

Acquiring property abroad?

Any person residing in India can purchase immovable property abroad with general or special permission from RBI

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htestates LEGAL REMEDIES

Investment in real estate abroad can offer profitable prospects for a person. In India, all transactions that involve foreign exchange are regulated by Foreign Exchange Management Act, 1999 (FEMA) and regulations made thereunder. Before making any investment decision in real estate overseas, one must understand the legalities involved.

Any person resident in India can purchase immovable property abroad with general or special permission of RBI. Such purchase is required to be made out of foreign exchange held in Resident Foreign Currency Account (RFC) maintained with an authorised bank, which was received as pension or any other superannuation or other monetary benefits from an employer outside India; realised on conversion of foreign currency, foreign security or any immovable property situated outside India and repatriated to India; received or acquired as gift or inheritance from a person referred to in Section 6(4) of FEMA; acquired or received before July 8, 1947 or any income arising or accruing thereon held outside India in pursuance of

general or special permission granted by RBI; or received as proceeds of life insurance policy claims, maturity or surrender values settled in foreign currency from an insurance company in India permitted to undertake life insurance business by the Insurance Regulatory and Development Authority

A person resident in India may also acquire immovable property abroad by way of gift or inheritance from a person resident in India who had:

- acquired, held or owned such property when he/she was resident outside India;
 - inherited property from a person resident outside India; or
 - acquired such property on or before July 8, 1947 and continued to be held by him with the permission of Reserve Bank of India (RBI)
- Additionally, such a person can inherit immovable property outside India from a person resident outside India.

A person resident in India can also acquire immovable property abroad under the Liberalised

KEEP IN MIND

- Immovable property abroad can be acquired by person resident in India by way of purchase, gift or inheritance
- Person resident in India permitted to remit upto US\$ 125,000 per year under the Liberalised Remittance Scheme for purchasing immovable property abroad
- Alternatively, person resident in India may purchase immovable property abroad out of foreign exchange held in a resident foreign currency account

Remittance Scheme (LRS) where in RBI has permitted resident individuals to make remittances abroad, within a specified threshold, for acquiring immovable property abroad without obtaining prior approval of RBI.

At present, there are no restrictions on the frequency of remittances under LRS in a given financial year. However, the total amount remitted during the financial year should not exceed the cumulative limit of US\$125,000 per person. When making remittances under LRS, one should also bear in mind the

list of countries specifically prohibited by RBI for the said purposes.

Individuals seeking to avail LRS are required to furnish an application cum declaration to RBI declaring that the funds belong to them and will not be used for unspecified purposes. They are mandatorily required to have a PAN number and are also required to maintain a bank account for a minimum period of one year prior to the remittance.

The author is senior partner at Zeus Law, a corporate commercial law firm. One of its areas of specialisations is real estate transactional and litigation work.

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