

**REMITTANCE FACILITIES TO RESIDENT INDIVIDUALS
AND
CUSTOMS BAGGAGE RULES**

- **Authored by CA Amit Purohit**
- **Edited by CA Paresh P. Shah**



THE CHAMBER OF TAX CONSULTANTS

3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai – 400 020.

Phone : 2200 1787 / 2209 0423

Email : office@ctconline.org Website : <http://www.ctconline.org>

1st Edition - February 2017

DISCLAIMER

The opinion and views expressed in this publication are those of the author. The Chamber of Tax Consultants does not necessarily concur with the same. Neither The Chamber of Tax Consultants nor the author/contributor/editor is responsible in any way whatsoever for any personal or professional liability arising out of the same.

No part of this publication may be reproduced or translated in any form or by any means without the permission in writing from the Chamber of Tax Consultants.

This publication is circulated with the understanding that neither the publisher nor the author will be responsible for the result of any action taken on the basis of this work, whether directly or indirectly or directly for any error or omission to any person whether the reader of this publication or not.

READER'S SUGGESTIONS AND VIEWS

We invite suggestions and views from the readers for improvement in further such publications and also correction of an error, if any, found in this edition. Kindly send your suggestions on office@ctconline.org or at the Chamber's office address.

Table of Contents

ABOUT CTC	5
VISION STATEMENT	6
PRESIDENT’S MESSAGE	7
ABOUT AUTHOR	8
FOREWORD	9
1 MISCELLANEOUS REMITTANCE FACILITIES FOR RESIDENTS	11
1.1 Introduction:	11
1.2 Current Account Transactions:	12
1.3 Statutory Provisions (prior to 26th May 2016):	12
1.4 List of Prohibited current account transactions (Rule 3/Schedule I):	13
1.5 List of transactions requiring approval of the Ministry / Department of Central Government (Rule 4 / Schedule II):	13
1.6 List of transactions requiring RBI approval (if the remittance exceeds the specified limits as mentioned in the rules (Rule 5 / Schedule III):	14
1.7 Schedule III remittances now part of overall limit of USD 2,50,000 (effective 26th May, 2015)	14
1.8 Limitations:	15
1.9 Relaxations (Limits not applicable in following cases):	15
1.10 Commonly used remittance facilities by residents:	15
A Foreign Tour (Private visits):	15
B Medical treatment abroad:	17
C Facilities to students for pursuing studies abroad:	18
D Employment abroad / emigration:	19
E Gifts / donations to a person resident outside India	20
F Maintenance of close relatives	20
G Usage of International Credit / Debit card	20
H Utilisation and Surrender of unspent foreign exchange	21
I Participation in an exhibition/ trade fair outside India:	21
J Remittances of salary by Foreign national (resident but not permanently resident in India):	22
K Remittance of Assets by Foreign Nationals:	22
L Remittance of Assets by NRIs / PIOs:	22
M Prior approval of RBI	22
1.11 Facilities for non-individuals:	23

2	LIBERALISED REMITTANCE SCHEME (LRS) OF USD 250,000	23
2.1	Introduction:	24
2.2	Permissible usage of LRS:	25
2.3	Multiple remittances allowed:	25
2.4	Remittances under LRS be consolidated in respect of family members:	25
2.5	Prohibited transactions:	25
2.6	Types of permissible capital account transactions:	26
2.7	Types of permissible current account transactions:	26
2.8	Existing remittance facilities now subsumed under LRS (except for relaxations as referred to in para no. 1.10 above):	27
2.9	Gifts:	27
2.10	Loans:	27
2.11	Investments in Overseas securities:	28
2.12	Procedure for remittance:	29
3	ACQUISITION / TRANSFER OF FOREIGN SECURITIES	30
3.1	Introduction:	30
3.2	Acquisition of Foreign securities by PRIL:	30
3.3	Sale / Transfer of securities:	32
3.4	Pledge of a foreign security by a person resident in India:	33
4	FOREIGN CURRENCY BANK ACCOUNTS OF PERSONS RESIDENT IN INDIA	34
4.1	Introduction:	34
4.2	Foreign currency bank accounts in India:	34
	A Exchange Earners Foreign Currency (EEFC) Account:-	35
	B Resident Foreign Currency (RFC) Account: -	37
	C Resident Foreign Currency (Domestic) Account:-	38
	D Diamond Dollar Account (DDA) Scheme – DDA Account:	39
	E Foreign currency account of Shipping or airline companies:	40
	F Foreign currency account of Project office:	40
	G Foreign currency Account of an exporter undertaking construction / turnkey projects outside India:	41
	H Foreign currency account by unit in SEZ:	41
4.3	Foreign currency accounts outside India:	41
5	INVESTMENT IN IMMOVABLE PROPERTIES ABROAD BY INDIAN RESIDENTS	43
5.1	Introduction:	43
5.2	Acquisition of IP –Capital Account Transaction:	43
5.3	Regulations:	43

5.4	Different sources of acquisition of IP by resident individuals:	44
5.5	Gift:	44
5.6	Acquisition of IP for trading or real estate business prohibited:	45
5.7	Acquisition of IP by branch office of an Indian Company / firm:	45
5.8	Residential Status of Overseas Branch office:	46
5.9	Overseas Direct Investment (ODI) in Construction & Development Activity: ...	47
5.10	Structuring & Funding aspects:	47
5.11	Indirect cost of acquisition of overseas IP:	48
5.12	Selling of an IP:	48
5.13	Taxation aspects:	48
6	CHANGE OF RESIDENTIAL STATUS (FROM RESIDENT TO NON-RESIDENT) ON LEAVING COUNTRY AS STUDENT OR ON EMPLOYMENT / BUSINESS ETC.....	50
6.1	Introduction:	50
6.2	Emigration / employment outside India:	50
6.3	Important aspects on change of residential status:	50
7	FREQUENTLY ASKED QUESTIONS ON CUSTOMS BAGGAGE RULES.....	53

ABOUT CTC

The CTC established in 1926, is one of the oldest voluntary non-profit making organisation formed with the object of educating and updating its members on the Direct Tax Laws and other Allied Laws. It has a robust membership strength exceeding 3,500 members comprising of Chartered Accountants, Advocates, Tax Practitioners, Corporate Members and Student Members.

- The CTC regularly organises Workshops, Seminars, Lecture Meetings, Study Circle Meetings, Study Group Meetings, Outstation Conferences, etc., for the benefit of members which keeps them up-to-date with the latest developments in Tax and Allied Laws.
- Its popular monthly journal 'The Chamber's Journal' consists of Special Issues covering in depth analysis on topics day to day of professional interest. These special issues have found a permanent place in libraries of leading tax professionals.
- CTC functions through various sub-committees comprising of above 250 core group members and maintains excellent rapport with the Tax Department and Government authorities.
- CTC is active in filing public interest litigation, for instance TDS, DIS, Service Tax, etc., presenting pre and post-budget memorandum and making representations on various Tax and Corporate Laws to the Government and regulatory authorities.
- CTC manages two libraries at prominent places at Aayakar Bhavan, New Marine Lines and Pratyakshakar Bhavan, Bandra, which are widely used by the professionals. These libraries have more than 4,000 titles, various leading law journals/magazines and books.
- The members of the CTC enjoy a unique bond of fellowship and brotherhood which is evident in all its activities and programmes. Its monthly newsletter, The CTC NEWS keeps members updated on various events.

VISION STATEMENT

The Chamber of Tax Consultants (The Chamber) shall be a powerhouse of knowledge in the field of fiscal laws in the global economy.

The Chamber shall contribute to the development of law and the profession through research, analysis and dissemination of knowledge.

The Chamber shall be a voice which is heard and recognised by all Government and Regulatory agencies through effective representations.

The Chamber shall be pre-eminent in laying down and upholding, among the professionals, the tradition of excellence in service, principled conduct and social responsibility.

PRESIDENT'S MESSAGE

Dear Readers,

Established in the year 1926, the Chamber is a not for profit organization with its mandate to disseminate knowledge. The Chamber caters to the needs of professionals both in practice as well as in Industry. Chamber has entered its 90th year and our theme for 90th year is “Gyanam Param Balam” means “Knowledge is Supreme Power”. The Chamber makes continuous representations before regulatory authorities to give feedbacks and suggestions for ease of professionals as well as citizens.

I would like to thank Mr. Amit Purohit for his valuable contribution on authoring this book on “Remittance Facilities to Resident Individuals and Customs Baggage rules”. I further thank International tax committee and Research and Publication committee for bringing this publication.

The author has lucidly explained the provisions and also dealt with few problems/issues faced by resident individuals and also to understand the baggage rules when entering India. The concepts are very well explained with examples. This book will be helpful for understanding basic concepts and making necessary compliances.

I am sure that this publication will be of immense help to the readers.

Regards

Hitesh R. Shah
President
The Chamber of Tax Consultants

ABOUT AUTHOR

CA AMIT ASHOK PUROHIT

Academic Qualifications:

Commerce Graduate from the Mumbai University, Fellow Chartered Accountant from The Institute of Chartered Accountants of India and holds additional degrees of 'Company Secretary' from the Institute of Company Secretaries of India and Diploma in IFRS from ACCA UK.

Professional Activities:

Practicing in the area of Audit and Assurance Services, Taxation (including International Taxation), Structuring Cross Border Investments, International Taxation Issues and Foreign Exchange Regulations, etc.

Other Activities:

- Technical reviewer with Financial Reporting Review Board of ICAI
- Member of the Managing Committee of the Chamber of Tax Consultants
- Member of the Accounting and Auditing Committee of the Bombay Chartered Accountants' Society
- Was a Sub-group member of "IND AS (IFRS) Implementation Committee" of WIRC for the year 2015-16
- Was a Member of the Study Group constituted by ICAI on Formulating Guidance Note on Service Concession Arrangements
- Has led discussions on variety of topics at various meetings /seminars organized by the Professional Organizations.
- Contributed Articles for Professional Journals and newspapers on topics of professional interests.

FOREWORD

Since liberalization and globalization, cross-border transactions and remittances by Residents have grown manifold as a result of which the law is evolving continuously. This publication on Remittance facilities for Residents under FEMA by the Chamber of Tax Consultants is a timely, practical guide for practitioners as it deals with and analyzes the complexity and administrative nuances involved for residents while undertaking remittances under FEMA in view of the important changes in Current Account Rules and the subsuming of limits for Liberalized Remittance Scheme for current account transactions.

This Book comprehensively deals with all matters relating to remittances by residents that FEMA seeks to regulate. Various typical remittances or foreign exchange requirements of a Resident are addressed such as private & business travel, medical treatment overseas, foreign education, participation in conferences, emigration fees, gifts & donations, etc. Prohibited and permissible transactions under the FEMA Current Account Rules are discussed and also differentiated against the earlier rules for a clear understanding of the subject. The popular Liberalized Remittance Scheme is uniquely explained with the help of FAQs.

Apart from current account transactions, various special transactions that a practitioner may encounter are also covered such as remittance of salary & assets by Foreign nationals and facilities for non-individuals towards donations, commissions to agents abroad & remittances for consultancy services.

Remittances in the nature of capital account by Residents are also comprehensively covered such as acquisition of foreign securities by way of purchase or gift / inheritance, pledge of such securities, different kinds of Foreign Currency Bank Accounts that a Resident may open and maintain, investment in immovable properties abroad, etc.

Finally, the Book also deals with important but often less understood implications of change in residential status on leaving the country either as a student or on employment or for business.

To summarize, the publication would prove to be an invaluable tool to the practitioner as well as to the public in general while contemplating, planning and executing their international remittances keeping in view the obligations under FEMA.

Regards

Paresh P. Shah

CHAPTER – 1

MISCELLANEOUS REMITTANCE FACILITIES FOR RESIDENTS

1.1 Introduction:

Under the Foreign Exchange Management Act, 1999 (FEMA), all transactions involving foreign exchange are classified either as capital or current account transactions. Any transaction by a resident (as defined under FEMA) which alters his / her assets or liabilities outside India are Capital Account Transactions. As a corollary, transactions which do not alter assets or liabilities outside India are Current Account Transactions. For example, export / import of goods or services are Current account transactions. However, taking foreign currency loan is a Capital Account Transaction. Meaning of Capital Account Transaction under FEMA is different from Capital Expenditure as understood in accounting parlance. Thus, import of machinery is a Capital expenditure but not a Capital Account Transaction under FEMA. It may be noted that Current Account Transactions are more or less freely permitted. Since India has not embraced full capital account convertibility, capital account transactions are regulated in terms approval, monitoring and reporting.

In terms of the authority given under section 6(2) and section 47(2) of FEMA, the Reserve Bank of India (“RBI”), in consultation with Government of India, has notified **Foreign Exchange Management (Permissible capital account transactions) Regulations, 2000** (Notification No. FEMA 1 /2000-RB dated 3rd May 2000) as amended from time to time. These regulations talk about permissible and prohibited transactions in respect of Person resident in India (“PRII) and Person resident outside India (“PROI”). Following are permissible capital account transactions for PRII (as per schedule I of the regulations):

- Investment in foreign securities
- Foreign currency loans raised in India and abroad
- Transfer of immovable property outside India

- Guarantees issued in favour of a person resident outside India
- Export, import and holding of currency/currency notes
- Maintenance of foreign currency accounts in India and outside India
- Loans and overdrafts from a person resident outside India
- Loans and overdrafts to a person resident outside India.
- Taking insurance policy from an insurance company outside India
- Remittance outside India of capital assets of a person resident in India.
- Sale and purchase of foreign exchange derivatives in India and abroad and commodity derivatives abroad.

It may be noted that RBI has issued separate notifications dealing with the above areas providing limits, approval, monitoring and reporting mechanism.

1.2 Current Account Transactions:

As per Section 5 of the FEMA, PRII are free to buy or sell foreign exchange for any *bona fide* current account transaction except that Central Government may in public interest, in consultation with the RBI, impose certain restrictions. Remittances towards Current Account Transactions can be made through Authorised dealers (AD) and the permission of the RBI is not required for the remittance. However, the permission of RBI / concerned ministry would be required for remittances in excess of the permissible limits.

1.3 Statutory Provisions (prior to 26th May 2016):

In terms of Section 5 of FEMA, Central Government has notified **Foreign Exchange Management (Current Account Transactions) Rules, 2000** (as amended from time to time) to manage current account transactions (“CATs”). Under the said rules, CATs have been divided into three categories as under:

- Transactions for which foreign exchange withdrawal is prohibited (Schedule I)

- Transactions requiring approval of the Ministry / Department of Central Government (Schedule II)
- Transactions requiring approval of RBI if the remittance exceeds the specified limits as mentioned in the rules (Schedule III).

1.4 List of Prohibited current account transactions (Rule 3/Schedule I):

- Remittance out of lottery winnings
- Remittance of income from racing/riding etc. or any other hobby
- Remittance for purchase of lottery tickets, banned /proscribed magazines, football pools, sweepstakes, etc.
- Payment of commission on exports made towards equity investment in Joint Ventures / Wholly Owned Subsidiaries abroad of Indian companies
- Remittance of dividend by any company to which the requirement of dividend balancing is applicable
- Payment of commission on exports under Rupee State Credit Route, except commission up to 10% of invoice value of exports of tea and tobacco
- Payment related to "Call Back Services" of telephones
- Remittance of interest income on funds held in Non-resident Special Rupee Scheme (Account) Scheme

1.5 List of transactions requiring approval of the Ministry / Department of Central Government (Rule 4 / Schedule II):

- Cultural Tours
- Advertisement in foreign print media for the purpose other than promotion of tourism, foreign investments and international bidding (exceeding 10,000 USD) by a Government and its Public Sector Undertakings
- Remittance freight of vessel chartered by a PSU
- Payment of import through ocean transport by a Government Department or a PSU on C.I.F. basis
- Multi-modal transport operators making remittance to their agents abroad
- Remittance of hiring charges of transponders by: (a) TV Channels; (b) Internet Service Providers

- Remittance of container detention charges exceeding the rate prescribed by Director General of Shipping
- Remittance of prize money/sponsorship of sports activity abroad by a person other than International / National / State Level sports bodies, if the amount involved exceeds USD 1,00,000
- Remittance for membership of P&I club

1.6 List of transactions requiring RBI approval (if the remittance exceeds the specified limits as mentioned in the rules (Rule 5 / Schedule III):

- Release of exchange exceeding USD 10,000 or its equivalent in one financial year for one or more private visits to any country (except Nepal and Bhutan)
- Gift / Donation remittance exceeding USD 5,000 per financial year per remitter or donor other than resident individual
- Exchange facilities exceeding USD 100,000 for persons going abroad for employment
- Exchange facilities for immigration exceeding USD 100,000 or amount prescribed by country of immigration.
- Release of exchange for meeting expenses for medical treatment abroad exceeding the estimate from the doctor in India or hospital/doctor abroad
- Release of exchange for studies abroad exceeding the estimate from the institution abroad or USD 100,000, per academic year, whichever is higher
- Remittance for maintenance of close relatives abroad exceeding USD 100,000 per year per recipient

1.7 Schedule III remittances now part of overall limit of USD 2,50,000 (effective 26th May, 2015)

Above mentioned individual limits for remittances as prescribed under schedule III of CATs 2000, have since been brought under the overall yearly limit of **USD 2,50,000** by Foreign Exchange Management (Current Account Transactions) Amendment Rules, 2015 (“CATs 2015”) issued under Notification dated 26th May 2015 from Ministry of Finance. This limit is in

line with the present limit under Liberalised Remittance Scheme (LRS) (discussed in detailed later).

1.8 Limitations:

Since all Current account and Capital account remittances are now brought within the overall cap of USD 2,50,000, PRII are to the some extent, at disadvantage, as earlier LRS could be used for making capital investments abroad in addition to the various limits for current account transactions such as Travel, studies, donations, gifts, maintenance of close relatives, medical expenditure. However, now under amended rules, all capital and current account transactions are covered under one ceiling. For example, earlier one could have drawn foreign exchange for business visits @ USD 25,000 per visit any number of times during the year under the then prevailing CATs 2000 and could have also invested in Immovable property abroad to the extent of USD 250,000 or other investments abroad under LRS. However, now the sum total of drawals of these transactions cannot exceed the LRS ceiling of USD 2,50,000.

1.9 Relaxations (Limits not applicable in following cases):

- Remittance from RFC / EEFC account of the remitter as these accounts are free from restrictions as regards limits.
- Emigration
- Expenses in connection with medical treatment abroad (based on the estimate from the doctor in India or hospital/ doctor abroad).
- Studies abroad (based on the estimate from the Educational institution abroad)

1.10 Commonly used remittance facilities by residents:

A Foreign Tour (Private visits):

A resident can obtain foreign exchange up to an aggregate amount of USD 2,50,000 (under LRS), from an AD, per financial year (April-March), on self-declaration basis, irrespective of the number of visits undertaken during the financial year. This facility is also available to a person who is traveling

abroad for employment or immigration or studies. It may be noted that drawal of foreign exchange for private visits to Nepal and Bhutan is not allowed. However, resident Indian is allowed to take Indian Rupees of denomination of Rs.100 or lesser denomination to Nepal and Bhutan without limit. All tour related expenses including cost of rail/road/water transportation charges outside India and remittances relating towards cost of Euro Rail; passes/tickets, etc. for Indian travelers, and overseas hotel/flight charges have been subsumed under the new enhanced limit of USD 250,000.

- It may be noted that amount paid to Indian tour operator even in INR is covered within the limit. Further, amount spent through usage of debit / credit card / Travel card outside India is also part of the limit.
- **Foreign Business trip:** Resident Indian can avail foreign exchange up to USD 2,50,000 during the entire financial year (other than to Nepal and Bhutan) under LRS towards business tours such as attending international conferences, seminars, specialised training, study tours, etc. Release of foreign exchange exceeding USD 2,50,000 for business travel abroad, irrespective of the period of stay, by residents require prior permission from the RBI.
- However, if an employee is deputed by a company and the expenses are borne by the company, then such expenses shall be treated as residual current account transactions and may be permitted by the AD bank, without any limit, subject to verifying the bonafides of the transaction.
- **Composition of Foreign currency for travel abroad:**

Travelers going abroad are allowed to purchase foreign currency notes / coins only up to USD 3,000. Balance amount can be carried in the form of travelers cheques or banker's draft. There are certain exceptions for travelers proceeding to Iraq, Libya, Islamic Republic of Iran, Russian Federation and other Republics of Commonwealth of Independent States.

- **Indian currency:** Residents Indians are allowed to take outside India (other than to Nepal and Bhutan) Indian currency notes up to an amount not exceeding Rs. 25,000 per person.

- **Acquisition and surrender of Foreign exchange in case of travelers:**

Foreign exchange can be drawn 60 days in advance ahead of the date of travel. In case, it is not possible to use the foreign exchange within the period of 60 days, then the same should be immediately surrendered to an AD. Further, Resident India Travelers are required to surrender unspent foreign exchange held in the form of currency notes and TCs within 180 days of return. However, they are free to retain foreign exchange up to USD 2,000, in the form of foreign currency notes or Travelers cheques (TCs) for future use or credit to their Resident Foreign Currency (Domestic) [RFC (Domestic)] Accounts. It may be noted that resident Indians can hold foreign coins without any limit.

The same is also permissible in certain other cases where the foreign currency was acquired while on visit for services not arising from Indian business / gift / honorarium / fees from visiting non-residents etc. The unspent foreign exchange can also be utilized for subsequent foreign visits.

B Medical treatment abroad:

Foreign exchange up to USD 2,50,000 or its equivalent is allowed per financial year under LRS to resident Indians for medical treatment abroad on self-declaration basis. Further, estimate from a hospital/doctor in India/abroad is not required to be produced to the AD at the time of drawal of exchange. However, any request for drawal exceeding the above limit requires an estimate from a hospital/doctor in India/abroad.

Further, an amount up to USD 2,50,000 under LRS is allowed towards maintenance expenses of a patient going abroad for medical treatment or check-up abroad, or to a person for accompanying as attendant to a patient

going abroad for medical treatment/check-up. This limit for maintenance expenses is in addition to the limit for medical expenses.

C Facilities to students for pursuing studies abroad:

Indian students going abroad for studies are treated as non-resident under FEMA and are eligible for all the facilities available to NRIs. Following remittance facilities are allowed to Indian Students towards cost of studies and living and maintenance expenses:

While in India as a resident (i.e. before going abroad):

- Remittance up to USD 2,50,000 under LRS or the estimate from Education Institution whichever is higher towards Tuition fees.

As a non-resident (i.e. upon joining foreign university / education institution):

- Remittance from resident close relative up to USD 2,50,000 under LRS towards maintenance expenses on self-declaration basis.
- Remittance from the Student's NRO Account under One Million Dollar Scheme. Under the scheme, up to One Million Dollars can be remitted abroad per financial year.
- Educational and other loans availed of by students as residents in India can be allowed to continue and the repayment can be made from NRO / Inward remittance.
- Earlier the students were allowed to avail of an additional amount of USD 10,000 or its equivalent for incidental expenses, now the said limit is part of overall limit of USD 2,50,000 as mentioned above.
- The Student who has gone abroad for studies can open, hold and maintain Foreign currency bank account outside India during his stay abroad provided that on his return to India, the balance in the account

needs to be repatriated to India. Short visits to India by students, before completion of his studies, is not treated as his return to India and the status of the student continues to remain as Non-resident.

D Employment abroad / emigration:

A person going abroad for employment is allowed to draw foreign exchange up to USD 2,50,000 or its equivalent under LRS on the basis of self-declaration.

Similarly, a person going abroad on emigration is allowed to draw foreign exchange up to the amount prescribed by the country of emigration or USD 2,50,000 under LRS -whichever is higher. Further, the remittance is based on self-declaration and is in respect of incidental expenses in the country of emigration. This amount is only to meet the incidental expenses in the country of emigration. Further, this remittance is not for undertaking any capital account transactions such as overseas investment in government bonds; land; commercial enterprise; etc. No amount of foreign exchange can be remitted outside India to become eligible or for earning points or credits for immigration

E Gifts / donations to a person resident outside India

- A resident individual / entity (trust; company; partnership firm, etc.) can remit up to USD 2,50,000 in one financial year under LRS as gift to a person residing outside India or towards donation to a charitable/educational/ religious/cultural organization outside India. However, Gifts / Donations exceeding the above limit require prior permission from the RBI. Also, a resident cannot gift to another resident, in foreign currency, for the credit of the latter's foreign currency account held abroad under LRS.
- Further, general permission is available to persons other than individuals' to remit towards 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. Any additional remittance in excess of the same requires prior approval of the RBI

F Maintenance of close relatives

- A resident individual can remit up to USD 2,50,000 per financial year under LRS towards maintenance of close relatives as defined under section 6 of the Companies Act, 1956.

G Usage of International Credit / Debit card

The limit of USD 2,50,000 is not applicable in case of usage of International Credit Card (ICC) abroad. However, the payment through International Debit card (IDC) can be made only for permissible current account transactions and within the limit fixed under LRS. In case the IDC is linked to a bank account held abroad or permissible foreign currency bank account in India, then limit under LRS is not applicable.

H Utilisation and Surrender of unspent foreign exchange

- In case the foreign exchange could not be utilised for the specific purpose for which it was purchased, it could be utilized for any other eligible purpose for which drawal of foreign exchange is permitted under the relevant Rules / Regulation.
- Further, general permission is available to any resident individual to surrender received / realised / unspent / unused foreign exchange within a period of 180 days from the date of receipt / realisation / purchase / acquisition / date of return of the traveler, as the case may be. However, it may be noted that this uniform time limit of 180 days is applicable only to resident individuals and does not apply to export of goods and services which are covered under separate regulations.
- Residents but not permanently resident can retain foreign currency notes without any limit if such foreign currency was owned when the person was resident outside India.

I Participation in an exhibition/ trade fair outside India:

- A PRII who has gone out of India to participate in an exhibition/ trade fair outside India may open, hold and maintain a Foreign Currency Account with a bank outside India for crediting the sale proceeds of goods on display in the exhibition/trade fair provided that the balance in the account is repatriated to India through normal banking channels within a period of one month from the date of closure of the exhibition/trade fair.

J Remittances of salary by Foreign national (resident but not permanently resident in India):

Foreign citizens (other than from Pakistan) or Indian citizens who are on deputation to the office or branch of a foreign company or subsidiary or joint venture in India of such foreign company and who are resident in India (but not permanently resident) can make remittance up to the net salary (after deduction of taxes, contribution to provident fund and other deductions). For this purpose, a PRII on account of his employment or deputation of a specified duration (irrespective of length thereof) or for a specific job or assignments, the duration of which does not exceed three years, is treated as resident but not permanently resident.

K Remittance of Assets by Foreign Nationals:

Foreign nationals leaving India after their employment may re designate their savings account held in India to NRO Account and remit up to One Million each financial year from the said account. Further, a foreign national who has inherited assets from a PRII or a widow of an Indian citizen who was resident can remit up to **One million USD each financial year**. This limit does not apply to sale proceeds of assets are held on repatriation basis. In the absence of NRO Account, the remittance can be allowed based on certificate from the Chartered Accountant and production of documentary evidence in support of acquisition / inheritance. It may be noted these remittance facilities are not available to citizens of Nepal or Bhutan or a PIO.

L Remittance of Assets by NRIs / PIOs:

NRIs / PIOs can also remit up to **One million USD each financial year** out of balances in their NRO accounts/ sale proceeds of assets/ assets acquired in India by way of inheritance/ legacy.

M Prior approval of RBI

Prior approval of RBI is required for remittances exceeding the limit of One Million USD and where it can be demonstrated that hardship will be caused to a person if remittance from India is not made.

1.11 Facilities for non-individuals:

A person other than an individual can also avail of foreign exchange facility, mutatis mutandis, within the limit prescribed under LRS for the purposes mentioned above.

The following remittance facilities by non-individuals require prior approval of the RBI:

(i) Donations exceeding 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.

(ii) Commission, per transaction, to agents abroad for sale of residential flats or commercial plots in India exceeding USD 25,000 or five percent of the inward remittance whichever is more.

(iii) Remittances exceeding 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.

CHAPTER – 2

LIBERALISED REMITTANCE SCHEME (LRS) OF USD 250,000

2.1 Introduction:

Liberalised Remittance Scheme which is popularly known as LRS is a facility given to all the **resident individuals** to freely remit foreign exchange up to a specified limit during the financial year for any bona fide capital account or current account transaction. Under the present LRS limit, all resident individuals, including minors, are allowed to remit up to USD 2,50,000 per financial year (April – March) for any permissible current or capital account transaction. The limit was increased from USD 1,25,000 to USD 2,50,000 vide A.P. (DIR Series) Circular No. 106 dated 1st June 2015 read with Notification dated 26th May 2015 from Ministry of Finance amending the Current Account rules.

The LRS limit has been revised from time to time consistent with prevailing macro and micro economic conditions. Following chart depicts the revision in the limits thus far:

(Amount in USD)

Date (onwards)	LRS Limit
Feb 4, 2004	25,000
Dec 20, 2006	50,000
May 8, 2007	1,00,000
Sep 26, 2007	2,00,000
Aug 14, 2013	75,000
Jun 3, 2014	1,25,000
May 26, 2015	2,50,000

2.2 Permissible usage of LRS:

Remittances under the LRS are allowed only in respect of permissible current or capital account transactions or a combination of both. All other transactions which are otherwise not permissible under FEMA are not allowed under the scheme. Further, the LRS can also be used for remittance for purchase of objects of art subject to other relevant laws (such as Foreign Trade policy of Government of India), for acquisition of ESOP (this is in addition to acquisition of ESOPs linked ADR / GDR) and repayment of loan availed abroad as an NRI.

2.3 Multiple remittances allowed:

Under the scheme, one can make remittances multiple number of times during the financial year as there are no restrictions on the frequency, however, the total amount of foreign exchange remitted during a financial year should be within the limit of USD 2,50,000. One can make remittances in any freely convertible foreign currency equivalent to USD 2,50,000 per financial year. Remittances exceeding the limit require RBI approval.

2.4 Remittances under LRS be consolidated in respect of family members:

Remittances under LRS can be consolidated in respect of family members subject to the individual family members complying with the terms and conditions of the Scheme.

2.5 Prohibited transactions:

Remittance under the scheme is not available for following purposes:

- Any purpose which is specifically prohibited under Schedule-I or any item restricted under Schedule II of CATs 2015 (as amended from time to time).
- remittance from India for margins or margin calls to overseas exchanges / overseas counterparty;
- remittances for purchase of FCCBs issued by Indian companies overseas;

- remittance for trading in foreign exchange abroad;
- remittances directly or indirectly to Bhutan, Nepal, Mauritius and Pakistan;
- remittances directly or indirectly to countries identified by the Financial Action Task Force (FATF) as “non co-operative countries and territories”, from time to time (e.g. Iran and North Korea); 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.

2.6 Types of permissible capital account transactions:

Under the Scheme, resident individuals are permitted to acquire shares / debt instruments and other securities such as units of Mutual funds / venture capital funds or any other assets including immovable property outside India, without the prior approval of the RBI. Further, individuals are also allowed to open, maintain and hold foreign currency accounts with banks outside India for carrying out *bona fide* transactions under FEMA including investments from such bank accounts. Further rupee loans can also be given to NRI close relatives under LRS. One can also set up Wholly Owned Subsidiaries and Joint Ventures abroad under the scheme (refer FEMA Notification No. 263/RB-2013 dated August 5, 2013).

2.7 Types of permissible current account transactions:

As per the notification dated 26th May 2015, one can avail of foreign exchange facility for the following purposes within the overall limit of USD 2,50,000. Any additional remittance in excess of the said limit for the following purposes requires prior approval of the RBI:

- (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 (clarified by RBI to mean any other current account transactions which were available to individuals in the erstwhile Schedule III to CATs 2000 and which do not appear in Para 1 to Schedule III to CATs 2015.

2.8 Existing remittance facilities now subsumed under LRS (except for relaxations as referred to in para no. 1.10 above):

With the increase in limit under LRS, the existing facilities available for private travel, business travel, studies, medical treatment, etc., as mentioned in Schedule III of CATs 2000 (now replaced by CATs 2015) have been subsumed under LRS. As such, there are no ceilings for individual remittance covered under Schedule III but they all operate within the overall limit of USD 2,50,000. As a result, remittances on account of gifts / donations cannot be made separately and have to be made under the LRS only.

2.9 Gifts:

One can also give rupee gifts to his visiting NRI/PIO close relatives [refer definition of relative under Section 6 of the Companies Act, 1956] by way of crossed cheque/electronic transfer within the overall limit of USD 2,50,000 per financial year. However, the amount gifted should be credited to the beneficiary's NRO account.

2.10 Loans:

- One can also lend money to NRI / PIO close relative within the overall limit to meet the borrower's personal or business requirements in India. However, the loan should be interest free and should have a maturity of

minimum one year and the loan amount cannot be remitted outside India.

- Remittances under the LRS can be consolidated for family subject to the individual family members complying with the terms and conditions of the Scheme.
- **Repayment of foreign loan:**

An individual, who had availed of a loan abroad while as a non-resident Indian can also repay the same on return to India, under this Scheme as a resident.

2.11 Investments in Overseas securities:

- PRII can invest in various overseas securities such as shares, mutual funds, venture funds, unrated debt securities, promissory notes, etc. under this Scheme. Further, LRS also allows investment in such securities through the bank account opened abroad for the purpose under the Scheme.
- It may be noted that Overseas Direct Investment (ODI) is also allowed within LRS limit (from 5th August, 2013). Thus, one can make investment in the equity shares and compulsorily convertible preference shares of a Joint Venture or Wholly Owned Subsidiary outside India. However, in such case, the terms and conditions as prescribed by overseas investment (ODI) guidelines will need to be complied.
- While sale of foreign securities held under LRS (not covered under ODI route) does not require repatriation or any other reporting requirement under FEMA and such sale proceeds can be parked abroad, disinvestment of securities (even though under LRS) in WOS / JV will require repatriation of sales proceeds and compliance with ODI guidelines including reporting requirements.

- **Income on Investments can be retained abroad:**

Income from Investments made under LRS can be retained abroad and further investments can be made from such retained income. There is no need for declaration / reporting of such income under FEMA. At present, the residents are not required to repatriate the funds or income generated out of investments made under the Scheme. Thus, income in the form of interest, dividend, rent etc. earned out of LRS investments can be retained abroad.

2.12 Procedure for remittance:

In order to make remittance under this scheme, the individual will have to designate a branch of an AD through which all the remittances under the Scheme will be made. Further, the applicant should have maintained the bank account with the concerned bank for a minimum period of one year prior to the remittance. In case of a new customer, the AD is required to carry out due diligence on the bank account maintained. The applicant needs to furnish an application-cum-declaration in the specified format as regards the purpose of the remittance and declare that the funds from which he is remitting belong to him and will not be used for purposes prohibited or regulated under the Scheme. It is mandatory to quote PAN number to make remittances under the Scheme.

CHAPTER - 3

ACQUISITION / TRANSFER OF FOREIGN SECURITIES

3.1 Introduction:

As discussed earlier, under LRS, resident individuals are permitted to acquire shares / debt instruments and other securities such as units of Mutual funds / venture capital funds etc. outside India, without the prior approval of the RBI. Further, in certain cases, RBI has also given general permission to PRII to acquire and transfer foreign securities. The same has been discussed below. It may be noted that acquisition / transfer of foreign securities not covered under general permission will require prior approval of RBI.

3.2 Acquisition of Foreign securities by PRII:

General permission has been granted to a PRII who is an individual –

- to acquire foreign securities as a gift from any person resident outside India;
- to acquire shares by way of inheritance from a person whether resident in or outside India;
- to acquire shares under cashless Employees Stock Option Programme (ESOP) issued by a company outside India, provided it does not involve any remittance from India;
- to purchase equity shares offered by a foreign company under its ESOP Schemes, if he is an employee, or, a director of an Indian office or branch of a foreign company, or, of a subsidiary in India of a foreign company, or, an Indian company in which foreign equity holding, either direct or through a holding company/Special Purpose Vehicle (SPV) irrespective of the percentage of the direct or indirect equity stake in the Indian company provided

- i. the shares under the ESOP Scheme are offered by the issuing company globally on a uniform basis, and
 - ii. an Annual Return is submitted by the Indian company to the Reserve Bank through the AD Category – I bank giving details of remittances / beneficiaries, etc.
- Residents are permitted to acquire a foreign security, if it represents –
 - i. qualification shares for becoming a director of a company outside India to the extent prescribed as per the law of the host country where the company is located provided it does not exceed the limit prescribed for the resident individuals under the Liberalized Remittance Scheme (LRS) in force at the time of acquisition;
 - ii. part / full consideration of professional services rendered to the foreign company or in lieu of Director's remuneration. The limit of acquiring such shares in terms of value is restricted to the overall ceiling prescribed for the resident individuals under the Liberalized Remittance Scheme (LRS) in force at the time of acquisition;
 - iii. rights shares provided that the rights shares are being issued by virtue of holding shares in accordance with the provisions of law for the time being in force;
 - iv. purchase of shares of a JV / WOS abroad of the Indian promoter company by the employees/directors of Indian promoter company which is engaged in the field of software where the consideration for purchase does not exceed the ceiling as stipulated by Reserve Bank from time to time; the shares so acquired do not exceed 5 per cent of the paid-up capital of the JV / WOS outside India; and after allotment of such shares, the percentage of shares held by the Indian promoter company, together with shares allotted to its employees is not less than the percentage of shares held by the Indian promoter company prior to such allotment; and

- An Indian company in the knowledge based sector may allow its resident employees (including working directors) to purchase foreign securities under the ADR/GDR linked stock option schemes. The issue of employees' stock option by a listed company is governed by SEBI (Employees' Stock Option and Stock Purchase Scheme) Guidelines, 1999 and the issue of employees stock option by an unlisted company shall be governed by the guidelines issued by the Government of India for issue of ADR/GDR linked stock options. The consideration for the purchase should not exceed the ceiling as stipulated by the Reserve Bank from time to time.

3.3 Sale / Transfer of securities:

- As a general rule, RBI permission is not required to sale / transfer securities. Thus, a PRII may transfer by way of sale, the shares acquired as stated above provided that the proceeds thereof are repatriated immediately on receipt thereof and in any case not later than 90 days from the date of sale of such securities.
- Foreign companies are permitted to repurchase the shares issued to residents in India under any ESOP Scheme provided:
 - i. the shares were issued in accordance with the Rules / Regulations framed under FEMA;
 - ii. the shares are being repurchased in terms of the initial offer document, and
 - iii. an annual return is submitted through the AD Category – I bank giving details of remittances / beneficiaries, etc.
- In case of purchase of securities under LRS, the sale proceeds can be credited to foreign currency bank account maintained outside India if such bank account was opened from the funds remitted under LRS.

- In all other cases, not covered by general or special permission, approval of the RBI is required to be obtained before acquisition of a foreign security.

3.4 Pledge of a foreign security by a person resident in India:

The shares acquired by PRII in accordance with the provisions of FEMA or Rules or Regulations made thereunder are allowed to be pledged for obtaining credit facilities in India from an AD Category – I bank / Public Financial Institution.

CHAPTER – 4

FOREIGN CURRENCY BANK ACCOUNTS OF PERSONS RESIDENT IN INDIA

4.1 Introduction:

- A PRII is allowed to open foreign currency bank accounts in India as well as abroad subject to FEMA regulations. Section 9 (b) of FEMA allows holding or operating Foreign currency account by such person or class of persons and the limit up to which the Reserve Bank may specify.
- In terms of the power given under the said section, RBI had notified FEMA (Foreign currency accounts by a person resident in India) Regulations, 2000 (Notification No. FEMA 10 /2000-RB dated 3rd May 2000). Since its notification, these regulations have been amended from time to time. Subsequently, RBI has issued **Notification No. FEMA 10(R) / 2015-RB dated January 21, 2016 in suppression of Notification 10/ 2000.** These regulations deal with opening and operating of foreign currency bank accounts in India as well as abroad by a PRII.
- Foreign Currency Account (as defined under these regulations) means an account held or maintained in currency other than the currency of India or Nepal or Bhutan.

4.2 Foreign currency bank accounts in India:

Under these regulations, PRII can open and maintain foreign currency accounts under the following Schemes:

A Exchange Earners Foreign Currency (EEFC) Account:-

- EEFC Account is an account maintained in foreign currency with a bank dealing in foreign exchange. It is a facility provided to the foreign exchange earners, including exporters, to credit their foreign exchange earnings to the account, so that the account holders do not have to convert foreign exchange into Rupees and vice versa, thereby minimizing the transaction costs and foreign currency conversion risks.
- All categories of foreign exchange earners, such as individuals, companies, etc. who are resident in India, can open EEFC accounts.
- An EEFC account can be held only in the form of a current account. No interest is payable on EEFC accounts
- SEZ Units cannot open EEFC Accounts. However, a unit located in a Special Economic Zone can open a Foreign Currency Account with an AD in India subject to certain conditions. SEZ Developers can open EEFC Accounts
- Resident individuals are permitted to include resident close relative(s) as a joint holder(s) in their EEFC account on 'former or survivor' basis. However, such resident Indian close relative(s), shall not be eligible to operate the account during the life time of the resident account holder.

Permissible credits to EEFC Account:

- Inward remittance through normal banking channels, other than remittances received on account of foreign currency loan or investment received from abroad or received for meeting specific obligations by the account holder can be credited to EEFC Account
- Professional earnings including directors fees, consultancy fees, lecture fees, honorarium and similar other earnings received by a professional by rendering services in his individual capacity

- Re-credit of un utilised foreign currency earlier withdrawn from the account
- Advance remittance received by an exporter towards export of goods or services
- Payments received in foreign exchange by a 100 per cent Export Oriented Unit or a unit in (a) Export Processing Zone or (b) Software Technology Park or (c) Electronic Hardware Technology Park for supply of goods to similar such units or to a unit in Domestic Tariff Area
- Payments received in foreign exchange by a unit in the Domestic Tariff Area for supply of goods to a unit in the Special Economic Zone (SEZ)

Permissible debits to EEFC Account:

- Payment outside India towards a permissible Current account / Capital Account transaction
- Payment in foreign exchange towards cost of goods purchased from a 100 percent Export Oriented Unit or a Unit in (a) Export Processing Zone or (b) Software Technology Park or (c) Electronic Hardware Technology Park
- Payment of customs duty in accordance with the provisions of the Foreign Trade Policy of the Central Government for the time being in force.
- Trade related loans/advances subject to compliance with the Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000.
- Payment in foreign exchange to a person resident in India for supply of goods/services including payments for airfare and hotel expenditure

Notes:

(i) It may be noted that there are no restrictions as regards limits for remittance for current account transactions while making payments from EEFC Account.

(ii) The sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments.

B Resident Foreign Currency (RFC) Account: -

- Returning NRIs / PIOs can maintain with a bank dealing (in foreign currency) in India a Resident Foreign Currency (RFC) Account to keep proceeds of foreign currency assets which were held outside India at the time of return. Further, balances in NRE / FCNR (B) Accounts held in India as non-residents can also be transferred to RFC Account upon NRI / PIO becoming residents.
- Further, foreign exchange received as pension from the employer outside India; (ii) received or acquired as gift or inheritance (iii) received as the proceeds of life insurance policy claims/maturity/ surrender values settled in foreign currency from an insurance company in India permitted to undertake life insurance business by the Insurance Regulatory and Development Authority; may also be credited to this account.
- The funds in RFC accounts are free from all restrictions regarding utilization of foreign currency balances including any restriction on investment in any form outside India.
- RFC accounts can be maintained in the form of current or savings or term deposit accounts, where the account holder is an individual and in the form of current or term deposits in all other cases.
- RFC accounts are permitted to be held jointly with the resident close relative(s) as defined in the Companies Act, 1956 as joint holder (s) in

their RFC bank account on 'former or survivor basis'. However, such resident Indian close relative are not eligible to operate the account during the life time of the resident account holder.

- Interest on RFC Account is not taxable (during RNOR status under the Income-Tax Act, 1961).

C Resident Foreign Currency (Domestic) Account:-

- Any person resident in India can open with a Bank in India, Resident Foreign Currency (Domestic) Account, from out of foreign exchange acquired in the form of currency notes, bank notes and travelers cheques:
 - while on a visit to any place outside India by way of payment for services not arising from any business in or anything done in India; or
 - from any person not resident in India and who is on a visit to India, as honorarium or gift or for services rendered or in settlement of any lawful obligation; or
 - by way of honorarium or gift while on a visit to any place outside India; or
 - gift from a relative
 - Representing the unspent amount of foreign exchange acquired for travel abroad.
 - representing the disinvestment proceeds received by the resident account holder on conversion of shares held by him to ADRs/ GDRs under the DR Scheme, 2014;
 - by way of earnings received as the proceeds of life insurance policy claims/ maturity/ surrender values settled in foreign currency from an insurance company in India permitted to undertake life insurance business by the Insurance Regulatory and Development Authority
- Unlike RFC Account (as discussed above) which is generally opened by a person who was earlier non-resident (returning Indians), RFC (Domestic) Account is opened by a resident from out of foreign exchange earnings.

- The sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments.
- Account can be maintained in any freely convertible foreign currency and as a result, it allows protection from currency risks.
- The account to be maintained in the form of non-interest bearing Current Account. Foreign currency withdrawals are allowed in the form of cash, traveler's cheque, foreign currency DD. Payments are allowed towards permissible current / capital account transactions.

D Diamond Dollar Account (DDA) Scheme – DDA Account:

Firms and companies which comply with the eligibility criteria stipulated in the Foreign Trade Policy of the Government of India are eligible to open DDA account, with an AD in India. The salient features of the Scheme are:

- Realisation of export proceeds and local sales (in USD) of rough, cut, polished diamonds; and pre and post shipment finance availed in USD can be credited to such account.
- Payments for purchase of rough, cut and polished diamonds can be made from DDA account. Funds can also be transferred to rupee account of the exporter.
- DDA account should be maintained in the form of a non-interest bearing current account.
- The sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments.

E Foreign currency account of Shipping or airline companies:

Indian agent of shipping or airline companies incorporated outside India is eligible to maintain foreign currency account in India for meeting the local expenses of the overseas company. The credits permitted to such accounts are freight or passage fare collections in India or from his principal outside India.

F Foreign currency account of Project office:

Project Offices (PO) of foreign companies can open non-interest bearing one or more foreign currency accounts in India for the project to be executed in India. The account can be opened subject to the following conditions:

- The PO has been established in India, with the general/ specific permission of RBI, having the requisite approval from the concerned Project Sanctioning Authority,
- The contract under which the project has been sanctioned, specifically provides for payment in foreign currency,
- Each Project has only one Foreign Currency Account.
- The debits to this account can be only for payment of project related expenditure.
- The credits can be in the form of foreign currency receipts from the Project Sanctioning Authority, and remittances from parent/ Group Company abroad or bilateral/ multilateral international financing agency.
- The Foreign Currency account should be closed at the completion of the Project.

- Inter-project transfer of funds are permitted with the prior permission of the Regional Office of the RBI under whose jurisdiction the project office is situated.

G Foreign currency Account of an exporter undertaking construction / turnkey projects outside India:

An exporter who has undertaken a construction contract or a turnkey project outside India or who is exporting services or engineering goods from India on deferred payment terms is allowed to open a Foreign Currency Account with a bank in India, provided that approval as required under the Foreign Exchange Management (Export of goods and services) Regulations, 2015, as amended from time to time has been obtained for undertaking the contract/ project/ export of goods or services, and the terms and conditions stipulated in the letter of approval have been duly complied with.

H Foreign currency account by unit in SEZ:

A unit located in a SEZ can open a foreign currency account with an authorized dealer in India to credit all foreign exchange funds received by the unit.

4.3 Foreign currency accounts outside India:

Following persons are permitted to open, hold and maintain foreign currency account outside India:

- Authorised dealers
- A branch outside India of a bank incorporated or constituted in India
- A shipping or airline company incorporated in India
- Life Insurance Corporation of India or General Insurance Corporation of India and its subsidiaries

- Exporter who has undertaken a construction contract or a turnkey project outside India or who is exporting services or engineering goods from India on deferred payment terms
- A PRII who has gone abroad for studies or who is on a visit to a foreign country provided that on his return to India, the balance in the account is repatriated to India. Short visits to India by a person who has gone abroad for studies, before completion of his studies is not treated as his return to India.
- A PRII who has gone out of India to participate in an exhibition/ trade fair outside India may open, hold and maintain a Foreign Currency Account with a bank outside India for crediting the sale proceeds of goods on display in the exhibition/trade fair provided that the balance in the account is repatriated to India through normal banking channels within a period of one month from the date of closure of the exhibition/trade fair.
- Further, a PRII can also open overseas bank account under LRS. Banks in India cannot open foreign currency accounts in India for residents under the Scheme.

CHAPTER 5

INVESTMENT IN IMMOVABLE PROPERTIES ABROAD BY INDIAN RESIDENTS

5.1 Introduction:

Resident Indian citizens are allowed to acquire Immovable properties outside India subject to FEMA Regulations. The Immovable properties (“IP”) can be acquired for personal use or for investment purpose or for business purpose. It may be noted that FEMA provisions with regard to the IP outside India are to be complied with only by Resident Indian Citizens. For this purpose, the definition of PRII under FEMA and not the one under the Income-Tax Act, 1961 is to be considered.

5.2 Acquisition of IP –Capital Account Transaction:

As discussed in earlier chapters, current account transactions are freely permitted under FEMA subject to certain limits / restrictions. However, acquisition of Immovable properties (“IP”) is a Capital Account transaction under FEMA and as a result the same is regulated. Section 6(3)(h) of FEMA grants the power to the RBI to regulate acquisition or transfer of IP outside India by a PRII. FEMA does not define the term “Immovable property”. However, it includes all types of immovable property – residential, commercial, industrial or agricultural property.

5.3 Regulations:

In terms of power granted under Section 6(3)(h) of FEMA, the RBI had issued Notification No. FEMA 7/2000-RB dated May 3, 2000 to regulate acquisition and transfer of IP outside India by a PRII. These regulations were called “Foreign Exchange Management (Acquisition and transfer of immovable property outside India) Regulations, 2000”. The same were repealed and replaced by Foreign Exchange Management (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015 issued vide Notification No. FEMA 7(R)/2015-RB dated

January 21, 2016. It may be noted that these regulations do not regulate transactions in IP by Foreign Nationals who are resident in India who have such properties abroad. Further, FEMA allows PRII to acquire IP while they were resident outside India and the same can continued to be held even after becoming resident in India.

5.4 Different sources of acquisition of IP by resident individuals:

As per regulations, PRII can acquire IP outside India in following ways:

- By way of Purchase from Resident Foreign Currency (RFC) Account held in India;
- By way of purchase from foreign funds while he was resident outside India;
- By way of gift from a PRII who acquired the same when he was a NR or from a PRII who inherited the same from a NR;
- By way of Inheritance from a person who acquired the same when he was a NR or from a person who inherited the same from a NR
- Acquisition of IP outside India jointly with a relative who is a person resident outside India, provided there is no outflow of funds from India.;
- Under LRS subject to the annual limit of USD 2,50,000.

5.5 Gift:

Further, Indian citizens who have acquired such property as above can also gift the same to their relatives who are Indian citizen and PRII. Relative in relation to an individual means husband, wife, brother or sister or any lineal ascendant or descendant of that individual.

As mentioned above, Indian Citizens who are residents in India can also acquire the IP outside India under Liberalized Remittance (“LRS”) Scheme also. Earlier, the scheme was not available for remittances for acquisition of IP directly or indirectly outside India, however with effect from July 11, 2014 remittances can be made for acquisition of IP outside India subject to annual limit of USD 2,50,000.

5.6 Acquisition of IP for trading or real estate business prohibited:

FEMA prohibits acquisition of IP for trading purpose or for real estate business purpose. As per ODI regulations, "Real estate business" means buying and selling of real estate or trading in Transferable Development Rights (TDRs) but does not include development of townships, construction of residential/commercial premises, roads or bridges [Regulation 2(p)].

Acquisition of IP other than the above mentioned methods require prior RBI approval.

5.7 Acquisition of IP by branch office of an Indian Company / firm:

Indian Company / Firm / LLP can acquire IP outside India for its business purpose. As a result, overseas office (branch/office/representative) of an Indian company /firm is allowed to acquire IP outside India for following purposes:

- Its business
- Residential purposes of its staff

As per A.P. (DIR Series) Circular No. 43/2015-16 [(1)/7(R)] dated February 4, 2016, RBI permits remittances by an Indian company to its overseas branch office/ representative office towards initial expenses up to 15% of the average annual sales / income / turnover during the last two financial years or 25% of the net worth, whichever is higher. Further, Indian company can remit up to 10% of average annual sales / income / turnover during the last

two financial years towards recurring expenses. These limits are not applicable if the remittances are made from EEFC account of the concerned company / firm. Thus, overseas IP can be acquired from such remittances to the branch.

5.8 Residential Status of Overseas Branch office:

- It may be noted that such offices are treated as PRII and hence FEMA gets the jurisdiction to regulate such entities. In case, overseas office does not acquire IP by way of outright purchase, the same can be taken on Lease. However, the period of lease should not be more than 5 years. In case the period exceeds 5 years, then prior permission of the RBI is required before entering into Lease agreement. Thus it implies that lease can be renewed subsequently as long as renewed lease period again does not exceed 5 years. It seems that RBI does not want PRII to create financial commitment for a longer term at one stretch.
- The overseas office cannot create liability outside India for the Indian H. O. As a result, payments for acquiring IP must therefore be through remittances from Indian H.O. within the permitted limits.
- Further, Indian Exporters whose export outstanding does not exceed 5% of exports made during the previous financial year and who had a minimum export turnover of US \$ 100,000/- during the last financial can open / hire warehouses abroad for an initial period of one year. Renewal after the initial period is subject to the exporter satisfying the above requirements.

5.9 Overseas Direct Investment (ODI) in Construction & Development Activity:

- As per regulation 5(2) of ODI Regulations [Notification No. FEMA.120/RB-2004 dated July 7, 2004] (as amended from time to time), Indian Company/ Firm / LLP (‘Indian Party’) is not allowed to make any direct investment in a foreign entity engaged in real estate business.
- “Real estate business” for this purpose means buying and selling of real estate or trading in Transferable Development Rights (TDRs). However, the same does not include development of townships, construction of residential / commercial premises, roads or bridges. Thus, Indian Party cannot do any trading in IP.
- It may be noted that Overseas Investment in development of townships, construction of residential / commercial premises, roads or bridges can be made up to 400% of net worth of the Indian Party. However, the said limit is not applicable if the investment is made out of:
 - Funds held in RFC account
 - Balances held in EEFC account
 - Proceeds of foreign currency funds raised through ADR / GDR issues

5.10 Structuring & Funding aspects:

Since the limit under LRS may not be sufficient to buy overseas properties, one can plan to acquire the IP through formation of overseas WOS of an Indian Company. Formation of WOS is covered under ODI route under FEMA. However, the formation of such subsidiary and subsequent acquisition of IP should have strong commercial reason. Under the ODI regulations, an Indian company can remit upto 400% of its net worth for capitalizing the WOS. Further such WOS can also tap cheap foreign currency loans outside India.

5.11 Indirect cost of acquisition of overseas IP:

Before acquiring an IP, one needs to be aware about the local regulatory requirements. Further, the system of indirect costs in the host country such as stamp duty, transfer fees, registration charges etc. are also an element of such indirect costs associated with the transfers.

5.12 Selling of an IP:

One must check the local exchange control regulations as regards repatriability of funds on sale to IP. Under FEMA, net remittance from such sale should be brought to India immediately. However, proceeds from sale of properties (originally acquired under LRS) can be reinvested into another property outside India. In case of property held through WOS, then one can structure the sale of such IP through the sale of WOS. One needs to weigh the taxation aspects in this regard.

5.13 Taxation aspects:

While buying property abroad, one needs to be clear about the purpose for which the property is acquired. It may be noted that dealing in real estate business is prohibited under FEMA hence regular buying and selling of IP is not allowed. Further, the taxation system of the host country also plays an important part.

(i) Rental Income:

In case the property is acquired for earning rentals, then such rental income will be taxed in India as well as the host country. However, one can take the benefit of the Double Taxation Avoidance Agreement (DTAA) which India has entered into with the host country. Applying the provisions of DTAA, Indian resident (as defined under Income-Tax Act, 1961) can get the credit of the taxes paid in the host country against the tax liability in India.

(ii) Capital Gains:

In case of sale of IP outside India, such sale may be liable to Capital Gains under the taxation system of the host country like in India. Certain countries like Mauritius, Dubai, Cyprus and Singapore do not levy capital gains. Further, one needs to also check in which country (host country or India) such capital gains will be taxed under DTAA.

CHAPTER 6

CHANGE OF RESIDENTIAL STATUS (FROM RESIDENT TO NON-RESIDENT) ON LEAVING COUNTRY AS STUDENT OR ON EMPLOYMENT / BUSINESS ETC.

6.1 Introduction:

Change in the residential status from resident to non-resident brings fresh challenges. The same impacts the way the assets / liabilities (including remittance facilities) of the person are viewed from regulatory angle including FEMA. The change in the residential status can happen under different circumstances such as emigration, employment abroad, students going abroad for studies, dependent parents going abroad to stay with family etc.

6.2 Emigration / employment outside India:

In case of emigration / employment, the person becomes non-resident the moment he leaves India. Similarly, in case the person goes abroad for carrying on any business outside India, then he will be treated as non-resident based on the definition of Resident under section 2(v) of FEMA. In case of Indian Students going abroad for studies, even though the intention is not to stay abroad for uncertain period of time, however, the RBI has clarified that such students will be treated as Non-resident under FEMA. In all other cases, if the intention is to stay outside India for uncertain period of time, then the status of person would be that of non-resident (Person resident outside India).

6.3 Important aspects on change of residential status:

One needs to take care of following aspects when there is a change in the status from a resident to non-resident:

- Re-designate the existing rupee bank accounts as Non-resident Ordinary (NRO) Account.
- Intimate the change in the status to various Government Agencies such as Income-Tax Department, Service Tax / VAT Department, etc. if the person is registered with these agencies.
- Intimate the Companies / Mutual fund Registrar & Transfer Agent where the securities /mutual funds units are held. In case of Government securities, intimate the respective Government Department.
- In case the person leaving India is a partner of Firm / LLP, then inform the concerned firm / LLP about the change in the residential status. However, such partner can continue to be a partner.
- Funds in the NRO account can be repatriated abroad up to One-Million Dollars each financial year.
- Existing assets in India can continue to be held as before. Income generated from such assets like rentals, interest, dividend etc. being current account items can be repatriated outside India subject to payment of taxes. The same is in addition to One-Million Dollar facility for repatriation of funds. It may be noted that interest on NRO account is taxable under the Income-Tax Act, 1961.
- In case the person is engaged in real estate trading in India, he should discontinue the same before becoming non-resident as the same is not allowed for non-residents under FEMA.
- NRIs are not eligible to open an account under the Public Provident Fund Scheme. However, a resident, who subsequently becomes Non Resident Indian during the currency of the maturity period prescribed under Public Provident Fund Scheme, may continue to

subscribe to the Fund till its maturity on a Non Repatriation Basis. [MOF
(DEA) Notification No GSR 585 (E) dated 25.7.2003]

CHAPTER 7

FREQUENTLY ASKED QUESTIONS ON CUSTOMS BAGGAGE RULES

Q.1 What is baggage under Customs Act, 1962?

A.1 “Baggage” in common parlance means possessions or belongings of a passenger when he comes in or goes out of India. Such baggage can be accompanied or unaccompanied. Baggage under Section 2(3) of the Customs Act, 1962 (“the Act”) includes unaccompanied baggage but does not include motor vehicles.

Q.2 Discuss the legal Framework in respect of baggage?

A.2 Legal framework relating to baggage revolves around section 77 to 81 of the Act. As per s 77, the owner of the baggage has to make full declaration of the contents of the baggage to the Customs Officer for the purpose of clearing it. In case, the baggage includes any goods which are prohibited or dutiable but not declared or in excess of the declaration made, then the same is liable to be confiscated under s 111 of the Act. Section 78 provides for the rate of duty and the tariff valuation. As per the same, the general rate of duty in respect of items in excess of the permissible duty free allowance is 35% ad valorem + 3% education cess. Thus the effective rate of customs duty is 36.05%.

Further, s 79 of the Act allows the Central Government to provide rules for exempting *bona fide* baggage from duty. Such rules may also specify, the minimum period for which article has been used by the passenger, maximum value of any individual article and maximum total value of all such articles which may be passed free of duty. Section 80 deals with temporary detention of baggage. Such temporary detention can be requested by the passenger till the time he leaves India. If the passenger is not able to collect such baggage at the time of leaving India, then he can authorize any other passenger to collect the same on his behalf or can get the articles

(cargo) consigned in his name. Following are some of the situations of temporary detention:

- The concerned passenger does not have sufficient money to pay the duty
- The passenger does not intend to use the articles in India but wants to take it along with him at the time of leaving India
- The articles are prohibited goods and the same have been declared to the Customs officer
- The valuation of goods and the duty so determined is disputed by the Passenger and he wishes to appeal to higher authorities against the same.

Q.3 What types of articles are treated as *bona fide* baggage under Customs Rules?

A.3 Section 79 of the Customs Act, 1962 allows bona fide baggage of a person exempted from duty subject to conditions. The Central Government has notified Baggage Rules, 2016 [which have subsequently been amended by Baggage (Amendment) Rules, 2016 vide Notification 43/2016 -Customs (N.T.) dated 31st March 2016] (“the Baggage Rules”) dealing with baggage. The Rules also provide for levy of custom duty, duty free allowance, exemptions etc. Certain baggage such as used personal effects, household goods as generally required by the passenger for satisfying daily necessities of life is treated as *Bona fide* baggage.

Q.4 Please explain important terms used under the Baggage Rules,?

A.4 **Resident –Rule 2(iv):** “resident” means a person holding a valid passport issued under the Passports Act, 1967 and normally residing in India.

Tourist-Rule 2(v): “tourist” means a person not normally resident in India, who enters India for a stay of not more than six months in the course of any twelve months period of legitimate non-immigrant purposes.

Family-Rule 2(ii): “family” includes all persons who are residing in the same house and form part of the same domestic establishment.

Personal effects-Rule 2(vi): “personal effects” means things required for satisfying daily necessities but does not include jewellery.

Q.5 Please explain unaccompanied baggage? What are the concessions available to unaccompanied baggage under the Baggage rules?

A.5 Baggage (articles) which does not accompany the passenger but which are sent through cargo are known as unaccompanied baggage. There is no concession / free allowance available to unaccompanied baggage. However, used personal effects (if part of unaccompanied baggage) are allowed to be imported duty free. It may be noted that unaccompanied baggage should be in possession of the passenger while he was abroad and the same should be dispatched within one month of his arrival in India or within such period as the Deputy / Assistant Commission of Customs may allow. Such unaccompanied baggage may also be imported into India two months before the arrival of the passenger or within such period, not exceeding one year as may be allowed by the Deputy / Assistant Commissioner of Customs.

Q.6 What is the general rate of customs duty?

A.6 The general rate of customs duty is 35% *ad valorem* + education cess @ 3% resulting in an effective rate of 36.05%. The customs duty is attracted when the value of items imported is in excess of the permissible free allowance as applicable. However, duty structure for Gold /silver, alcohol / cigarettes is different. Further, in case of Transfer of Residence (as discussed subsequently), concessional rate of customs duty (15%+education cess@ 3%) applies.

Q.7 Please explain the rules for declaration and clearance of Baggage?

A.7 The passenger owning the baggage is required to make declaration of the content under s 77 of the Customs Act, 1962 in the Baggage Declaration Form. In case, the passenger has nothing to declare and is carrying the accompanied baggage within the prescribed duty free allowance, then he / she can directly walk through the Green Channel based on the Declaration on the disembarkation card. However, non/ miss declaration of imported items or concealment thereof is an offence under the Act. The same can result in fine / penalty / confiscation / prosecution. Passengers with items exceeding the duty free allowance / carrying prohibited items are required to choose Red channel. In case the Red channel is chosen, the customs duty will be assessed on the items exceeding the duty free limit (mostly based on list price available with the Customs authorities). On payment of the duty, the baggage is allowed to be cleared.

Q.8 What is used personal effects under Baggage Rules?

A.8 The term “Used personal effects” has not been defined under the Baggage Rules. However, generally used personal effects include used clothes such as shirt, trousers, jeans, frocks and other items of personal wear, used toiletries, cosmetics, used footwear, used bedding, shaving kits, etc. Electronic items are not personal effects.

Q.9 What is the duty free allowance for Indian resident / tourist of Indian origin / foreigner residing in India?

A.9 **Indian resident, Tourist of Indian origin / Foreigner residing in India** are eligible for duty free clearances under Rule 3 of the Rules. The same is tabulated as under:

Arrival from	Duty Free Allowance
<p>Passengers arriving from countries other than Nepal, Bhutan, or Myanmar</p>	<p>Articles in his bona fide baggage i.e. used personal effects, travel souvenirs and articles other than those mentioned in Annexure I, up to the value of fifty thousand rupees if these are carried on the person or in the accompanied baggage of the passenger</p>
<p>Passengers arriving from Nepal, Bhutan, Myanmar or China (other than by land)</p>	<p>Used personal effects, travel souvenirs and articles other than those mentioned in Annexure I up to the value of fifteen thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:</p> <p>Provided further that where the passenger, is arriving by land, only used personal effects shall be allowed duty free</p>

Notes:

- (i) For the purpose of calculating duty free allowance, each passenger is considered separately and such allowance is not clubbed for family. Goods over and above the duty free allowance are chargeable to duty.
- (ii) In case the passenger is an infant, only used personal effects shall be allowed duty free.
- (iii) **Annexure-1** items include Firearms, Cartridges of fire arms exceeding 50, Cigarettes exceeding 100 or cigars exceeding 25 or tobacco exceeding 125 grams, alcoholic liquor or wines in excess of 2 litres, gold or silver in any form, other than ornaments, flat panel (LCD, LED, Plasma) Television.

Q.10 Explain the concept of Transfer of residence (TR) under the Baggage Rules?

A.10 TR is a facility which allows the person or his family to import personal and household articles and certain other items up to certain limit duty free. . This facility is available to every person coming in to India by transferring his / her residence after staying abroad for minimum period as stipulated in the Rules.. Such person can be an Indian or a foreign passport holder. Rule 6 of the Rules deal with TR. This allowance / facility is in addition to the allowances applicable to inbound passengers as discussed above. In case of husband and wife transferring the residence to India, both cannot individually claim the benefit of TR facility if both were staying in the same house abroad.

Q.11 What is the duty free allowance for person under TR?

A.11 Rule 6 of the Baggage Rules allows mentions the types of items allowed to be imported duty free (up to certain limit) in case of TR to India. **It may be noted that this allowance is in addition to the Duty free allowance mentioned under 3 and applicable to returning Indians (dealt with under Q.9).** Following table depicts the TR facility for inbound passengers who are transferring their residence to India from abroad:

Sr.	Duration of	Nature of articles allowed	Conditions
-----	-------------	----------------------------	------------

no.	stay abroad	duty free	
1.	From three months upto six months	Used personal and household articles (other than those covered under Annexure-I & II but including the articles covered under Annexure-III) upto an aggregate value of sixty thousand rupees.	Indian passenger
2.	From three months up to six months	Personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III, upto an aggregate value of one lakh rupees	Indian passenger
3.	Minimum stay of one year during the preceding two years.	Personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III upto an aggregate value of two lakh rupees.	Indian passenger (should not have availed the concession in preceding three years)
4.	Minimum stay of two years or more	Personal and household articles, other than those listed at	(i) Minimum stay of two years abroad,

		Annexure I or Annexure II but including articles mentioned in Annexure III upto an aggregate value of five lakh rupees	immediately preceding the date of his arrival on transfer of residence; (ii) Total stay in India on short visit during the two preceding years should not exceed six months; and (iii) Passenger has not availed this concession in the preceding three years.
--	--	--	--

Notes:

1. (a) For condition (i), shortfall of upto two months in stay abroad can be condoned by Deputy Commissioner of Customs or Assistant Commissioner of Customs if the early return is on account of :-
(i) terminal leave or vacation being availed of by the passenger; or
(ii) any other special circumstances for reasons to be recorded in writing.

(b) For condition (ii), the Principal Commissioner of Customs or Commissioner of Customs may condone short visits in excess of six months in special circumstances for reasons to be recorded in writing.

2. Annexure-II items are listed as under:

1. Colour television
2. Video Home Theatre system
3. Dish washer
4. Domestic refrigerators of capacity above 300 litres or its equivalent
5. Deep freezer
6. Video camera or the combination of any such video camera with one or more of the following goods, namely:-
 - (a) Television receiver
 - (b) Sound recording or reproducing apparatus
 - (c) Video reproducing apparatus
7. Cinematographic film of 35 mm and above
8. Gold or silver in any form (other than ornaments)

3. Annexure-III items:

- (a) Video Cassette Recorder / Video Cassette Player / Video Television Receiver / Video Cassette Disk Player
- (b) Digital Video Disc player
- (c) Music system
- (d) Air-conditioner
- (e) Microwave oven
- (f) Word Processing Machine
- (g) Fax Machine
- (h) Portable Photocopying Machine
- (i) Washing Machine
- (j) Electrical or Liquefied Petroleum Gas Cooking Range
- (k) Personal Computer (Desktop Computer)
- (l) Laptop Computer (Notebook Computer)
- (m) Domestic Refrigerator of capacity up to 300 litres or its equivalent

Q.12 What is the value of jewellery that can be imported duty free by the person returning to India?

A.12 A person of Indian origin who is returning to India as a non-tourist and who was residing abroad for more than one year is allowed to import (bring in) free of duty jewellery up to weight of 20 grams (with a value cap of Rs. 50,000/- in case of male passengers) and up to weight of 40 grams (with a value cap of Rs. 1,00,000/- in case of female passenger) respectively. However, in case the passenger had taken out the jewellery out of India and is now bringing in the same, then such jewellery can be imported duty free on production of Jewellery Export Certificate and to the satisfaction of Assistant Commissioner of Customs.

Q.13 What is the maximum quantity of Gold or silver which can be imported?

A.13 Under the scheme for import of Gold and Silver, Gold and / or silver can be imported by a person of Indian origin or a passenger holding a valid passport issued under the Passport Act, 1967. The passenger should be coming back to India after not less than six months of stay abroad (short visits during the said period to be ignored if the total duration of stay during such visits does not exceed thirty days). The weight of gold (including ornaments) should not exceed 1 kg. per passenger whereas the weight of silver (including ornaments) should not exceed 10 Kgs. per passenger. The current rate of duty for gold and silver in any form as per Notification No. 12/2012- Cus dated 17.03.2012 is 10%. The customs duty in respect of the same should be paid in convertible foreign currency and ornaments studded with stones and pearls are not allowed to be imported.

Q.14 What is the duty on import of alcohol / cigarettes?

A.14 Under the rules, the inbound passenger can bring up to 2 litres of alcohol and up to 100 cigarettes / 25 cigars duty free. On the excess quantity, the customs duty is applicable as under:

(a) Whiskey: Basic customs duty of 150% + Additional customs duty of 4% + 3% Education cess.

(b) Beer and Wines: Basic customs duty of 100% + 3% Education cess.

(c) Cigarettes / Cigars: Basic customs duty of 100% + 3% Education cess.

Q.15 Whether out-going passengers are subject to customs clearance?

A.15 All passengers leaving India by air have to undergo the Customs clearance. The passenger is allowed to clear only bona fide baggage. As per the procedure, the passenger who is leaving India can obtain the Export Certificate from the customs authorities in respect of various high value items as well as jewellery. Export certificate is useful at the time of returning to India to clear such goods without duty.

Q.16 Whether export of gold jewellery through baggage is permissible?

A.16 Export of gold jewellery through *bona fide* baggage is permissible and there is no limit on such export. However, the passenger needs to request the Customs Authorities for issue of export certificate at the time of his / her departure from India so as to facilitate its import subsequently.

Q.17 . What are the norms for Import of Foreign Exchange / Currency?

A.17 As per Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 issued by RBI vide Notification No. FEMA 6 (R)/RB-2015 dated December 29, 2015, any person can bring into India from a place outside India foreign exchange without any limit. However, declaration of foreign exchange/currency is required to be made in the prescribed Currency Declaration Form in the following cases:-

(a) Where the value of foreign currency notes exceeds US\$ 5,000/- or equivalent

(b) Where the aggregate value of foreign exchange (in the form of currency notes, bank notes, traveler cheques etc.) exceeds US\$ 10,000/- or its equivalent

Q.18 What are the norms for the import of Indian currency?

A.18 Import of Indian Currency is prohibited. However, in the case of passengers normally resident in India who are returning from a visit abroad, import of Indian Currency upto Rs. 25,000/- is allowed.
