

Insights for NRIs: Commonly Asked Questions Answered

Many individuals from India relocate to foreign countries for reasons such as education, employment, and settling down. When someone moves abroad, their residential status may transition from Resident to Non-Resident according to FEMA guidelines, which consider factors like the duration spent outside India and the intention to remain abroad indefinitely. Alongside the provisions of the Income Tax Act, 1961, this change in residential status also entails compliance with FEMA regulations governing investments in India by Non-Resident Indians (NRIs). The terms "Person's resident outside India," "NRI," and "PIOs" are specifically defined under FEMA, and this article primarily addresses Indians who have left the country to reside overseas.

Following are the frequently asked questions for the NRIs:

1. Does a resident need to switch their bank account when they become an NRI?

Yes. Such a person has to designate his regular saving account as Non-Resident Ordinary Rupee Account (NRO) / Non-Resident External Rupee Account (NRE).

2. What is the meaning of Investment on Repatriation and Non-Repatriation basis?

Investment on Repatriation basis means that the sale proceeds, profits and dividends/interest (net of taxes), are eligible to be freely remitted outside India.

Investment on Non-Repatriation basis means that the investment made by the NRI cannot be freely remitted outside India. The investment proceeds have to be accumulated in the NRO Account. Only the current income in the form of dividend or interest, net of taxes, can be remitted.

3. Is it permissible for an NRI to borrow money from their resident relatives?

NRI individuals have the option to borrow funds in rupees from their resident relatives, as defined under the Companies Act, 2013. However, this borrowing is subject to a limit of USD 250,000 per resident relative per financial year.

The borrowed funds must be deposited into the NRO account of the NRI and can only be utilized for personal purposes or their own permitted business activities. It is important to note that these funds cannot be used for relending or investments.

Further, the proceeds of the said loan cannot be remitted outside India.

Note: The term 'relative' is very narrowly defined under section 2(77) of Companies Act, 2013. 'Relative' includes Father (Including Step-Father), Mother (Including Step-Mother), Sons (Including Step-Son), Son's Wife, Daughters, Daughter's Husband, Brothers (Including Step-Brother), Sisters (Including Step-Sister) and members of HUF.

4. Is it possible for an NRI to acquire immovable property in India?

An NRI is permitted to acquire immovable property in India, excluding plantations, farmhouses, and agricultural land. Additionally, they have the option to acquire property in India through a gift from residents or other NRIs who are considered relatives as per the Companies Act, 2013.

5. After becoming a person resident outside India, is an NRI permitted to receive gifts from their resident relatives in Indian Rupees or foreign currency?

A resident individual can gift their NRI relatives in both Indian rupees and foreign currency under the Liberalized Remittance Scheme (LRS), with a limit of USD 250,000 per resident relative per financial year. Gifts received in Indian rupees can only be deposited into the NRO Account, and they can be remitted outside India under the USD One Million scheme.

6. Is it possible for an NRI to maintain their LIC, medical insurance, and other insurance policies after they become a person resident outside India?

An Indian individual who becomes a non-resident can continue to pay the premiums on their LIC and other existing insurance policies.

7. Is it possible for an NRI to remain a partner in an Indian partnership firm or LLP?

An NRI can maintain their status as a partner in a Partnership Firm or LLP, subject to relevant terms and conditions, provided that the firm is not involved in sectors prohibited for NRI investment in partnership firms or LLPs.

Fresh investments by NRIs in Indian Partnership Firms or LLPs can only be made on a non-repatriation basis.

8. Is it possible for an NRI to retain their investment in a PPF account and National Savings Certificate (NSC) after they become a person resident outside India?

NRIs are not permitted to open new PPF accounts. However, if a resident who previously held a PPF account becomes a non-resident, they may continue to contribute to the fund until its maturity on a non-repatriation basis.

Similarly, NRIs are not allowed to invest in NSCs. However, if a resident had purchased NSCs and later becomes a non-resident, they can hold the certificates until their maturity period.

9. Is it permissible for NRIs to directly invest in shares of private or public Indian companies?

An NRI has the option to directly invest in shares of both listed and unlisted companies, provided they adhere to specific conditions and reporting requirements. Such investments can be made on either a repatriation or non-repatriation basis.

10. Upon returning to India, can an NRI retain ownership of their bank accounts, investments, and properties in the foreign country?

According to FEMA regulations, individuals who were previously Non-Residents are permitted to maintain their foreign bank accounts, investments, and properties abroad even after they become residents in India.