs are even allowed to finance purchase of a residential house property with home loan in Indian rupees. The home loan can be granted by the Indian employer of the NRI employee for the purpose of financing the property or by a housing finance company or a bank.

As far as payments of EMI for servicing the home loan taken in Indian currency in India is concerned, the same can be done either by direct remittance from abroad or from the money lying to the credit in NRE/NRO/FCNR account of the NRI. In addition to the above sources, the home loan can even be serviced out of the rents received from such property or money transferred to borrowers account from the account of relatives of such borrower.

Other Permitted acquisitions of immovable properties

In addition to the purchase of property, an NRI is also allowed to acquire any residential or commercial property by way of gift from any of his NRI, OCI or a resident relative. Though an NRI is not allowed to buy agricultural land etc. in India, he is allowed to inherit the same from any person resident in India. The inheritance may be either through a Will from even a non-relative or from a relative as per the personal law in case a valid Will is not made. Moreover, an NRI is allowed to inherit any immovable property in India from another NRI provided the NRI had acquired the same under the permitted rules as were in force when he had acquired it.

Continuance of immovable properties by a resident becoming non resident

A resident who has become an NRI later on is permitted to continue to hold any immovable property including agricultural land, farm house etc. which was acquired by him while he was a resident in India.

I am sure the above discussion would be useful to NRIs who are contemplating buying properties in India.

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