

FAQs – NRI banking & Investments

1. How does one determine his/her Residential Status?

You are considered an Indian resident for a financial year:

- When you are in India for at least 6 months (182 days to be exact) during the financial year
OR
- You are in India for 2 months (60 days) for the year in the previous year and have lived for one whole year (365 days) in the last four years.

If you are an Indian citizen working abroad or a member of a crew on an Indian ship, only the first condition is available to you – which means you are a resident when you spend at least 182 days in India. The same is applicable to a Person of Indian Origin (PIO) who is on a visit to India. The second condition is not applicable to these individuals.

A PIO is a person whose parents, or any of his grandparents were born in undivided India.

You are an NRI if you do not meet any of these conditions.

2. What accounts can a Non-Resident hold with his banks?

NRE (Non- Resident External):

- Account can be held jointly by two or more NRIs/PIOs or maybe held jointly with a resident relative on 'former or survivor basis' (relative as defined in the Companies Act,2013)
- Currency is India Rupees
- Credits permitted are inward remittances from outside India, interest accruing on the account, interest on investment, transfer from other NRE/ FCNR (B) accounts, maturity proceeds of investments (if such investments were made from this account or through inward remittance)
- Permissible debits are local disbursements, remittances outside India, transfer to other NRE/FCNR (B) accounts and investments in India
- The funds in the account are Repatriable
- Income earned in the accounts is exempt from income tax and balances exempt from wealth tax

NRO (Non-Resident Ordinary):

- Account can be held jointly by two or more NRIs/PIOs or maybe held jointly with a resident on 'former or survivor basis'
- Currency is Indian Rupees
- Credits permitted are inward remittances from outside India, legitimate dues in India and transfers from other NRO accounts. Rupee gift /loan made by a resident to an NRI/PIO relative within the limits prescribed under the Liberalised Remittance Scheme
- Account can be debited for local payments, transfer to other NRO accounts or remittances of current income abroad (Current Income - rent, dividend, pension, interest etc.)
- All Current Income & Balances up to USD 1 million can be repatriated by NRIs and PIOs, per financial year (Apr- Mar) along with their other eligible assets however with some additional documentation like 15CA/CB.
- Income earned on the NRO account is taxable in India

FCNR (Foreign Currency Non- Resident):

- Account can be held jointly by two or more NRIs/PIOs or maybe held jointly with a resident relative on 'former or survivor basis' (relative as defined in the Companies Act,2013)
- Deposits in this account can be made in any of the major currencies like US Dollar, UK Pound, Canadian Dollar, Deutsche Mark, Japanese Yen and Euro, currencies which are freely convertible
- Term Deposits.

3. What assets can a Non-resident invest in India?

- **REAL ESTATE:** YES, a Non - Resident Indian can invest only in residential & commercial properties and cannot purchase agricultural land, farm land or plantations. However, one can hold such properties if received as a gift or inheritance.
- **DIRECT EQUITIES:** YES, one can invest purchase-sell shares and convertible debentures of India Companies on a recognised stock exchange thru a Portfolio Investment Scheme (PIS) account. PIS is a scheme of RBI mentioned in Schedule 3 of FEMA 2000 under which all transactions of the NR for purchase-sale of such securities needs to be routed thru the regulator. The assessee can hold only one PIS account in India and can hold a maximum of 10% of the paid-up capital of the company.
- **MUTUAL FUNDS:** YES, NRIs can invest in mutual all categories of mutual funds however do not require a PIS account for the same. Due to the recent FATCA guidelines NRs based in US & Canada can invest only in specific mutual fund companies.

4. Can foreign nationals acquire property in India?

- Citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Macau or Hong Kong, irrespective of their residential status, cannot, without prior permission of the Reserve Bank, acquire or transfer immovable property in India, other than on lease, not exceeding five years.
- Foreign nationals of non-Indian origin resident in India (except 10 countries listed at (a) above) can acquire immovable property in India.
- Foreign nationals of non-Indian origin resident outside India can acquire/ transfer immovable property in India, on lease not exceeding five years and can acquire immovable property in India by way of inheritance from a resident. All other acquisitions/ transfers will require the prior permission of RBI

5. Can a non-resident repatriate the sale proceeds of immovable property in India?

There are fairly liberal provisions relating to remitting overseas, proceeds arising from sale of properties in India. These provisions can be considered under three categories:

1. Property acquired by the Non-Resident after becoming a non-resident (Section 6 (5)) and out of either remittances from abroad or from NRE and FCNR deposits held with banks. The extent of remittance is restricted to the amount of repatriable funds used to acquire the property. Further the facility is restricted to two properties.

2. Sale proceeds of immovable properties held by NRIs/PIOs can be remitted along with other remittances allowed out of NRO accounts mentioned earlier in the note subject to a value ceiling of USD 1,000,000 per financial year (April-March).

3. Property acquired by inheritance as an NRI can be remitted along with other remittances allowed out of NRO accounts mentioned earlier in the note Requirements subject to a value ceiling of USD 1,000,000 per financial year (April-March). The original deed of settlement and a tax clearance / No objection certificate from the Income-Tax Authority should be produced for the remittance.

6. Can a resident continue to hold immovable property outside India which was acquired by him when he was a non-resident?

According to section 6(4) of the FEMA, a person resident in India can hold, own, transfer or invest in any immovable property situated outside India if such property was acquired, held or owned by him/her when he/ she was resident outside India or inherited from a person resident outside India.

7. Is My Income Earned Abroad Taxable?

An NRI's income taxes in India will depend upon his residential status for the year. If your status is 'resident,' your global income is taxable in India. If your status is 'NRI,' your income which is earned or accrued in India is taxable in India.

Salary received in India or salary for service provided in India, income from a house property situated in India, capital gains on transfer of asset situated in India, income from fixed deposits or interest on savings bank account are all examples of income earned or accrued in India.

These incomes are taxable for an NRI. Income which is earned outside India is not taxable in India. Interest earned on an NRE account and FCNR account is tax-free.

Interest on NRO account is taxable for an NRI.

8. What is the tax treatment for rental receipts?

A tenant who pays rent to an NRI owner must remember to deduct TDS at 30%. The income can be received to an account in India or the NRI's account in the country he is currently residing.

A person making a remittance (a payment) to a Non-Resident Indian must submit Form 15CA/CB.

9. How are the Capital Gains of a Non-resident treated?

Any capital gain on transfer of capital asset which is situated in India shall be taxable in India. Capital gains on investments in India in shares, securities shall also be taxable in India.

For non-resident individual of any age, the basic exemption limit is Rs. 2,50,000. Further, a non-resident individual cannot adjust the basic exemption limit against LTCG. Hence, in this case the exemption limit of Rs. 2,50,000 cannot be adjusted against LTCG.

If you sell a house property and have a long-term capital gain, the buyer shall deduct TDS at 20% of the sale consideration. However, you can claim capital gains exemption by investing in a house property as per Section 54 or investing in capital gain bonds as per Section 54EC. (The lock in period for 54EC Bonds has been increased to 5 years from 1st April, 2018.)

TAX RATES

	Long Term Capital Gain	Short Term Capital Gain
Equity Oriented Scheme	10 % (over Rs. 1 Lac)	15%
Other than Equity Oriented Scheme	20 % with indexation (Listed) 10 % without indexation (Unlisted)	As per slab rate

For Equity oriented scheme: (LT – units held for more than 12 months, ST – units held for 12 months or less)

Other than equity schemes: (LT – units held for more than 36 months, ST – units held for 36 months or less)

Rate of tax on distributed income (payable by MF Scheme)	
Equity Oriented Scheme	10 % + 12 % Surcharge + 4 % cess = 11.648 %
Money market or Liquid schemes / debt schemes	25 % + 12 % Surcharge + 4 % cess = 29.12 %
Infrastructure Debt Fund	5 % + 12% Surcharge + 4 % cess = 5.824 %

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