# Buying Property in Kerala as an NRI: Tax and Legal Aspects

Kerala, with its scenic beauty and deep-rooted ties to its diaspora, remains a preferred destination for Non-Resident Indians (NRIs) looking to invest in real estate. Whether it's a retirement home, ancestral land, or a rental investment, buying property in Kerala is a dream for many NRIs. However, before making a purchase, it is crucial to understand the legal and tax framework that governs such transactions.  
  
In this blog, we break down the key legal provisions, tax implications, and FEMA regulations every NRI must be aware of before buying property in Kerala.  
  
**Who is Considered an NRI?**  
As per Indian laws, an NRI is a citizen of India residing outside India for more than 182 days in a financial year. The term also includes Persons of Indian Origin (PIOs) and Overseas Citizens of India (OCIs) for real estate purposes.

**Types of Property an NRI Can Buy in Kerala**  
Under the Foreign Exchange Management Act (FEMA) regulations, an NRI is allowed to buy:  
- Residential properties (flats, villas, apartments, independent houses)  
- Commercial properties (offices, shops)  
  
***Prohibited****: NRIs are not allowed to purchase agricultural land, plantation property, or farmhouses, unless inherited or gifted.*  
**Legal Documentation Required**To purchase a property, NRIs must ensure the following:  
1. Valid Indian Passport and PAN Card  
2. Overseas Address Proof  
3. Power of Attorney (POA) – If the NRI cannot be physically present, a POA can be executed in favor of a relative or lawyer.  
4. Sale Deed – Must be registered in the local Sub-Registrar Office.  
5. Encumbrance Certificate – Ensures the property is free from legal dues.  
6. Approved Building Plan & Property Tax Receipts  
  
  
**Funding the Purchase – Mode of Payment**  
- Payment must be made in Indian Rupees (INR) through:  
 - NRE (Non-Resident External) Account  
 - NRO (Non-Resident Ordinary) Account  
 - FCNR (Foreign Currency Non-Resident) Account  
- Home loans can be availed from Indian banks but must be repaid using NRI accounts.  
*Cash transactions are not permitted. All payments must be traceable and bank-routed.*  
  
**Tax Implications**  
*1. At the Time of Purchase*  
- No tax is payable at the time of purchase of residential or commercial property by an NRI.  
- However, stamp duty and registration charges will apply (same as for residents).  
  
*2. Income from Property*  
- Rental income earned is taxable in India under “Income from House Property”.  
- TDS at 30% is applicable on rent payments to NRIs, which can be claimed as refund via ITR.  
  
*3. On Sale of Property*  
- Capital Gains Tax applies:  
 - Short-Term (if held ≤ 2 years): Taxed as per applicable slab rates.  
 - Long-Term (if held > 2 years): Taxed at 20% with indexation benefits.  
- Buyer must deduct TDS @20% on sale of long-term capital assets by an NRI.  
  
*Planning tip: Reinvestment under Section 54 or 54EC can help reduce capital gains tax.*  
  
**Repatriation of Sale Proceeds**  
- NRIs can repatriate up to two properties' sale proceeds abroad, subject to certain conditions.  
- The amount must be from the sale of property purchased using NRE/FCNR funds or home loan repayments made from NRE accounts.  
  
**Common Legal Issues Faced by NRIs**  
- Disputes over ancestral or inherited property.  
- Illegal possession or encroachment during the NRI’s absence.  
- Fake title documents or misrepresented ownership.  
  
*Recommendation: Always engage a local legal advisor or CA for property vetting and tax compliance.*  
**Conclusion**  
Buying property in Kerala as an NRI is a smart investment if handled with the right guidance. Understanding FEMA restrictions, tax rules, and legal formalities ensures a smooth and compliant transaction. Whether you’re investing for personal use or rental income, staying informed and well-advised is key to avoiding surprises.