

Foreign Exchange Management (Remittance of Assets) Regulations, 2000

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SCHEDULE 1 :- LEG

Foreign Exchange Management (Remittance of Assets) Regulations, 2000

In exercise of the powers conferred by Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank makes the following regulations in respect of remittance outside India by a person whether resident in India or not, of assets in India, namely

1. Short title and commencement :-

- (i) These regulations may be called the Foreign Exchange Management (Remittance of Assets) Regulations, 2000.
- (ii) They shall come into force on 1st day of June, 2000.

2. Definitions :-

In these Regulations, unless the context requires otherwise,

- (i) 'Act' means the Foreign Exchange Management Act, 1999 (42 of 1999);
- (ii) 'authorised dealer' means a person authorised as an authorised dealer under sub- section (1) of Section 10 of the Act;
- ¹(iii) "Non-Resident Indian (NRI)" means a person resident outside India who is a citizen of India.
- ¹(iv) 'Person of Indian Origin (PIO)' means a citizen of any country other than Bangladesh or Pakistan, if

(a) he at any time held Indian passport;

(b) he or either of his parents or any of his grandparents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955);

(c) the person is a spouse of an Indian citizen or a person referred to in sub- clause (a) or (b);

¹(v) 'Remittance of asset' means remittance outside India of funds representing a deposit with a bank or a firm or a company, provident fund balance or superannuation benefits, amount of claim or maturity proceeds of Insurance policy, sale proceeds of shares, securities, immovable property or any other asset held in India in accordance with the provisions of the Act or rules or regulations made thereunder;

¹ (vi) the words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

1. In Regulation 2, after clause (ii), clause (iii) shall be inserted and existing clause (iii),(iv) and (v), shall be renumbered as (iv), (v),and (vi), by "Foreign Exchange Management (Remittance of Assets) (Amendment) Regulations, 2002"., Noti. No. G.S.R.576(E), dated May 13, 2002, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th August, 2002, pp. 4-5, No. 379.

3. Prohibition on Remittance outside India of assets held in India :-

Save as otherwise provided in the Act or rules or regulations made or issued thereunder, no person whether resident in India or not, shall make remittance of any asset held in India by him or by any other person: Provided that the Reserve Bank may, for sufficient reasons, permit any person to make remittance of any asset held in India by him or by any other person.

4. Permission for remittance of assets in certain cases :-

¹(1) A person specified in sub-regulations (2) and (3) may make remittance of assets through an authorised dealer, to the extent specified in those sub-regulations.

(2) A citizen of foreign state, not being a citizen of Nepal or Bhutan or a person of Indian origin (PIO), who,

(i) has retired from an employment in India; or

(ii) has inherited the assets from a person referred to in sub-section (5) of Section 6 of the Act; or

(iii) is a widow resident outside India and has inherited assets of her deceased husband who was an Indian citizen resident in India, may remit an amount, not exceeding .²[""US \$ 1,000,000 (US Dollar One million only)" per calendar year.], on production of, ³

"(a) documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter and"

(b) a tax clearance/no objection certificate from the Income Tax authority for the remittance:

Provided that for the purpose of arriving at annual ceiling of remittance under the sub-regulation (2), the funds representing sale proceeds of shares and immovable property owned or held by the citizen of foreign state on repatriation basis in accordance with the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 and Foreign Exchange Management (Transfer of Indian security by a person resident outside India) Regulations, 2000 made under the Act, shall not be included;

Provided further that where the remittance is made in more than one instalment, the remittance of all instalments shall be made through the same authorised dealer;

(iv) had come to India for studies/training and has completed his studies/training, may remit the balance available in his account, provided such balance represents funds derived out of remittances received from abroad through normal banking channels or rupee proceeds of foreign exchange brought by such person and sold to an authorised dealer or out of stipend/scholarship received from the Government or any Organisation in India.

³(3) A Non-resident Indian (NRI)/Person of Indian Origin (PIO), may remit an amount, not exceeding US \$ 1,000,000 (US Dollar One million only) per calendar year, out of the balances held in NRO accounts/sale proceeds of assets/the assets in India acquired by him by way of inheritance/legacy, on production of the documents detailed in sub-regulation (2)(a) and (b);

Provided that in respect of remittance of sale proceeds of immovable property, the property/sale proceeds were held/retained

as deposits cumulatively for a minimum period of 10 years;

Provided further that where the remittance is made in more than one installment, the remittance of all installments shall be made through the same authorised dealer."

(4)⁵ An authorised dealer in India may, without approval from Reserve Bank, effect remittance of assets made by a person eligible under sub-regulation (2) or sub-regulation (3) as the case may be.

1. In Regulation 4, sub-regulation (1), shall be substituted by "Foreign Exchange Management (Remittance of Assets) (Amendment) Regulations, 2002", Noti. No. G.S.R. 576(E), dated May 13, 2002, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th August, 2002, pp. 4-5, No. 379.

2. In Regulation 4, sub-regulation (2), the words "US \$ 1,00,000 (US Dollar One lakh only)" shall be substituted by "Foreign Exchange Management (Remittance of Assets) (Second Amendment) Regulations, 2003", [Noti. No. F. No. 1/23/EC/2000-Vol. II {No. FEMA9712003-RB}, dt. 8.7.2003Gaz. of India, Exty., Pt. II-Sec. 3(I), No. 368, dt. 4.8.2003, p. 4.]

3. SUBSTITUTED BY THE Foreign Exchange Management (Remittance of Assets) (Second Amendment) Regulations, 2003 [Noti. No. F. No. 1/23/EC/2000-Vol. II {No. FEMA 9712003-RB}, dt. 8.7.2003Gaz. of India, Exty., Pt. II-Sec. 3(I), No. 368, dt. 4.8.2003, p. 4.]

5. In Regulation 4, sub-regulation (4), shall be inserted by "Foreign Exchange Management (Remittance of Assets) (Amendment) Regulations, 2002", Noti. No. G.S.R. 576(E), dated May 13, 2002, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th August, 2002, pp. 4-5, No. 379.

5. Permission to an Indian entity to remit funds in certain cases :-

An entity in India may remit the amount being its contribution towards the provident fund/superannuation/ pension fund in respect of the ex patriate staff in its employment who are resident in India but not permanently resident therein.

Explanation. For the purpose of this Regulation,

(a) 'ex patriate staff' means a person whose provident/superannuation/pension fund is maintained outside India by his principal employer outside India;

(b) 'not permanently resident' means a person resident in India for employment of a specified duration (irrespective of length thereof) or for a specific job or assignment, the duration of which does not

exceed three years.

6. Reserve Banks prior permission in certain cases :-

(1) A person who desires to make a remittance of assets in the following cases, may apply to the Reserve Bank, namely: ¹

"(i) Remittance exceeding US \$ 1,000,000 (US Dollar One million only) per calendar year

(a) on account of legacy, bequest or inheritance to a citizen of foreign state, permanently resident outside India and

(b) by a Non-resident Indian (NRI)/Person of Indian Origin (PIO), out of the balances held in NRO accounts/sale proceeds of assets/the assets in India acquired by way of inheritance/legacy."

(ii) remittance to a person resident outside India on the ground that hardship will be caused to such a person if remittance from India is not made;

(iii) remittance of winding up proceeds of a branch/office ² (other than project office) in India of a person resident outside India:

Provided that the application is supported by the following documents, namely:

(A) copy of the Reserve Bank's permission for establishing the branch/ office in India;

(B) Auditor's certificate,

(i) indicating the manner in which the remittable amount has been arrived and supported by a statement of assets and liabilities of the applicant, and indicating the manner of disposal of assets;

(ii) confirming that all liabilities in India including arrears of gratuity and other benefits to employees etc. of the branch/office have been either fully met or adequately provided for;

(iii) confirming that no income accruing from sources outside India (including proceeds of exports) has remained unrepatriated to India;

(C) no-objection or Tax clearance certificate from Income Tax authority for the remittance; and

(D) confirmation from the applicant that no legal proceedings in

any Court in India are pending and there is no legal impediment to the remittance.

(2) On consideration of the application made under sub-regulation (1), the Reserve Bank may permit the remittance, subject to such terms and conditions as it deem necessary.

1. SUBSTITUTED BY THE Foreign Exchange Management (Remittance of Assets) (Second Amendment) Regulations, 2003 [Noti. No. F. No. 1/23/EC/2000-Vol. II {No. FEMA 9712003-RB), dt. 8.7.2003Gaz. of India, Exty., Pt. II-Sec. 3(I), No. 368, dt. 4.8.2003, p. 4.]

2. THE Bracket and words INSERTED BY THE The Foreign Exchange Management (Remittance of Assets) (Amendment) Regulations, 2003

SCHEDULE 1

LEG

[Regulation 6] APPLICATION FOR REMITTANCE OF LEGACIES, BEQUESTS OR INHERITANCES TO BENEFICIARIES RESIDENT OUTSIDE INDIA
 Instructions: 1. The application should be completed and submitted through an authorised dealer through whom the remittance is sought to be made to the office of Reserve Bank under whose jurisdiction the applicant resides.
 Documentation: 2. Certified copy of the probate together with a copy of the Will annexed thereto, or letters of administration or succession certificate, as the case may be, in respect of the Indian assets of the deceased person.
 3. Tax Clearance/No Objection Certificate from the Income Tax authorities to show that no liabilities are outstanding in respect of the estate of the deceased person on account of Income Tax, Wealth Tax, Capital Gains Tax, etc.
 4. A statement of Indian assets of the deceased person, indicating the form in which they are held. The number and date of Reserve Bank's approval for holding or acquiring shares of Indian companies and immovable property should be indicated, wherever applicable.
 5. A certificate from a Chartered Accountant showing how the remittable amount has been arrived at and that all liabilities of the estate in India have been met or adequately

1.	Particulars of the deceased person:	1.	
	(0) Name		(0)
	(") Nationality		(")
	(Hi) Country of permanent residence at the time of death		(Hi)
	(IV) Date and place of demise		(IV)
	(V) Whether the deceased was residing in India at any time during his life time; if so, state period		(v)
2.	Particulars of the beneficiary/ies:	2.	
	! (i) ! Name/s		(0)
	(") Nationality/ies		(")
	(o) Country/ies of permanent residence		(")
3.	Whether the deceased person had made any investments in India, if so, details as under:	3.	
	(i) Investments made on non-repatriation basis		(0)

	(")	Investments made with repatriation benefits		(")
4.		Amount of remittance applied for	4.	