

How can NRIs invest in real estate?

According to the regulations of FEMA and RBI, an NRI is allowed to do the following investments in property:

- Any immovable property can be purchased by an NRI in India other than any agricultural land, farm house and plantation property.
- He can get any immovable property as mentioned above by gift from Indian resident, Indian citizen residing outside India or person of Indian origin.
- He can also obtain any property by the way of inheritance.
- He can transfer immovable property to any resident of India by sale.
- He can transfer any agricultural land, farm house or plantation land to any resident of India by gift.
- He can also transfer his residential or commercial property by means of gift to any person either residing in India or abroad or person of Indian origin.

Can you sell the flat without registration?

No. You cannot sell a property without proper registered document(s). A registered document is the authenticity and guarantee of the ownership over the property. Neither should one sell a property without proper registered documents and neither should one purchase a property wherein the seller does not have registered document of his/her ownership in the Property.

Do NRIs require permission from RBI to acquire property in India?

RBI has issued a notification granting a general permission to NRIs for purchase of certain immovable properties in India without obtaining any specific permission from RBI.

Is there any restriction on the number of property units that an NRI can acquire?

There is no restriction as to the number of residential or commercial property an NRI can acquire.

What to check before buying a property in India?

Few points of consideration are under:

Property name: The name of property should be clear from issues and the seller should have the required right to sell it, especially if it is inherited or any joint property.
No Dues Certificate: Always check that there will be no outstanding electricity/water bills or any other authority dues pending with the property. Take a no dues certificate from the seller at time of purchase.

Bank release letter: It is advisable to take the bank release letter from the concerned bank, if the property had been mortgaged as security in any type of loan.
Permits: The property of sale should have all approvals and permits from the civic authorities in terms of construction.

What are the sources to finance this purchase?

The payment for purchase of permitted property by an NRI can be made by way of remittance through banking channels from abroad or from money lying in their NRE/NRO or FCNR account. The money for purchase of the permitted properties has to come only through banking channels hence the payment cannot be tendered in the form of traveler's cheques or foreign currency. NRIs are even allowed to finance the purchase with home loan in Indian Rupees. The home loan can be granted by the Indian employer of the NRI employee for the purpose of financing of the property.

Can Housing Loan of NRI / PIOs be repaid by close relatives of the borrower in India?

Housing Loan in rupees availed of by NRIs/ PIOs from ADs / Housing Financial Institutions in India can be repaid by the close relatives in India of the borrower.

Who can be named as joint owner of the property?

The property to be purchased by an NRI can either be purchased in single name or jointly with any other NRI. It may be noted that that a resident Indian or a person who is otherwise not allowed to invest in the property in India cannot even be made a joint owner in such property though the second named person might not even be contributing any money towards the property.

What is the tax treatment for income generated from property selling or renting for NRI/PIO?

The mere acquisition of property does not attract income tax. However, any income accruing from the ownership of it, in the form of rent (if it is let out)/annual value of the house (if is not let out and it is not the only residential property owned by that person in India) and/or capital gains (short term or long term) arising on the sale of this house or part thereof is taxable in the hands of the owner.

Does NRI/PIO have to file return in India for their property rental income and Capital Gains Tax?

Rental income earned is taxable in India, and they will have to obtain a PAN and file return of income if they have rented this property. On sale of the property, the profit on sale shall be subject to 9 capital gains. If they have held the property for less than or equal to 3 years after taking actual possession then the gains would be short term capital gains, which are to be included in their total income as tax as per the normal slab rates shall be payable and if the property has been held for more than 3 years then the resultant gain would be long term capital gains subject to 20% tax plus applicable cess.

How is Rate of Capital Gains Tax computed?

Rate of tax deduction at source (TDS) Long term 20.6% Short term 30.9% Exemption available (only for long term capital gains) The long term capital gains arising on sale of a residential house can be invested in buying/ constructing another residential house, within the prescribed time. The exemption is restricted to the amount of capital gains or amount invested in new residential house, whichever is lower.

If the immovable property was acquired by way of gift by the NRI/PIO, can he repatriate abroad the funds from sale of such property?

The sale proceeds of immovable property acquired by way of gift should be credited to NRO account only. From the balance in the NRO account, NRI/PIO may remit up to USD one million, per financial year, subject to the satisfaction of Authorised Dealer and payment of applicable taxes.

Is the rental income from property repatriable and what are the RBI rules?

The rental income, being a current account transaction, is repatriable, subject to the appropriate deduction of tax and the certification thereof by a Chartered Accountant in practice.

Can residential / commercial property be mortgaged by NRI/ PIO?

NRI / PIO can mortgage a residential / commercial property to:

- An Authorised Dealer / the housing finance institution in India without the approval of Reserve Bank
- A bank abroad, with the prior approval of the Reserve Bank.