

WHO CAN PURCHASE IMMOVABLE PROPERTY IN INDIA

A. Citizen of India

B. Under the general permission granted by RBI, the following categories can freely purchase immovable property in India:

(i) Non-Resident Indian (NRI)- that is a citizen of India residing outside India

(ii) Person of Indian Origin (PIO)- that is an individual (not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan),

(a) Who at any time, held Indian passport or

(b) who or either of whose father or whose grandfather was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955).

IN CASE OF NRI/PIO/OCI

(i) **What type of property can an NRI/PIO/ OCI not buy in India:**

The general permission, however, covers only purchase of residential and commercial property and not for purchase of agricultural land/plantation property/farm house in India. OCI can purchase immovable property in India except agricultural land/plantation property/farmhouse. However, they can inherit them.

(ii) **How to fund the property purchase?**

Overseas currency can be brought to India through legitimate banking channels to make such purchase, or if the NRI holds a non-resident external(NRE) or non-resident ordinary(NRO) rupee account in India, which holds the fund, then by issuing a cheque from that account can do. If the NRI has any deposits in his foreign currency non-resident(FCNR) account, that fund can also be used to make the purchase.

(iii) **Is there any Tax on buying immovable property /income from immovable property selling/renting?**

The mere acquisition of property does not attract income tax.

As per Indian Income Tax laws, just ownership of a property in India does not make you pay for any taxes, unless you have rental income coming from it. Upon selling the property, however, one is exposed to the short term or long term capital gains tax.

(iv) Home Loans

An authorised dealer or a housing finance institution in India approved by the National Housing Bank may provide housing loan to a non-resident Indian or a person of Indian origin residing outside India. for acquisition of a residential accommodation in India, subject to the following conditions, namely:

- (a)** the quantum of loans, margin money and the period of repayment shall be at par with those applicable to housing finance provided to a person residing in India.
- (b)** the loan amount shall not be credited to Non-resident External (NRE)/Foreign Currency Non-resident (FCNR)/Non-resident non-repatriable (NRNR) account of the borrower.
- (c)** the loan shall be fully secured by equitable mortgage by deposit of title deal of the property proposed to be acquired, and if necessary, also be lien on the borrower's other assets in India.
- (d)** the instalment of loan, interest and other charges, if any, shall be paid by the borrower by remittances from outside India through normal banking channels or out of funds in his Non-resident External (NRE)/Foreign Currency Non-resident (FCNR)/Non-resident Non-repatriable (NRNR)/Non-resident Ordinary (NRO)/non-resident Special Rupee (NRSR) account in India, or out of rental income derived from renting out the property acquired by utilization of the loan or by any relative of the borrower in India by crediting the borrower's loan account through the bank account of such relative (The word 'relative' means 'relative' as defined in section 6 of the Companies Act, 1956.)
- (e)** the rate of interest on the loan shall conform to the directives issued by the Reserve Bank of India or, as the case may be, the National Housing Bank.

Property can be purchased through a Power of Attorney?

If the NRI does not want/unable to travel to India for registering the property in his own name, then he can execute a power of attorney (POA) from abroad to a close relative residing in India to sign on his behalf, on the purchase contract and register the property in his absence. The POA has to be signed by the principal (who is giving the power) in presence of the consulate officer or notary abroad, and will have to be attested by them.

What is adjudication of POA?

The POA issued abroad will have to be sent to India and the POA-holder will have to sign and adjudicate it, within 3 months from the date of assigning the power, in India at the registrar's office. Only after this the POA will be considered 'given'.

Disclaimer:

These are the broad guidelines meant for ready reference with respect to acquisition and transfer of immovable property in India by NRI/PIO/OCI and in each case prospective buyer or seller of property in India must consult his/her own legal/finance/tax advisor and obtain suitable advice for their specific transaction. TVS EMERALD assumes no responsibility or legal liability for transactions entered into by placing reliance on these FAQs. These guidelines are subject to amendment by the regulatory authority.

For more information on this matter, please follow the link:

<https://www.rbi.org.in/scripts/FAQView.aspx?ld=33#F2>