



Investments by Non Resident Indians (NRIs) in India

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SATISH AGARWAL



Investments by Non Resident Indians (NRIs) in India

(A) Buying of the Properties

1. Nature and Numbers for buying of the properties

- (i) NRIs are **permitted** to buy **residential** or/and **commercial** properties in India
- (ii) NRIs have **no restriction on numbers** for **buying** of properties for investments **not for trading**
- (iii) NRIs are **permitted** to buy the properties under **automatic** route where general or **special** permission is **not** required for own use or investment purpose both
- (iv) However NRIs are **not permitted** for buying of the followings properties
 - (a) **Agricultural** land
 - (b) **Plantation** land
 - (c) **Farm house** in India

2. Funding (Sourcing) for Buying of the Properties

- (i) NRIs are permitted to fund for buying of the properties in following ways only:-
 - (a) Direct **remittance** from Outside India through regular **banking** channel
 - (b) Out of **balance** is lying in **NRO**, **NRE** or **FCNR** account as maintained in India
 - (c) **Loan** from banks or financial institutions for **purchase** of the properties
- (ii) NRIs are permitted to obtain a loan from banks and financial institutions where conditions for margin money and quantum of loan are at par with the **residents of India** for the properties loans
- (iii) NRIs are required to make **repayment** of the loans in following ways only:-
 - (a) Direct **remittance** from Outside India through regular **banking** channel
 - (b) Out of **balance** is lying in **NRO**, **NRE** or **FCNR** account as maintained in India
 - (c) Out of **rental** incomes of the **same** property
 - (d) Out of **loan** from a **close relative** who is also a **resident in India**

3. Maintenance of the Properties

- (i) NRIs are permitted to **purchase** the properties **by way** of a registered **conveyance deed**
- (ii) NRIs are permitted to execute a **power of attorney** in favor of a **close relative** or **friend** for **execution** of the documents on his **behalf** for
 - (a) **Registering** and **leasing** of the properties
 - (b) **Signing** of the properties **agreements**
 - (c) **Selling** of the properties
- (iii) NRIs are permitted to **rent out** the properties in India

4. Repatriation of Money out of the Rent and sale Proceeds from India

- (i) NRIs are permitted to **repatriate** the **rent** amount or **sale** proceeds of the properties out of India.
- (ii) NRIs are permitted to **remit** the **sale** proceeds of the **inherited** properties through NRO account where maximum USD **1**(one) **million** per **financial** year is permitted
- (iii) (a) NRIs are **not** permitted to **direct repatriate** out of **sale** proceeds of the properties
Which are **exceeding** the amount in foreign currency **paid** at the time of **acquisition** of the same properties.
(b) Henceforth NRIs are permitted to repatriate the **balance** amounts which are exceeding the amount **paid** at the time of **acquisition** through **NRO** account where maximum USD **1** (one) **million** per **financial** year is permitted
- (iv) (a) NRIs are **not permitted** to direct **repatriate** the sale proceeds of more than **2**(two) **Residential** properties
(b) Henceforth NRIs are permitted to **repatriate** the **balance** amount which are exceeding the amount **paid** at the time of **acquisition** through **NRO** account where maximum USD **1**(one) **million** per **financial** year is permitted

5. Definition for a NRI and a PIO

- (i) Definition for a **NRI** in India
 - An individual who is **born** in India but now a **non-resident** in India is known as **NRI** **irrespective** of the fact that whether he is holding an **Indian passport** or **not holding** an Indian passport
- (ii) Definition of a **PIO** in India.
 - An individual who is **not born** in India and also now **non-resident** in India but his/her parents or **grandparents** were **born** in India



(B) Income Tax Act, 1961

1. Determination of the Residential status for a NRI under the Income Tax for a Financial year

(i) **Resident** in India is determined with **2** (two) **options** (under section **6(1)** of the Income Tax Act, **1961**)

(a) When **any** Individual (citizen or non citizen of India) is **staying** for minimum **182** (One hundred eighty two) days in India in a previous **financial** year is called a **resident** in India

or

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

and

(ba) Also stayed for minimum **365** (Three hundreds sixty five) days in the last **4**(four) preceding to the previous **financial** years is also called a **resident** in India

(ii) **Resident** in India is also determined with **1**(one) more **option** (under section **6(1)** of the Income Tax Act, **1961**)

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

and

(aa) Also **leaving India** for **employment** outside India or leaving as a **crew member** on a **ship** is also called a **resident** in India.

(b) Henceforth in **2nd** option of above mentioned para (i) (b) is replaced with minimum **182** (one hundred eighty two) days instead of **60** (sixty) days in previous **financial** year

and

(ba) Also staying for minimum **365** (Three hundreds sixty five) days in the last **4** (four) preceding to the **previous** financial years is also called a resident in India

(iii) Now **Resident** of India is also determined with **1**(one) more options

(Applicable from April, **01, 2020** for the previous financial year ending on March **31, 2021**- 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 the previous financial year

and

(ab) Also his total incomes excluding income from foreign sources are **exceeding Rs. 15 Lac**

and

(ac) Also staying in India for **minimum 120** (One hundred twenty) days instead of **182** (One hundred eighty two) days as earlier

and

(ad) Also stayed in India for **minimum 365** (Three hundred sixty five) days during **4** (four) preceding to the previous financial year is called as resident of India

(iv) **Deemed Resident** in India (under section 6(1A) of the Income Tax Act, 1961)

(a) Now concept of **deemed** resident in India is introduced under **new** section 6(1A) as applicable from April **01, 2020** for the previous **financial** year ending on March **31, 2021** (Assessment year **2021-22**)

(b) Now a **Citizen of India** is treated as **deemed resident** in India where his **total incomes** excluding incomes from foreign sources are **exceeding 15 Lac**

and

(ba) Also the citizen of India should not be **liable to tax Outside India** due to his domicile, residence or any other criteria of similar in nature

(bb) Hence **3** (three) conditions are to be satisfied for becoming a **deemed resident** in India are as followings:-

- An Individual should be a **citizen of India**.
- His total incomes excluding incomes from foreign sources are **exceeding 15 Lac**
- The Individual should not be **liable to tax outside India**

(bc) Question of **physical stay in India** is not required for becoming a **deemed resident** in India. Hence the Individual will be **deemed resident** in India where he has not stayed in India even for **1** (one) day during the previous **financial** year.

(c) **Deemed Ordinary resident** in India



(ca) **Now** a citizen of India or a person of Indian origin will be treated as deemed ordinary **resident** in India where his total incomes **excluding** income from foreign sources are **exceeding** Rs. **15** Lac

and

(cb) Also he has stayed in India in previous **financial** year for **minimum 120** (one hundred twenty) days instead of **182** (one hundred eighty two) days as earlier under section 6(6) of Income Tax Act, **1961**.

and

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

and

(cd) Also the Individual has stayed in India for **minimum 730** (Seven Hundred Thirty) days during **7** (seven) preceding to the previous **financial** years is called an ordinary **resident** in India.

(ce) Hence total **Global** incomes of the **deemed** ordinary **resident** in India will be taxable in India.

(v) **Ordinary Resident** in India -(under section 6(6) of the Income Tax Act, **1961**)

(a) When **any** individual (citizen or non citizen of India) is staying in India for minimum **182** (One hundred eighty two) days in a **previous** financial year

and

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

and

(c) Also the Individual has stayed in India for a **minimum 730** (Seven Hundred Thirty) days during **7** (seven) preceding to the previous **financial** year is called an ordinary resident in India

(d) Hence total **Global** incomes of the **ordinary resident** in India will be taxable in India.

(vi) **Not Ordinary Resident** in India (under section 6(6) of the Income Tax Act, **1961**)

(a) When **any** individual (citizen or non citizen of India) is **staying** in India for minimum **182** (One hundred eighty two) days in a previous **financial** year

and



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

or

(c) Also the Individual has stayed in India for **maximum 729** (Seven Hundred Twenty Nine) days during **7** (seven) preceding to the previous **financial** year is called an Not **ordinary resident** in India.

(d) Now a citizen of India or a person of Indian origin having total income other than income from foreign sources is exceeding **15 Lac** during **previous** financial year.

and

(da) He is staying in India for **minimum 120** (one hundred twenty) day and **maximum 182** (one hundred eighty two) days

(e) Hence only **Indian** incomes of the not **ordinary resident** in India will be taxable in India.

2. **Applicability of the Provisions of Income Tax for a Financial year**

(i) Incomes Earned **Outside** India by a NRI

(a) **All 100% Global** incomes are **taxable** in India where a NRI is **resident** of India in a **financial** year

(b) **Only 100% Indian** incomes as accrued or arises, deemed to accrued or arises in India is **taxable** in India where NRI is **not** resident of India in a **financial** year

(ii) Incomes **Deemed** to be **earned** in India by a NRI

(a) Where salary is **received** in India for the services **not** provided in India

(b) Where salary is **received** in India or outside India for the services **provided** in India

(c) Where Incomes are against **properties** as situated/**located** in India

(d) Where **Capital gain** is against the transfer of a asset situated /**located** in India

(e) Where **Interest** income is earned on a fixed **deposit** or on a **saving** account as maintained with a bank in India is treated income earned or accrued in India.

(f) Where **Interest** income is earned on **NRO** account as maintained in India.

(iii) **Exempted** Interest Incomes in India

● **Interest** incomes on **NRE** or/and on **FCNR** accounts are **not** taxable in India.



(iv) **Filing of the return of Incomes in India**

- NRIs are **required** to submit their returns of the incomes where total **gross** incomes are exceeding Rs **2,50,000** (two lakhs fifty thousands) during a **financial** year

(v) **Last Date for filing of the Income Tax Return in India**

- (a) **31st** July for **non-audit** cases
- (b) **30th** September for **audit** cases

(vi) **Liability to pay Advance Tax in India**

- (a) **Advance tax** in India is to be paid where income tax **liability** is exceeding Rs.**10**(ten) thousands over and above the TDS in a **financial**
- (b) **Penal** interests under section **234B** and **234C** are to be paid for the **default** is made in payment of the **advance tax liability**

3. **Taxability of the Incomes for a NRI**

(i) **Incomes under the Head Salary**

- (a) Incomes under the head salary of a NRI is treated as **earned in India** where services are **rendered in India**
- (b) Incomes under the head salary of a NRI is treated as **earned in India** where salary is **received in India** by himself/herself or by someone else on behalf of himself/herself
- (c) Incomes from salary of a NRI is treated as **earned in India** where employer is **Govt. of India** and also NRI is **citizen** of India **beside** that services are **rendered Outside India**
- (d) Incomes under the head salary of a NRI is **treated exempted** where paid to a Diplomat or a Ambassador etc. who is **working in India** in embassy of a foreign country
- (e) **Tax** on the incomes under the head salary is to be paid in accordance to the **slab rate** as applicable to a NRI in India.

(ii) **Incomes under the Head House Property**

- (a) Incomes under the head house property of a NRI are treated as **earned in India** where property is **located** / situated in India.
- (b) Standard deduction for maintenance of the property@ **30%** is available to a NRI against the incomes under the head House property



(c) NRI is permitted to take the following **deductions** out of incomes under the head house property in India

(ca) **Property Taxes**

(cb) **Interest** paid on the loan as taken against rented house property

(d) **Tax** on the incomes under the head house property is to be paid in accordance the **slab rate** as applicable to a resident in India.

(e) Incomes under the head house property of a NRI is treated as **earned in India** beside that rent payment is **directly credited** to his bank account as maintained **outside India**

(f) NRI is permitted to **claim** a deduction of maximum Rs **2(two) lacs** against **interest** paid/payable on **loan** taken on the **property**

(g) NRI is permitted to **claim** of maximum **2(two) self-occupied properties** **without** offering as **notional** rent incomes

(h) NRI is required to offer **notional** rent incomes where property is **not** rented out for **12 (twelve) months**

(i) NRI is permitted to claim **11 (eleven) months** as **vacancy allowance** out of the **notional rent** incomes where property is **rented** out for **1(one) months** only

(iii) Incomes under the Head **Business or Profession**

- Incomes under the head business or profession of a NRI is treated as **earned in India** where business or profession is **controlled** or set up **in India**

(iv) Incomes under the Head **Capital Gains**

(a) Incomes under the head capital gains against transfer of a capital asset of a NRI is treated as **earned in India** where house property is **located** in India

(b) Incomes under the head capital gains against transfer of the **shares** and **securities** is treated as **earned in India** where shares and securities are issued by an Indian company

(c) **Buyer** of the house property is required to **withhold** (deduct) tax @ **20%** + education cess @**4%** + surcharge @**15%** from the payment as being made to a NRI (commencing from April **01, 2022**)

(d) NRI is permitted to claim the following **deductions**



- (da) **Exemption** against the **investments** in a house **property** under the section **54** of the Income Tax Act, **1961**
- (db) **Exemption** against the **investments** in capital gain **bonds** under the section **54EC** of the Income Tax Act, **1961** as maximum Rs **50** (fifty) lacs per **financial** year. This **exemption** is now **not** available for the capital gains **other than property** cases
- (e) NRI is required to **deposit** the amount of capital **gains** in a specified **bank** or institution in India under the head **capital gain account scheme** where NRI is **unable** to **invest** the amount of capital gains in new eligible **property** or **unable** to **deposit** in capital gain bonds **till March 31**
- (f) Now NRI is permitted to **claim** long term capital **gains** on sales of the capital assets where **holding** period is **2**(two) **years** where **earlier** was permitted against holding period of **3** (three) **years**.
- (g) NRI is required to deposit in capital gain bonds with in **6**(six) months from the date of sale/transfer of the **house property** under the section **54EC**
- (h) NRI is required to **invest** in a **new** property
- (ha) with in **1**(one) year **before** the **sale**/transfer or
- (hb) with in **2**(two) years **after** the **sale** /transfer or
- (hc) with in **3**(three) years **after** the **sale**/transfer in **construction** a **new** property.
- (i) NRI is required to **deduct** a TDS @ **1%** on the **payments** to be made against **purchase** of a property from a **resident** of India where **purchase** amount is minimum of Rs **50**(fifty) Lacs.
- (j) (ja) NRI is required to **allow** to the **purchaser** of property to deduct TDS @ **20%** plus Education **cess** and **surcharges** as applicable against **long** term capital **gains** and TDS @ **30%** plus education **cess** and **surcharges** as applicable against **short** term capital **gains**.
- (jb) Moreover TDS @ **20%** or **30%** is applicable **without** applicability of any limit of Rs **50**(fifty) **Lacs**
- (k) NRI is required to **hold** the capital gain **bonds** for minimum period of **5**(five) **years**
- (v) Income Under the head **Other Source**



- (a) **Interest** incomes from fixed **deposits** and from **saving** accounts as maintained in India will be treated as **earned in India** like on **NRO** account
- (b) **Interest** incomes on **NRE** and **FCNR** accounts are **exempted** in India
- (c) **Interest** incomes on the **NRI** and **FCNR** accounts are **taxable** Outside India

4. **Special Tax Provisions for a NRI**

(i) **Exemption** against **filing** of the Income tax **Return** in India

● **NRI** is **exempted** for filing of the Income Tax **Return** where

- (a) Investing in **specified** Indian assets only
- (b) **Already** paid Income Tax @ **20%** through **TDS** mode on Long Term Capital Gains (**LTGS**) of such **specified** Indian assets
- (c) No **other** incomes is taxable in India **except** abovementioned incomes on **specified** Indian assets during the **financial** year under consideration

(ii) Allowable **deductions** against the **payments** and **investments** in India

(a) Allowable deduction up to Rs **1.5** Lac per **financial** year under the Section **80C**

(aa) Life **insurance** premium **paid** on life of himself/herself, spouse and children a maximum @**10%** of sum insured/assured

(ab) Children **tuition fee** paid

(ac) Principal **repayments on loan** for the purchase of a house property

(ad) Investments in the unit linked insurance plan (**ULIPS**)

(ae) Investments in the equity linked saving scheme (**ELSS**)

(af) **5(five)** years fixed **deposits** in a schedule **bank** in India

(b) Allowable **deduction** up to Rs. **25000** per financial year under the Section **80D**

(ba) **Mediclaim** Insurance premium **paid** on the life of himself, spouse and dependent children

(bb) Mediclaim insurance premium **paid** on the life of **parents up to Rs 50,000 additionally**

(c) Allowable **deduction** against **interest** paid on **education** loan under the section **80E**

(ca) **NRI** is permitted to claim a deduction against **interest** paid on the **education** loan for **higher** education for himself, spouse or children



- (cb) Deduction is **not** available against **repayment of principal** loan amount
- (cc) Deduction is available for a **maximum** period of **8** (eight) years or till **interest** is paid whichever is **earlier**
- (d) Allowable deduction against **donations** paid for the **social causes** under the section **80G**
- NRI is permitted to claim a **deduction** against payments made for **donation** for the social causes in **India**
- (e) Allowable deduction against incomes from **interest** on **saving** bank account under the section **80TTA**
- (ea) NRI is permitted to claim a **deduction** on the **interest** incomes on **saving** bank account maximum of Rs. **10**(ten) thousands per **financial** year
- (eb) Henceforth this deduction is **not** permitted against the **interest** incomes on the **time deposits** (fixed term deposits)
- (f) **Not allowable deduction** against the income on specified **investments** by NRI under the section **80C**
- (fa) NRI is **not** permitted to **deposit** in **new** PPF account. However NRI is permitted to **continue** to deposit in **existing** account as opened **before** becoming NRI till **original** maturity period of **15** (fifteen) years. Henceforth **not** permitted beyond **15** years
- (fb) NRI is **not** permitted to **deposit** in certain schemes **after** becoming NRI like
- (fba) Investments in **NSCs**
- (fbb) Deposit in Post office **5** year deposit scheme
- (fbc) **Senior** citizen saving scheme **etc.**
- (g) **Not allowable deduction** against payment for RAJIV Gandhi Equity Savings Scheme (**RGESS**) under the Section **80CGS**
- NRI is **not** permitted to claim a **deduction** where **contribution** is made for **RGESS**
- (h) **Not allowable deduction** for maintenance and **medical** treatment under the Section **80DD**, **80DDB** and **80U**
- NRI is **not** permitted to claim a **deduction** where **expenses** are made for maintenance and **medical** treatments of dependent and himself



5. Important Miscellaneous Clarifications on the Tax Provisions for a NRI

(i) **DTAA** (Double Taxation Avoidance Agreements) **Benefits** for a NRI

- NRI is permitted to **claim** the benefits of **DTAA** where can **pay** tax in India and can **claim tax credit** in own **resident** country

(ii) **TDS** (Tax Deducted at Source) for a NRI

(a) Payer of the **specified** incomes is required to deduct /withhold an amount of **TDS**

(b) **Specified** incomes to include the followings:-

(ba) **Rent**

(bb) **Fee** for professional or technical services **etc.**

(c) **Payer** is also required to **submit** form **15CA** and **15CB** before making the payments

(iii) Applicability of **Inheritance tax** (Estate Duty) on the assets in India

(a) NRI is also permitted to avail the **exemption on inheritance tax** (Estate duty) on the assets in India as this **exemption** is available to a **resident** in India

(b) However a NRI is to **pay** capital gain **tax** at the time of **sale** of the **inherited assets**



(C) Investments in Shares and Securities

●Introduction on the Concept of Investments in Shares and Securities by the NRIs

- (i) NRIs are permitted to invest **directly** in proprietary and/or **partnership** concerns in India on **non-repatriation basis** only*
- (ii) NRIs are also permitted to **invest** in the Initial Public Offer (**IPO**) for issue of **shares** and convertible **debentures** of the Indian Companies*
- (iii) NRIs are also permitted to **invest** under the Foreign Portfolio Investments (**FPIs**) through **secondary** market like*
 - (a) Stock **Exchange** in India*
 - (b) Purchases **direct** from shareholders **without** involving of a stock **Exchange***
- (iv) NRIs are permitted to set up the **new companies** accordingly to **subscribe** to the Memorandum and Articles of Association (**M&A**) of the new companies under the head **automatic** approval route*
- (v) However the NRIs are **not permitted to invest** in the companies where **activities** relating to **agricultural** and plantation are being carried on*
- (vi) (a) NRIs are permitted to **invest** on the **repatriation and non-repatriation** basis (both) **except** to invest in **proprietary** and **partnership** concerns where **repatriations** are **not permitted***
 - (b) However NRIs are permitted to **repatriate through NRO accounts** where a maximum USD **1** (one) **million** per **financial** year is **permitted** to repatriate Outside India*
- (vii) NRIs are required to make **payments** for the investments in certain **modes** only like*
 - (a) Direct inward **remittance** from outside India*
 - (b) Debit to **NRO** account*
 - (c) Withdrawal out of **NRE** or **FCNR** account*



(CA) Investments in Equity shares and Securities on Non-Repatriation

1. Investments in the Partnership or Proprietorship Concerns on Non-Repatriation basis

- (i) NRIs are permitted to invest in the **partnership** or **proprietorship** concern on **non-repatriation** basis under the **automatic** route where RBI has already granted **general** permission to the NRIs to **invest** in the **concerns** those are **engaged** in the industrial, trading or commercial **activities**
- (ii) NRIs are required to **invest** through normal **banking** channel or **transfer** of funds from their **accounts** as maintained **in India** like
- (a) **NRO**
 - (b) **NRE**
 - (c) **FCNR accounts**
- (iii) NRIs are **not** permitted to **carry** the following activities
- (a) **Agricultural** Activities
 - (b) **Plantation** Activities
 - (c) **Real Estate** business like **trading** in land and immovable **properties**
- (iv)(a) Indian partnership or proprietorship concerns are **not required** to obtain any prior **permission** from the RBI for **receiving** of the capital **contributions** from the NRIs where the **conditions** as specified in the RBI **notification** for this purpose are **satisfied**.
- (c) However the Indian **concerns** are required to submit the **declarations** in form **DIN** to the RBI with in **90** (ninety) **days** from the date of receipt of an investment
- (v)(a) Indian concerns are permitted to **transfer the profits** in **NRO** account as maintained in **India**
- (c) NRIs are permitted to **remit** a maximum USD **1**(one) **million** per **financial** year

2. Investments in Initial Public Officers (IPOs) of Equity Shares or Convertible Debentures (CDs) of Indian Companies on Non-Repatriation basis

- (i) NRIs are permitted to invest in the **equity** shares and **convertible** debentures of the Indian companies on **non-repatriation** basis under **automatic** route where the Indian companies are **not engaged** in
- (a) **Agricultural** /plantation activities



(b) **Real estate** business

(c) **Trading in TDRs**

(d) **Chit** fund Company

(e) **Nidhi** Company

(ii) NRIs are required to make the **payments** through normal **banking channel** like

(a) Direct inward **remittance** from outside India or

(b) Debit to **NRE, FCNR** or **NRO** account as maintained in India

(iii) Indian companies are required to file the **declarations** in form **DIN** within **90**(ninety) **days** from the date of receipt of the investments on **non-repatriation** basis

(iv) NRIs are permitted to take the **credit** in their **NRO** accounts against **dividend** and/or **interest** on equity **shares** and/or convertible **debentures** respectively

3. Investments in Non-Convertible Debentures (NCDs) of the Indian Companies on Non-Repatriation basis

(i) NRIs are permitted to invest in the **NCDs** on **non-repatriation** basis under the **automatic** route

(ii) NRIs are required to make the **payments** through normal **banking channel** like

(a) Direct Inward **remittance** from outside India or

(b) **Debit** to **NRE, FCNR** or **NRO** accounts as maintained in India

(iii) Rate of **interest** on the **NCDs** is **not to exceed** the prime lending rate (**PLR**) of State Bank of India (**SBI**) plus **300** basis points (**3%**)

(iv) **Minimum** period for **redemption** is required **3**(three) **years** for the **NCDs**

(v) Indian companies should **not** be engaged in the followings

(a) **Agricultural**/plantation activities

(b) **Real estate** business

(c) **Trading** in **TDRs**

(d) **Nidhi** Company

(e) **Chit** fund Company



(vi) Indian companies are required to **submit** the reports to the **RBI** with in **30**(thirty) **days** from the date of receipts of remittance for the NCDs

4. Investments in the Equity shares of Indian companies through Private arrangements on Non-Repatriation basis

(i) NRIs are required the **prior** approvals **permissions** from the RBI for **purchasing** of shares of the an Indian companies through **private arrangement**

(ii) NRIs are required to submit the **applications** in to the RBI form **FNC-7** alongwith undertaking for **non-repatriation**

5. Investments in the Domestic Public Sector and Private Sector Mutual Funds on the Non-repatriation basis

(i) NRIs are permitted to **invest** in the Mutual Funds as being owned and **managed by** the domestic **public** sector and **private** sector Mutual Funds on the **non-repatriation** basis

(ii) NRIs are **not** required to **submit** the applications for **approval** from the RBI for **investing** in such mutual funds

(iii) However **issuing** mutual funds are required to **submit** the application in Form **ISD** for issuing the units of mutual funds

6. Investments in Money Market Mutual Funds (MMMFs) on Non-Repatriation basis

(i) NRIs are permitted to invest in the **MMMFs** as floated by the followings

(a) Commercial **banks**

(b) **Public** Sector Financial **Institutions**

(c) **Private** Sector Financial **Institutions**

(ii) These **banks** or financial **institutions** are required to **submit** the application in Form **ISD** for obtaining the **authorization** from the **RBI** for floating the **MMMFs**

(iii) NRIs are **not** required to obtain the separate **permissions** from the **RBI** for investing in the **MMMFs**



7. Acceptance of Deposits by the Partnership firms and Companies on the Non-repatriation basis

- (i) NRIs are permitted to **deposits** the funds with **Firms and companies** on **non-repatriation** basis
- (ii) Prior **approval** is required by the **depositor** or by deposit accepting **firm** or **company** from the **RBI**
- (iii)(a) However deposit accepting **firms** or **companies** is required to **obtain** prior **approval** from the **RBI** for accepting the **deposits** from NRIs under **Public deposit scheme**
- (b) Henceforth NRIs are **not** required to **obtain** prior **approvals** from the RBI for accepting **deposits** under **public** deposit scheme where deposit accepting **firms** or **companies** are **mandatory** required to **obtain** prior **approval** from the **RBI**



(CB) Investments in Equity Shares and Securities on Repatriation basis

● Introduction on Investments by the NRIs in Equity Shares and Bonds on Repatriation basis

- (i) NRIs are permitted to **invest** in the **equity** shares and **bonds** of the Indian **companies** on **repatriation** basis*
- (ii) Henceforth NRIs are permitted for **repatriation** Outside India out of the followings:-*
 - (a) **Capital** already invested in the Indian companies*
 - (b) **Dividends/ incomes earned** on the **investments** in the Indian companies*
- (iii) NRIs are required to **invest** on **repatriation** basis in **foreign** exchange **only** like*
 - (a) Direct **Inward remittance** from Outside India or*
 - (b) **Debit** to **NRO, NRE** or **FCNR** account as maintained in India*
- (iv) NRIs are permitted to **invest** in the various kinds of Foreign Direct Investments **Schemes** which are commonly **known** as Foreign Direct Investments (**FDIs**) in India*
- (v) FDIs are permitted for a NRI in different **schemes** like*
 - (a) **24%** FDIs scheme*
 - (b) **40%** FDIs scheme*
 - (c) **100%** FDIs scheme*
- (vi) NRIs are also permitted to **invest** in Domestic **mutual** funds as **float**ed by the **public** and **private** sector institutions or by the **companies** like UTI and Reliance respectively*
- (vii) NRIs are also permitted to **invest in bonds** as issued by the **public** sector **under-takings**(PSUs)*
- (viii) (a) Equity **shares and bonds** issuing companies are required to **obtain** the necessary **permissions** from **RBI** if needed in the case of **approval** route*
 - (c) Henceforth NRIs are **not** required to **obtain** any separate **approval** where **issuing** company has **already** been **obtained** an **approval** from **RBI** under **approval** route in case an **automatic** route is **not permitted** for the issue of shares and/or bonds*



1. Investments in Initial Public Offers (IPOs) of the Indian Companies under 24% schemes

- (i) NRIs are permitted to **subscribe** up to **24%** of the IPOs of equity **shares** or convertible **debentures** of an existing or new **public** companies who are already **engaged** or proposed to be engaged in the following activities
- (a) **Finance**
 - (b) **Hire purchase**
 - (c) **Leasing**
 - (d) **Trading**
 - (e) **Other services etc.**
- (ii) NRIs are **not permitted** to subscribe the IPO of a company who is **engaged** in **agricultural/** plantation activities and **real** estate activities
- (iii) An Indian company issuing IPO is required to **satisfy the conditions** as laid down by RBI for issue of the equity shares or convertible debentures **otherwise** Indian company is required to obtain a specific **approval** from RBI before issuing the IPO
- (iv) An Indian company is required to **submit** a form **ISD** within **30** days from the date of issue of the IPO
- (v) NRIs are **not required** to obtain any specific **approval** from RBI where Indian company has already **satisfied** the specified **conditions** of the RBI **otherwise** obtained the specific **approval** from the RBI

2. Investments in IPOs of the Indian Companies under 40% Scheme

- (i) NRIs are permitted to **subscribe** up to **40%** in the following IPOs
- (a) **Equity** shares
 - (b) **Preference** shares
 - (c) **Convertible** debentures of new or existing company on **repatriation** basis **after** making **payments** of Indian Income **Tax** by the NRIs
- (ii) Indian companies should **not be already listed** at any stock exchange and also **should not be engaged** in manufacturing activities as **specified** in Annexure-III to the statement of Industrial Policy 1991 of **Govt. of India**



(iii) Indian companies are **required** to take the specific **approvals** from the **RBI** for an IPO under this scheme for the **following** entities

(a) **Industrial** and the manufacturing units

(b) **3, 4 or 5** star category of the **Hotels**

(c) **Hospital** and the Diagnostic centers

(d) **Shipping** Companies

(e) Development of the computer **softwares**

(f) Oil **Exploration** Services

(iv) NRIs are **not required** to take the specific **approvals** from RBI where the Indian **companies** have already been **obtained the approvals**

3. **Investments in the IPOs of Indian Priority Sector Industrial Companies under 100% Scheme**

(i) NRIs are **permitted** to **subscribe** up to **100%** on **repatriation** basis in **priority** sector industrial companies which are primarily **engaged** in export **trading** activities

(ii) Indian companies are permitted to issue the IPOs **without** approval from the **RBI**

(iii) Indian Companies are required to **submit** the form ISD within **30** days from the date of issue of shares

(iv) This scheme is permitting for opening a **new** industry or **expansion** /diversification of the **existing** industrial undertakings

4. **Investments in the Housing and Real Estate Development Projects**

(i) NRIs are permitted to **invest upto 100%** in IPOs of the equity **shares** or convertible **debentures** of the Indian companies in the following sectors

(a) **Development** of the plots and also **construction** of built up **residential** premises including business centers and offices

(b) **Development** of a township

(c) **Development** of a City and region level urban infrastructure facilities like **roads** and **bridges**

(d) **Manufacturing** of the building materials

(e) **Financing** of the housing Development projects

(ii) **Repatriation** of **original** investment is permitted by the RBI **after** a lock in period of **3(three)** years from the date of issue of equity shares or convertible debentures.



5. Investments in the Air Taxi Operations

- (i) NRIs are permitted to **setup an Indian Company** with **100%** FDIs for carrying on **Air Taxi** operations in according to the **guidelines** as issued by the Director General Aviation for **Air Taxi** operation in India
- (ii) An Indian company is required to **submit** a form **ISD** to the RBI as **application** for this purpose
- (iii) **Repatriation** of the original **investment** and/or **dividend** is permitted **after** expiry of **5(five)** **years** of the operations of Air Taxi and also **out of accumulated** net foreign exchange earnings only.

6. Investments in the Non-Convertible Debentures (NCDs)

- (i) NRIs are permitted to **subscribe** the **NCDs** as offered for the public on **repatriation** basis
- (ii) NRIs are required to **subscribe** the NCDs out of direct **inward** remittances from **Outside India** or debit to **NRO, NRE** or **FCNR** account as maintained in India
- (iii) NRIs are permitted to subscribe a **maximum 24%, 49%, 51%, 74% or 100%** of each series of NCDs which is **equivalent** to the **ceiling** as applicable for **issue** of the equity **shares** or convertible **debentures** to the **non-residents** under **repatriation** basis
- (iv) Rate of **interest** on NCDs is **not to exceed** Prime lending rate (**PLR**) of State Bank of India (**SBI**) plus **300** basis points (**3%**)
- (v) Minimum **redemption period** of NCDs is **3(three)** years
- (vi) Indian companies issuing the NCDs are **not** permitted to be **engaged** in the following activities
 - (a) **Agricultural/Plantation** activity
 - (b) Real **Estate** business
 - (c) Trading in **TDRs**
 - (d) Act as **Nidhi** Company
 - (e) **Chit** Fund Company



(vii) Indian Companies are required to **file a report** containing of prescribed **informations** with in **30(thirty) days** from receipt of the remittances

7. Investments in the Sick Industrial Units

(i) NRIs are permitted to **undertake** the revival of the **sick industrial units** by way of either **bulk** investments through **purchases** of **equity** shares from the **existing** shareholders or subscription for **new** issue of the equity shares

(ii) **Bulk investment** is permitted by way of **private placement** a maximum **100%** of equity share capital of the sick company on **repatriation** basis

(iii) Indian companies are required to pass the **special resolution** for new of the issues or transfer from the existing shares holders to the NRIs

(iv) Indian companies are required to be **approved** as sick unit under the **rehabilitation program** as run by the followings banks and financial institutions

(a) Public financial **institution**

(b) Commercial **bank**

(c) **Consortium** of the banks

(d) Board for Industrial and Financial Reconstruction (**BIFR**)

(vi) Indian companies are required to obtain the prior **permissions** from **RBI** through submitting the form **RSU** for transfer of the existing shareholding or issue of new equity shares to the NRIs

8. Investments in the Schemes of Domestic Mutual Funds

(i) NRIs are permitted to **invest** in the **schemes** of Indian Mutual Funds under the **automatic** route of the RBI on **repatriation** basis

(ii) However these schemes are to be **approved by the SEBI**

NRI are required to invest through normal **banking** channel like (a) Direct **inward** remittance from Outside India or (b) **Debit** to NRO, **NRE** or FCNR account as maintained in India

9. Investments in the Bonds of Public Sector Undertakings(PSUs)

(i) NRIs are permitted to **subscribe** in the **bonds** as issued by the **PSUs** on **repatriation** basis



(ii) PSUs are required to obtain the necessary **approvals** from the Govt. of India (**GOI**) for raising of the funds through issue of bonds

10. Investments in Equity shares of the PSUs under Disinvestment program of the Government of India (GOI)

(i) NRIs are permitted to **purchase** the equity shares on **repatriation** basis under the **disinvestment** program of the **GOI**

(ii) **Single NRI is not permitted** to purchase more than **1(one) percent** of the equity shares of a PSU

(iii) NRIs are required to **invest** through transfer of funds under the **normal** banking channel like

(a) Direct inward **remittance** from Outside India

(b) **Debit** to NRO, **NRE** or FCNR account as maintained in India

(iv) NRIs are required to **submit** the applications alongwith **deposit** of the bid money or purchase **consideration** at the designated branch of the **SBI**

11. Investments through Fixed Deposits (FDs) in the Indian Companies

(i) NRIs are permitted to **invest** in the **FDs** of the Public limited **companies** and **PSUs** on **repatriation** basis for a minimum period of **3(three) years**

(ii) Indian companies are required to submit the **applications** with the **RBI** for approval to accept FDs from the NRIs

(iii) NRIs are **not required** to obtain separate **permission** from the RBI where Indian **companies** have already been **obtain** the **approvals** from the RBI



(CC) Foreign Portfolio Investments (FPIs)

1. General Regulations for the FPIs by NRIs

- (i) NRIs are required to obtain prior **permission** from **RBI** for acquiring of
 - (a) **Equity** shares
 - (b) **Convertible** Debentures
 - (c) **Units** of domestic mutual funds
 - (d) **Non-Convertible Debentures (NCDs)**
- (ii) These investments are permitted by the RBI on **repatriation** and **non-repatriation** basis (both) through a Stock **Exchange** in India
- (iii) RBI is permitting a prior approval for an **initial** period of **5(five) years** for the investments under the head FPIs which is further **renewable** for another **5(five) years**
- (iv) NRIs are permitted to invest **through** sending of NSNR
 - (a) Direct Inward **remittance** from Outside India or
 - (b) **Debit** to NRE, **FCNR**, NRO or NRSR **account** as maintained in India
- (v) NRIs are permitted to invest in the **shares** and **debentures** under the FPIs scheme at prevailing **market** price at stock exchange in India

2. Limit for the FPIs by NRIs

- (i) NRIs **cumulatively** are permitted for investments in **equity** shares and **convertible** debentures a maximum **10%** of total **paid-up** equity capital of the company and **10%** of total **convertible** debentures of **each** series on **repatriation** and **non-patriation** basis (both) as permitted by the RBI
- (ii) A NRI **singly** is permitted for the investments in equity shares and/or **preference** shares and **convertible** debentures a maximum **5%** of the total **paid up** equity/preference capital and **5%** of the **convertible** debentures issued to a **single** NRI as FPIs investor

3. Miscellaneous Regulations for the FPIs by NRIs

- (i) RBI is required to issue a **code number** to each NRI as FPI investor for **quoting** in all future **correspondence** to the RBI



- (ii) NRIs are **not permitted** to invest under FPIs through **private** placement or **off market** transaction except at stock exchange
- (iii) NRIs are permitted to **authorize** an Indian **resident** or **broker** of stock **exchange** as their **agents** in India
- (iv) NRIs are required to **route** the all **transactions** through a designated branch of a **authorized** dealer Category I **bank** on repatriation or non-repatriation basis
- (v) NRIs are required to **apply** to the RBI for prior **approval**/permission on repatriation or non-repatriation basis in **form NRI** through a designated branch of an authorized dealer Category I bank
- (vi) NRIs are permitted to **invest** under **FPIs** in
- (a) **Securities** of the **central** or **State** Government and
 - (b) **Treasury Bills** of the Govt. of India
- (vii) NRIs are **not permitted** to invest in the **bearer** securities
- (viii)(a) NRIs are required to **take the deliveries** for **purchase** of shares and debentures and to **give the deliveries** for the **sale**
- (b) NRIs are not permitted for **non-delivery** purchase and sale of the shares and debentures like **speculative tradings**
- (ix) NRIs are permitted to **register** the shares and debentures in **name** of the followings
- (a) **Himself**
 - (b) Authorized dealer **bank**
 - (c) **Nominee** of the authorized dealer **bank**
- (x) **Investments in the Joint Names**
- (a) NRIs are permitted to **purchase** the shares and debentures in the **joint** names with **other** NRIs with prior **permission** of the RBI
 - (b) **First holder** of the investments will be treated **single** investor where **investments** are made on **repatriation** or **non-repatriation** basis (both)



- (c) Henceforth **second** and **third** holder will be eligible for **separate** investment upto 5% per investor in the **same** company
- (d) RBI is also permitting for the **joint** investments with a **resident** of India
- (e) NRIs are **not permitted** for remitting Outside India where they have **inherited** the shares and debentures in India. However NRIs are permitted to remit through **NRO account** a maximum USD **1(one) million** per **financial**



SATISH AGARWAL



(D) Investments in Govt. Securities, National Plan or National Saving Certificates (NSCs) and units of UTI

1. Investments in the Govt. Securities, National Plan & National Savings Certificates (NSCs)

(i) NRIs are permitted to invest **freely** in **securities** of the **central** or **State Govt.**, **National Plan** certificates and **National saving certificates (NSCs)** through the following modes:-

(a) **Direct Inward remittance** from the **Outside India**

(b) **Debit** to **NRO, NRE** or **FCNR accounts** as maintained in **India**

(ii) (a) **Authorized dealers** are permitted to invest on **behalf** the **NRIs** out of the **funds** as **available** in **NRO** account where **direct repatriation** is **not permitted** for the **investments** amount and **income** earned there on **both**

(b) However NRIs are permitted to **remit** through **NRO account** a maximum **USD 1(one) million** per **financial** year

2. Investments in the Units of UTI

(i) NRIs are permitted to **invest** in the **units** of **UTI** through

(a) **Direct Inward remittance** from **Outside India** or

(b) **Debit** to **NRO, NRE** or **FCNR** account as maintained in **India**

(ii) NRIs are permitted to **remit** through **NRO** account a maximum **USD 1(one) million** per **financial** year against the **investments** amount and **income** earned thereon (**both**)

(iii) RBI has permitted an **automatic** route mode for the investments in **units** of **UTI** through granting of a **general** permission for purchasing of units **directly** from **UTI**



(E) Summary on Privileges and Non-Privileges

1. Privileges for the NRIs

- (i) NRIs are permitted to have **most of the privileges** on non-repatriation and repatriation basis as are **available** for the residents of India like
- (a) Investments in the **residential** and **commercial** properties for the Investments purpose **without** any restriction on **numbers** of the properties
 - (b) **Allowances** and **deductions** out of the **Income Tax Liabilities**
 - (c) Investments in the companies' **shares** and **securities** and **LLPs**
 - (d) Investments in the **Govt. of India securities**.
- (ii) NRIs are permitted to **obtain** in an overseas citizen of India (**OCI**) **card to avoid** and obtaining of separate **Visa** for visiting the India.
- (iii) NRIs are permitted to **participate in most of activities** as available for the Residents of India.
- (iv) NRIs are permitted to avail an **exemption** from the liability of Income Tax on the **interest incomes** on **NRE & FCNR** accounts as maintained in India.

2. Non-Privileges for the NRIs

- (i) Tax deducted at source (**TDS**) **provisions** is comparatively **tedious** for the NRIs in comparative for the residents of India.
- (ii) NRIs are required to **pass through the tedious process of DTAA** to avoid double taxation on his incomes earned in India and also same is to be taxed again in his country of the residence.
- (iii) NRIs are **not permitted to buy** any **agricultural** and **plantation** properties and also **not permitted to engage** in any business relating to agricultural and plantation.
- (iv) NRIs are required to **pay an income tax** on the incomes earned on **NRE and FCNR accounts** in their country of residence outside India.



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