Legal obligations for Expatriates + Foreign Citizens in India

INDEX

S. NO	Particulars	Page No.
	(A) Legal obligations for Expatriates in India	
1	Introduction of Legal obligations for Expatriates in India	3 & 4
2	Availability of VISA for Expatriates working in India	4
3	Taxability for Expatriates working in India	4 & 5
4	Residential Status of the Expatriates working in India	5 to 8
5	Taxability of Incomes of Expatriates working in India	8 & 9
6	Rate of taxes for Expatriates working in India	9 & 10
7	Expatriates versus Double Taxation Avoidance Agreement (DTAA)	10
8	Tax Exemption for short physical stay in India	11
9	Tax equalization and Hypothetical Tax	12
10	Foreign Tax Credit (FTC)	12
11	Tax payments by the employers on behalf of expatriates	12
12	Withholding tax (TDS) against payment of salary to the expatriates	12 & 13

13	*Legal obligations for expatriates under the ITA, 1961*	*13 & 14*
14	*Social Security for the expatriates in India*	*14*
15	*Receipt of salary by expatriates in home country*	*14*
16	*Permanent Establishment (PE) through expatriates in India*	*14 & 15*
17	*Transfer Pricing (TP)*	*15*
	(B) Legal obligations for Foreign Citizens in India	
1	*Appointment and Remuneration*	*16 & 17*
2	*Banking Facilities*	*17*
3	*Remittance maximum USD 1 Million through NRO Account*	*17*
4	*Approval from the RBI for Remittances Outside India*	*17*
5	*Remittance to the Citizens of Nepal and Bhutan*	*17 & 18*
6	*Remittances against the sale of the Immovable Properties*	*18*
7	*Remittances against sales of the Financial Assets*	*18*
8	*Acquisition of the Immovable Properties*	*19*
9	*Opening of NRO Account by Foreign Citizen Tourists*	*19*
10	*Eligible Credits in NRO Account by the Foreign Citizen Tourists*	*20*
11	*Eligible Debits in NRO Account by the Foreign Citizen Tourists*	*20*
12	*Remittances from NRO Account by Foreign Citizen as Tourists*	*20*
13	*Opening of the Resident Rupee Account (RRA) by the Foreign Citizens*	*20*

Legal obligations for Expatriates + Foreign Citizens in India

A. Legal obligations for Expatriates in India

1. Introduction of Legal obligations for Expatriates in India

(i) *In* ***1991 Govt. of India has opened up the Indian Industrial Policy for the Foreign Investors*** *under the Prime ministership of late Sh. Narsimha Rao through his finance minister Dr. Manmohan Singh*

(ii) *The foreign companies have welcome the Indian Industrial Policy and* ***set up the subsidiary companies,*** *branch offices* ***(BO)*** *and liaison offices* ***(LO)*** *in India.*

(iii) ***India has received*** *foreign investments* ***(FI's)*** *through the following modes*

- *(a)* *Foreign Direct Investment* ***(FDIs)*** *in equity shares*
- *(b)* *Convertible Debentures* ***(CDs)***
- *(c)* *Convertible Preference Shares* ***(CPSs)***
- *(d)* *Shares warrants* ***(SWs)***
- *(e)* *American Deposit Receipts* ***(ADRs)***
- *(f)* *Global Deposit Receipts* ***(GDRs)***
- *(g)* *Foreign Currency Convertible Bonds* ***(FCCBs)***
- *(h)* *Real Estate Investment Trust* ***(REIT)***
- *(i)* *Alternative Investment Fund* ***(AIF)***
- *(j)* *Indian Depository Receipts* ***(IDRs)***

(iv) *Expatriates are coming to India since 1991. Hence question of legal obligations for* ***expatriates working in India*** *is arises for the expatriates and employers* ***(both)***

(v) ***Term Expatriates includes:***

- *(a)* *The* ***term Expatriate includes*** *a person came from out of India.*

(b) *The Indian Income-tax Act* ***(ITA)*** *1961 is* ***not specifically defining*** *the* ***term Expatriate****.*

(c) *Expatriates are employees coming from out of India* ***and working in India based on deputation*** ***or secondment****.*

(d) *Expatriates are* ***foreign nationals*** *commonly known as* ***foreign citizens*** *sent by their foreign employers to work in India*

(vi) *Expatriates are coming to work in India under any of following* ***arrangement****:*

(a) ***Business visit*** *in India*

(b) ***Short term assignment*** *in India*

(c) ***Medium term assignment*** *in India*

(d) ***Long term assignment*** *in India*

(e) ***Permanent relocation*** *in India*

(f) ***Visiting as consultant*** *in India*

2. Availability of VISA for Expatriates working in India

(i) *Expatriates are* ***permitted to work in India*** *based on the followings categories of VISA's*

(a) ***Business VISA***

(b) ***Employment*** *VISA*

(c) ***Student*** *VISA*

(ii) *Expatriates are* ***required to register*** *themselves with the Foreign Regional Registration Office* ***(FRRO)*** *within* ***14 days*** *from date of their arrival in India.*

3. Taxability for Expatriates working in India

(i) *Salary Income of the expatriates against the* ***services rendered in India*** *is* ***taxable in India*** *besides the place of* ***receipt*** *of salary in India or* ***outside India****.*

(ii) *Salary Income of the expatriates against the services rendered in India is taxable in India based on the* ***concept of source of Income*** *besides the place of receipt of salary in India or outside India.*

(iii) ***Term salary includes:***

(a) ***Salaries***

(b) ***Various Allowances*** *incl.* ***daily allowances***

(c) ***Benefits***

(d) ***Perquisites***

(e) ***Accommodations***

(f) ***Car Services***

(g) ***Chauffer Services***

(h) ***Relocation allowance***

(i) ***Stock options***

(j) ***Gifts***

(k) ***Free*** *or* ***concessional vouchers***

(l) ***Etc.***

(iv) (a) *Employers are required to deduct* ***withholding tax (TDS)*** *on the payments made or to be made against the* ***services provided in India****.*

(b) ***Employers*** *are liable to pay* ***penal interest,*** *financial penalty and also* ***imprisonment*** *for* ***not deducting*** *and also* ***not depositing the TDS****.*

4. Residential Status of the Expatriates working in India

- ***Residential status of expatriates working in India is to be decided based on the physical stay in India.***

(i) ***Resident of India as Individual*** *is determined with the* ***2 options*** *under* ***section 6(1)*** *of the ITA, 1961*

(a) *When* ***any*** *Individual as* ***citizen or non-citizen of India*** *is* ***staying*** *for minimum* ***182*** *days in India in the previous* ***financial*** *year is called a* ***Resident*** *of India* *or*

(b) *When **any** Individual as citizen or non-citizen of India is **staying** for minimum **60** days in India in the previous financial year*

and

(c) *Also already stayed for minimum **365** days in the last **4** preceding to the previous financial year is also called a Resident of India*

(d) *Hence total **Global incomes** of the **resident** are to be taxed in India.*

(ii) ***Resident of India** as Individual is also determined **with 1 more option** under section 6(1) of the ITA, 1961*

(a) *When an individual as **citizen of India** is **staying** for minimum **182 days** in India in the previous financial year*

and

(b) *Also **leaving India for employment** or leaving as a **crew member** on a **ship** is also called a Resident of India.*

(c) *Henceforth in **2nd** option of above mentioned para **(i) (b)** is replaced with minimum **182** days instead of **60** days in the financial year*

and

(d) *Also already **stayed** for minimum 365 days in the last 4 preceding to the **previous** financial years is also called a Resident of India*

(e) *Hence total **Global incomes** of the **resident** are to be taxed in India.*

(iii) ***Resident of India** as Individual is also determined **with 1 more option** as applicable from April **01, 2020** for the previous financial year ending on March **31, 2021** and for the Assessment year **2021-22***

(a) *Now a **citizen of India** or a person of **Indian origin** who is living outside India and **coming to visit India** during previous financial year*

and

(b) *Also his total **Indian incomes** are **exceeding Rs. 15 Lac***

and

(c) *Also **already stayed** in India for **minimum 120** days instead of **182** days as earlier*

and

(d) *Also **already stayed** in India for **minimum 365** days during **4** preceding to the previous financial year is also called a Resident of India*

(e) *Hence total **Global incomes** of the **resident** are to be taxed in India.*

(iv) ***Ordinary Resident of India** as Individual under section 6(6) of the ITA, 1961*

(a) *When **any** individual as citizen or non-citizen of India is staying in India for minimum 182 days in the **previous** financial year*

and

(b) *Also the Individual was resident in India for **minimum** in **2** previous financial year out of **10** preceding to the previous financial year.*

or

(c) *Also the Individual already stayed in India for a **minimum 730** days during **7** preceding to the previous financial year is called an **ordinary resident** of India*

(d) *Hence total **Global incomes** of the **ordinary resident** are to be taxed in India.*

(v) ***Not Ordinary Resident of India** as Individual under section 6(6) of the ITA, 1961*

(a) *When **any** individual as citizen or non-citizen of India is **staying** in India for minimum **182** days in the previous **financial** year*

and

(b) *Also the Individual was **resident** of India for **maximum** in **1** previous **financial** year out of **10** preceding to the previous **financial** year.*

or

(c) *Also the Individual already stayed in India for **maximum 729** days during **7** preceding to the previous **financial** year is called a **not ordinary resident** of India.*

(d) (da) *Now a citizen of India or a person of Indian origin having total Indian income is **exceeding 15 Lac** during the **previous** financial year.*

and

(db) *He is staying in India for **minimum 120** day and **maximum 182** days during the previous financial year*

(e) ***Indian incomes*** *of the* ***not ordinary resident*** *are* ***to be taxed in India****. Hence* ***global incomes*** *- (Minus) Indian incomes are* ***not to be taxed in India****.*

(vi) ***Non Resident of India*** *as Individual under section 6(6) of the ITA, 1961*

(a) *When any individual as citizen or non-citizen of India is* ***not qualifying any condition*** *of becoming resident of India is* ***to be treated as non-resident of India.***

(b) *Hence any individual if* ***not a resident of India*** *then the person is* ***to be treated as non-resident of India****.*

(c) ***Indian incomes*** *of the* ***non-resident*** *are* ***to be taxed in India****. Hence* ***global incomes*** *– (minus) Indian incomes are* ***not to be taxed in India****.*

5. *Taxability of Incomes of Expatriates working in India*

(i) *Expatriates are* ***required to offer*** *their* ***global income to be taxed in India*** *where he is* ***resident of India***

(ii) *Expatriates are required to offer their* ***Indian income*** *to be taxed in India where he is* ***non-resident*** *of India*

(iii) *Expatriates are required to offer their* ***Indian income*** *to be taxed in India where he is resident but* ***not ordinary resident*** *of India*

(iv) ***Income includes:***

(a) *Income* ***received*** *in India* ***or***

(b) *Income* ***deemed to be received*** *in India* ***or***

(c) *Income* ***accrues or arises*** *in India* ***or***

(d) *Income* ***deemed to accrues or arises*** *in India*

(v) ***Receipt basis versus Accrual basis***

(a) *Expatriates are permitted to offer their* ***income on receipt basis or accrual*** *basis as an* ***option*** *is available*

(b) *Expatriates are required to offer their **income on accrual or arises** basis when **right to receive** the income is become vested in the hands of expatriates*

6. *Rate of taxes for Expatriates working in India*

(i) *Rate of taxes under **existing (normal) tax rates***

(a) *Taxable income up to **2.50** Lac @ **0%***

(b) *Taxable income between **2.50** and **5** Lac @ **5.20%** (incl. **cesses** @ **4%** on rate of tax)*

(c) *Taxable income between **5** and **10** Lac @ **20.80%** (incl. cesses @ **4%** on rate of tax)*

(d) *Taxable income between **10** and **50** Lac @ **31.20%** (incl. cesses @ **4%** on rate of tax)*

(e) *Taxable income between **50** Lac and **1** Cr @ **34.32%** (incl. cesses @ **4%** and **surcharge 10%** on rate of tax)*

(f) *Taxable income between **1** and **2** Cr @ **35.88%** (incl. cesses @ **4%** and surcharge **15%** on rate of tax)*

(g) *Taxable income between **2** and **5** Cr @ **39.00%** (incl. cesses @ **4%** and surcharge **25%** on rate of tax)*

(h) *Taxable income above **5** Cr @ **42.74%** (incl. cesses @ **4%** and surcharge **37%** on rate of tax)*

(ii) *Rate of taxes under **alternative (new) tax rates-** Section **115BAC of ITA, 1961***

(a) *Taxable income up to **2.50** Lac @ **0%***

(b) *Taxable income between **2.50** and **5** Lac @ **5.20** (incl. **cesses** @ **4%** on rate of tax)*

(c) *Taxable income between **5** and **7.5** Lac @ **10.40%** (incl. cesses @ **4%** on rate of tax)*

(d) *Taxable income between **7.5** and **10** Lac @ **15.60%** (incl. cesses @ **4%** on rate of tax)*

(e) *Taxable income between **10** and **12.5** Lac @ **20.80%** (incl. cesses @ **4%** on rate of tax)*

(f) *Taxable income between **12.5** and **15** Lac @ **26%** (incl. cesses @ **4%** on rate of tax)*

(g) *Taxable income between **15** and **50** Lac @ **31.20%** (incl. cesses @ **4%** on rate of tax)*

(h) *Taxable income between **50** Lac and **1** Cr @ **34.32%** (incl. cesses @ **4%** and **surcharge 10%** on rate of tax)*

(i) *Taxable income between **1** and **2** Cr @ **35.88%** (incl. cesses @ **4%** and surcharge **15%** on rate of tax)*

(j) *Taxable income between **2** and **5** Cr @ **39.00%** (incl. cesses @ **4%** and surcharge **25%** on rate of tax)*

(k) *Taxable income above **5** Cr **@** **42.74%** (incl. cesses @ **4%** and surcharge **37%** on rate of tax)*

7. Expatriates versus Double Taxation Avoidance Agreement (DTAA)

(i) *India has already entered into DTAAs **(Tax treaties)** with more than **90** countries **to eliminate the impact** of **double taxation** in the following situations:*

(a) *Where expatriates are **tax residents** **of India** and outside India **(both).***

(b) *Where expatriates are **tax residents** **outside India** but deriving the **incomes from India***

(ii) *Tax treaties are providing the **solutions to avoid** **double taxation** on incomes of the expatriates*

(iii) *Provisions of tax treaties or the ITA, 1961 are to be applied **whichever are** **more beneficial** **to the expatriates***

(iv) *Expatriates are **not required** **to pay tax in India** where they have **short stay** **in India***

8. *Tax Exemption for short physical stay in India*

(i) *Expatriates are **not required to pay Income tax in India** where their **physical stays** in India are **short term**. Hence taxable salary incomes of short physical stay are **not taxable** in India.*

(ii) ***Generally** expatriates are **permitted to avail the benefit** of short physical stay in **1st** year only for their single or multiple visits.*

(iii) ***Conditions for tax exemptions** against short physical stay in India under section **10(6)(vi)** of the ITA:*

(a) *Where foreign employer is **not engaged in any trade** or business in India **and***

(b) *Where total physical stay of an expatriate in India is **not exceeding 90 days** in the previous financial year*

and

(c) *Where remuneration to an expatriate is **not deductable** against the income of the employer as chargeable to tax in India under ITA, 1961*

and

(d) *Where expatriate is **having** tax resident certificate **(TRC)** from the tax authorities outside India (country of resident of expatriate)*

(iv) ***Conditions for exemptions** against short physical stay in India under **Dependent Personal Services** through tax treaty between India and country outside India:*

(a) *Where **remuneration is paid** by or on behalf of a **non-resident employer***

and

(b) *Where total physical stay is **not-exceeding 182 days** in India.*

and

(c) *Where remuneration is **not paid** by the Permanent Establishment **(PE)**, taxable presence or fix base of the **non-resident** in India.*

and

(c) *Where expatriate is **having** tax resident certificate (TRC) from the tax authorities outside India (country of resident of expatriate)*

9. Tax equalization and Hypothetical Tax

(i) *Generally **foreign employers** are following a principle of **tax equalization** where **a hypothetical tax is** to be deducted **by the employer** in the home country from the salary and employer is making payment of tax on behalf of expatriates in India.*

(ii) *Hence **expatriates are not making payment of tax** in India where tax has already been deducted by the employer outside India.*

10. Foreign Tax Credit (FTC)

(i) *Expatriates are permitted to **claim FTC** against the tax to be paid in India based on **source rules** where **tax** has already been **paid** outside India based on **residence rules** to **avoid double taxation** on the **same** income*

(ii) *Tax treaties are **specifically providing** the **provisions for elimination** of the double taxation through **allowing FTC** in India against tax already paid outside India.*

(iii) *Expatriates are required to **file Form No. 67** before filing of Income Tax Return **(ITR)** with the Income tax authorities **to claim FTC** in India.*

11. Tax payments by the employers on behalf of expatriates

(i) *Employers are required to **deposit tax with the Income tax authority** on **behalf** of the expatriates where **employers have contract with the employees** to pay tax on behalf of expatriates.*

(ii) *Employers are **permitted to gross up of salary + tax**. Hence employers are permitted to claim **business expenses** on **salary + tax**.*

12. Withholding tax (TDS) against payment of salary to the expatriates

(i) *Employers are **required to correctly calculate and to deposit the tax** on the salary against services rendered by the expatriates and to deposit the tax with the Income tax authorities.*

(ii) *Employer **are required to pay penal interest, penalties and imprisonment for failure to deduct the TDS** and also to deposit with the Income tax authorities in India*

(iii) *Central Board of Direct Taxes* ***(CBDT) an apex body for tax administration in India*** *issuing an* ***annual circular*** *between December to March every year to guide employers and employees* ***(both) to understand about taxable salaries and amount of TDS****. The CBDT had issued a circular no.* ***4*** *dated* ***15th*** *March,* ***2022*** *for this purpose. This circular is providing certain regulations about:*

- (a) ***Rates of Income-tax*** *for the relevant year*
- (b) ***Scheme of withholding tax*** *on the salaries*
- (c) ***Persons / Employers responsible*** *for deducting tax at source*
- (d) ***Computation of income*** *under the head Salaries*
- (e) ***Permissible deductions*** *while calculating taxable income*
- (f) ***Dos and Don'ts*** *to obtain evidence or proof of claims*
- (g) ***Calculation of tax*** *to be deducted*
- (h) ***Illustrations and Forms***

(iv) *The circular is also explaining about computation of tax under* ***old system and new system*** *of tax rates where an* ***expatriate has option to use between old systems and new systems of tax rates****.*

13. Legal obligations for expatriates under the ITA, 1961

(i) *Expatriates are required to* ***obtain Permanent Account No (PAN)*** *in India*

(ii) *Expatriates are required to* ***prepare and to submit the ITR*** *in India against the taxes as calculated, withheld and deposited by the employer with* ***Indian tax authorities****.*

(iii) (a) *Expatriates are required to* ***obtain a tax clearance certificate (TCC)*** *from the Indian tax authorities* ***at the time of finally departing of the expatriates back to their home country*** *after completion of their tenure in India.*

(b) *Expatriates are* ***staying in India*** *generally for a period between* ***3*** and ***5*** *years*

(c) *Expatriates are required to give* ***an assurance to the Indian tax authorities*** *through obtaining of the TCC that all taxes as payable have* *already been **paid** against the salaries as received by the expatriates **during their stay** in India.*

14. Social Security for the expatriates in India

*(i) Expatriates are getting **social security** in India **through Provident Fund Regulations** under the Employees' Provident Funds and Miscellaneous Provisions Act, **1952 (EPF Act)**.*

*(ii) (a) Expatriates are **mandatory required to contribute the EPF Act, 1952**.*

*(b) Expatriates are required to **obtain a Certificate of Coverage (COC)** from the **social security authorities outside India to claim an exemption** from **mandatory contribution** under the EPF Act, 1952.*

*(c) Exemption through COC is permitted under the head **Social Security Agreement (SSA)** as already has been **signed** between **Govt. of India and Govt. outside India**.*

15. Receipt of salary by expatriates in home country

*(i) Expatriates are **permitted to receive part salary** in India and **part salary outside India**.*

*(ii) The Reserve Bank of India **(RBI) is permitting to the** expatriates as deputed or seconded in India **to receive 100% salary outside India** when **Income tax liability** in accordance tax to the ITA, 1961 has already been **deposited with the Income tax authorities in India**.*

16. Permanent Establishment (PE) through expatriates in India

*(i) **PE through expatriates in India is to be treated where physical presence**s of the expatriates are **exceeding 6 months**. Hence PE through expatriates in India is to be treated as PE for the parent companies as located outside India.*

*(ii) Parents companies as located outside India are **required to pay tax on the profit as earned by the PE through the activities as performed by the expatriates** in India.*

*(iii) **Expatriate working for Indian subsidiary company of foreign holding company***

(a) *Indian **subsidiary company** is **required to pay salary to expatriate and to deduct TDS** where expatriate is **100%** working for Indian subsidiary company and also **under 100% supervision of Indian subsidiary compan**y.*

(b) *However **establishment of PE in India** is to be **examined** on case to case basis**.***

(iv) *Indian subsidiary company is **required to carefully analysis the actual activity performed** between Indian subsidiary and parent company **to compute proper share of profits in the transaction conducted** through Indian subsidiary **to** avoid any attention by the Indian **tax authorities** for showing **higher profits** towards Indian subsidiary.*

17. Transfer Pricing (TP)

(i) *Expatriate's secondment or deputation in India is also **subject to the TP regulations** under the ITA, 1961.*

(ii) *Hence **cost sharing arrangement between the Indian subsidiary or branch office and parent company** is to be computed based on Arm Length Principles **(ALP).***

B. *Legal obligations for Foreign Citizens in India*

1. *Appointment and Remuneration*

(i) ***Foreign Citizens*** *are* ***permitted for appointment*** *as employee or technician, managing director, whole time director or director in India.*

(ii) *Foreign Citizens are permitted for* ***remittances*** *against remuneration, salary or fee* ***etc.*** *as being* ***direct current incomes*** *under the head* ***current account transactions***

(iii) ***Appointment as Employee or Technician***

(a) *Foreign Citizens are permitted for appointment as employee or technician* ***without*** *restriction on the salary or fee*

(b) ***Employers*** *of the foreign citizens are permitted to* ***remit directly*** *the salary or fee* ***after*** *TDS* ***without routing through the employee*** *or technician bank accounts as maintained in India.*

(c) ***Employers*** *of the foreign citizens are permitted for incurring the expenses of the employee or technician on* ***travelling and local hospitality*** *in Indian Rupees* ***(INR)****.*

(iv) ***Appointment as Managing or Whole Time Director***

(a) *Foreign Citizens are permitted for appointment as managing or whole time director.*

(b) *Foreign Citizens are required to take* ***approval from Ministry of Corporate Affairs (MCA)*** *for appointment as managing or whole time director irrespective of the quantum of salary or fee.*

(c) ***Employers*** *of the foreign citizens are permitted for incurring the expenses of the employee or technician on* ***travelling and local hospitality*** *in Indian Rupees* ***(INR)****.*

(v) ***Appointment as Director***

(a) *Foreign Citizens are permitted for appointment as a* ***director*** *in Indian company* ***without*** *permission from the MCA.*

(b) *Foreign Citizens are permitted for receiving **sitting fees** in INR*

(c) ***Companies** of the foreign citizens are permitted for incurring the expenses of the employee or technician on **travelling and local hospitality** in Indian Rupees **(INR)**.*

2. *Banking Facilities*

(i) *Foreign Citizens are permitted to **open**, hold and maintain the foreign currency accounts with the banks **outside** India*

(ii) *Foreign Citizens are also permitted to **receive** the salary or fee in the INR in their Indian accounts as maintained in India*

(iii) ***Employers** are permitted for **100%** **remittances outside India after** **TDS**.*

3. *Remittance maximum USD 1 Million through NRO Account*

- *Foreign Citizens are permitted to remit maximum USD **1** million per financial year in the following circumstances:-*

(i) *When **retired** from an employment in India*

(ii) *When **inherited** the assets from a resident of India*

(iii) *When **inherited in India** by a widow of deceased husband*

(iv) *When **completed** **his study** or training **in India***

4. *Approval from the RBI for Remittances Outside India*

- *Foreign Citizens are required to obtain an approval from the RBI for remittance in the following circumstances:-*

(i) *When remittances are **exceeding** USD **1** million per financial year*

(ii) *When remittances are to be made **on the ground that** **hardship** **will be caused to foreign citizens** if remittances are **not made** from India for the purpose as **not covered** under para **3 i** to **iv***

5. *Remittance to the Citizens of Nepal and Bhutan*

(i) *Foreign Citizens are **not permitted** for remittance to Nepal and Bhutan in **foreign currencies***

(ii) ***Hence*** *Foreign Citizens are permitted for remittance to Nepal and Bhutan in INR only*

6. *Remittances against the sale of the Immovable Properties*

- *Foreign Citizens are **not permitted** for remittance against the sale proceeds of immovable property **without** permission from the RBI by the citizens of followings **8** countries:*

(i) *Citizens of **Pakistan***

(ii) *Citizens of **Bangladesh***

(iii) *Citizens of **Sri Lanka***

(iv) *Citizens of **China***

(v) *Citizens of **Afghanistan***

(vi) *Citizens of **Iran***

(vii) *Citizens of **Nepal***

(viii) *Citizens of **Bhutan***

- *Foreign citizens **other than 8** countries are **permitted** for remittance against the sale proceeds of immovable **without permission from the RBI** through NRO account up to USD **1** million per financial year.*

7. *Remittances against sales of the Financial Assets*

- *Foreign Citizens are **not permitted** for remittance against the sales of the financial assets **without** permission from the RBI by citizens of followings **3** countries:*

(i) *Citizens of **Pakistan***

(ii) *Citizens of **Bangladesh***

(iii) *Citizens of **Nepal***

- *Foreign citizens **other than 3** countries are **permitted** for remittance against the sale proceeds of immovable **without permission from the RBI** through NRO account up to USD **1** million per financial year.*

8. *Acquisition of the Immovable Properties*

(i) (a) *Foreign Citizens are permitted to acquire immovable properties in India where residing for more than* ***182*** *days in preceding financial year for engaging in employment, carrying on business, vocation or any* ***other*** *purpose*

and

(b) *Also indicated their intension to stay in India for* ***uncertain period***

(ii) *Henceforth* ***both*** *conditions are to be satisfied to make an eligible to become person resident of India under Section* ***2(V)*** *of FEMA,* ***1999***

(iii) ***Uncertain Period for stay in India by the foreign citizens to include the followings:-***

(a) *Where Foreign Citizens are staying in India for minimum* ***182*** *days in the preceding financial year*

and

(b) *Also* ***Visa*** *granted to him is clearly indicating his intention to stay in India for* ***Uncertain period***

(iv) ***Illegal Acquisition of the Immovable Properties***

(a) *Where Foreign Citizens are coming to India on the* ***tourist Visa or other Visa***

and

(b) *Also* ***not staying for minimum 182 days*** *in the preceding financial year.*

9. *Opening of NRO Account by Foreign Citizen Tourists*

(i) *Foreign Citizen* ***Tourists*** *are permitted to open* ***Non-Resident*** *(Ordinary) Rupee* ***(NRO)*** *account.*

(ii) *However* ***NRO*** *account is permitted to open for maximum* ***6*** *months only*

(iii) *Foreign Citizens are required to have* ***valid passport*** *or any other valid proof for opening* ***NRO*** *account*

(iv) *Authorized dealer bank is required to follow* ***KYC*** *norms for opening* ***NRO*** *account*

10. Eligible Credits in NRO Account by the Foreign Citizen Tourists

*(i) Out of funds as remitted through banking channel from outside India **or***

*(ii) Through sale of foreign exchange as **brought from outside India***

11. Eligible Debits in NRO Account by the Foreign Citizen Tourists

*(i) Foreign Citizens are permitted to make **local payments** through NRO account*

*(ii) However Foreign Citizens are required to make local payments through account payee cheque or Draft where amount is exceeding INR **50** thousands.*

12. Remittances from NRO Account by Foreign Citizen as Tourists

(i) Foreign Citizen tourists are permitted to remit out of balance as available in NRO account

(ii) Foreign Citizen tourists are also permitted to convert in foreign exchange at the time of closing of NRO account

*(iii) **Restrictions on the remittances***

*(a) Where NRO account is maintained for **more than 6 months***

or

*(b) Where local funds are credited **other than interest accrued** on NRO account*

*(c) Foreign Citizens tourists are required to **take an approval from the RBI** where **restrictions are existed on the remittances** as mentioned under para a and b*

13. Opening of the Resident Rupee Account (RRA) by the Foreign Citizens

*(i) Foreign Citizens are permitted to open and maintain a resident **rupee** account where they become residents of India under the section **2(V)** of FEMA, **1999***

*(ii) Foreign Citizens are permitted to **re-designate** the NRO account at the time of leaving India **after** employment and to receive their legitimate dues subject to satisfaction of the following conditions:-*

*(iii) **RRA** is **not permitted** to continue until **bona fides** dues are received*

*(iv) Foreign Citizens are **not permitted** to remit exceeding USD **1** million per financial year*

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