

The Foreign Exchange Management (Remittance Of Assets) Regulations, 2000

UNION OF INDIA

India

The Foreign Exchange Management (Remittance Of Assets) Regulations, 2000

Rule

THE-FOREIGN-EXCHANGE-MANAGEMENT-REMITTANCE-OF-ASSETS of 2000

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The Foreign Exchange Management (Remittance Of Assets) Regulations, 2000Published vide G.S.R. 396(E), dated 3.5.2000, published in the Gazette of India, Extraordinary, Part II, Section 3(i), dated 5.5.2000.

11.

/578In exercise of the powers conferred by section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank makes the following regulations in respect of remittance outside India by a person whether resident in India or not, of assets in India, namely:--

1. Short title and commencement .-(i) These regulations may be called the Foreign Exchange Management (Remittance of Assets) Regulations, 2000.

(ii)They shall come into force on 1st day of June, 2000.

2. Definitions .-In these regulations, unless the context requires otherwise,--

(i)"Act" means the Foreign Exchange Management Act, 1999 (42 of 1999);(ii)"authorised dealer" means a person authorised as an authorised dealer under sub-section (1) of section 10 of the Act;(iii)["Non-resident Indian (NRI)" means a person resident outside India who is a citizen of India;](iv)[[Clauses (iii), (iv) and (v) renumbered as Clauses (iv), (v) and (vi) respectively by G.S.R. 576(E), dated 13.5.2002 (w.e.f. 19.8.2002).] "Person of Indian Origin (PIO)" means a citizen

of any country other than Bangladesh or Pakistan, if--(a)he at any time held Indian passport; or(b)he or either of his parents or any of his grand-parents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or(c)the person is a spouse of an Indian citizen or a person referred to in sub-clause (a) or (b);(v)[] [Clauses (iii), (iv) and (v) renumbered as Clauses (iv), (v) and (vi) respectively by G.S.R. 576(E), dated 13.5.2002 (w.e.f. 19.8.2002).] "remittance of asset" means remittance outside India of funds representing a deposit with a bank or a firm or a company, provident fund balance or superannuation benefits, amount of claim or maturity proceeds of Insurance policy, sale proceeds of shares, securities, immovable property or any other asset held in India in accordance with the provisions of the Act or rules or regulations made thereunder;(vi)[] [Clauses (iii), (iv) and (v) renumbered as Clauses (iv), (v) and (vi) respectively by G.S.R. 576(E), dated 13.5.2002 (w.e.f. 19.8.2002).] the words and expressions used but not defined in these regulations shall have the same meanings respectively assigned to them in the Act.

3. Prohibition on remittance outside India of assets held in India .-Save as otherwise provided in the Act or rules or regulations made or issued thereunder, no person whether resident in India or not, shall make remittance of any asset held in India by him or by any other person:

Provided that the Reserve Bank may, for sufficient reasons, permit any person to make remittance of any asset held in India by him or by any other person.

4. Permission for remittance of assets in certain cases .- [(1) A person specified in sub-regulations (2) and (3) may make remittance of assets through an authorised dealer, to the extent specified in those sub-regulations.]

(2)A citizen of foreign state, not being a citizen of Nepal or Bhutan or a Person of Indian Origin (PIO), who--(i)has retired from an employment in India; or(ii)has inherited the assets from a person referred to in sub-section (5) of section 6 of the Act; or(iii)is a widow resident outside India and has inherited assets of her deceased husband who was an Indian citizen resident in India, [may remit an amount, not exceeding US \$.1,000,000 (US Dollar one million only) per financial year subject to payment of applicable taxes in India, if any, on production of] [Substituted for the words "may remit an amount, not exceeding US \$.1,000,000 (US Dollar one million only) financial year, on production of," by Notification No. G.S.R. 803 (E) dated 31.10.2014 (w.e.f. 5.5.2000)]--(a)[documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter; [* * *] [Substituted by G.S.R. 630(E), dated 8.7.2003 (w.e.f. 4.8.2003).]][* * *] [Omitted word "(b) an undertaking by the remitter and certificate from a Chartered Accountant in the format prescribed by the Central Board of Direct Taxes, Ministry of Finance, Government of India in their Circular No. 10/2002, dated October 9, 2002:" by Notification No. G.S.R. 803 (E) dated 31.10.2014 (w.e.f. 5.5.2000)]Provided that for purpose of arriving at annual ceiling of remittance under the sub-regulation (2), the funds representing sale proceeds of shares and immovable property owned or held by the citizen of foreign state on repatriation basis in accordance with the Foreign Exchange

Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 and Foreign Exchange Management (Transfer of Indian Security by a Person Resident Outside India) Regulations, 2000 made under the Act, shall not be included: Provided further that where the remittance is made in more than one instalment, the remittance of all instalments shall be made through the same authorised dealer; (iv) had come to India for studies/training and has completed his studies/training, may remit the balance available in his account, provided such balance represents funds derived out of remittances received from abroad through normal banking channels or rupee proceeds of foreign exchange brought by such person and sold to an authorised dealer or out of stipend/scholarship received from the Government or any Organisation in India. (3) [A Non-resident Indian (NRI)/Person of Indian Origin (PIO), may remit an amount, not exceeding US \$ 10,00,000 (US dollar one million only) per [Substituted by G.S.R. 493(E), dated 29.6.2004 (w.e.f. 4.8.2004).] [financial] [Substituted by G.S.R. 400(E), dated 15.5.2007, for " calendar" (w.r.e.f. 16.11.2006).] [year,] [Substituted by G.S.R. 493(E), dated 29.6.2004 (w.e.f. 4.8.2004).] [subject to payment of applicable taxed in India, if any, -] [Inserted by Notification No. G.S.R. 803 (E) dated 31.10.2014 (w.e.f. 5.5.2000)] (i) [Out of the balances held in NRO accounts/sale proceeds of assets/the assets in India acquired by him by way of inheritance/legacy on production of-- [Substituted by G.S.R. 493(E), dated 29.6.2004 (w.e.f. 4.8.2004).] (a) documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter, [* * *] [* * *] [Deleted for the words "(b) an undertaking by the remitter and certificate from a Chartered Accountant in the format prescribed by the Central Board of Direct Taxes, Ministry of Finance, Government of India in their Circular No. 10/2002, dated October 9, 2002." by Notification No. G.S.R. 803 (E) dated 31.10.2014 (w.e.f. 5.5.2000)] (ii) [Under a deed of settlement made by either of his parents or a close relative (as defined in section 6 of the Companies Act, 1956) and the settlement taking effect on the death of the settler, on production of-- [Substituted by G.S.R. 493(E), dated 29.6.2004 (w.e.f. 4.8.2004).] (a) the original deed of settlement; [* * *] [* * *] [Omitted for the word "(b) an undertaking by the remitter and certificate from a Chartered Accountant in the format prescribed by the Central Board of Direct Taxes, Ministry of Finance, Government of India in their Circular No. 10/2002, dated October 9, 2002" by Notification No. G.S.R. 803 (E) dated 31.10.2014 (w.e.f. 5.5.2000)] [* * *] [Proviso omitted by G.S.R. 400(E), dated 15.5.2007 (w.r.e.f. 16.11.2006).] [Provided [Substituted by G.S.R. 493(E), dated 29.6.2004 (w.e.f. 4.8.2004).] [* * *] [The words " further" omitted by G.S.R. 400(E), dated 15.5.2007 (w.r.e.f. 16.11.2006).] [that where the remittance under clauses (i) and (ii) is made in more than one instalment, the remittance of all instalments shall be made through the same authorised dealer.] [Substituted by G.S.R. 493(E), dated 29.6.2004 (w.e.f. 4.8.2004).] (4) [An authorised dealer in India may, without approval from Reserve Bank, effect remittance of assets made by a person eligible under sub-regulation (2) or sub-regulation (3) as the case may be and also allow remittance out of the assets of Indian companies under liquidation under the provisions of the Companies Act, 1956 (1 of 1956), subject to the following conditions:-(i) authorised dealer shall ensure that the remittance is in compliance with the order issued by a Court in India/order issued by the official liquidator or the liquidator in the case of voluntary winding up; and (ii) no remittance shall be allowed unless the applicant submits: -[* * *] (b) Auditor's certificate confirming that all liabilities in India have been either fully paid or adequately provided for. (c) Auditor's certificate to the effect that the winding up is in accordance with the provisions of the Companies Act, 1956 (1 of 1956). (d) In case of winding up otherwise than by a Court, an auditor's certificate to the effect that there is no legal proceedings pending in any Court in India against the applicant or the company under

liquidation and there is no legal impediment in permitting the remittance.](iii)[payment of applicable taxed in India, if any.] [Inserted by Notification No. G.S.R. 803 (E) dated 31.10.2014 (w.e.f. 5.5.2000)]

5. Permission to an Indian entity to remit funds in certain cases .-An entry in India may remit the amount being its contribution towards the provident fund/superannuation/pension fund in respect of the expatriate staff in its employment who are resident in India but not permanently resident therein.

Explanation .-For the purpose of this regulation,--(a)"expatriate staff" means a person whose provident/superannuation/pension fund is maintained outside India by his principal employer outside India;(b)"not permanently resident" means a person resident in India for employment of a specified duration (irrespective of length thereof) or for a specific job or assignment, the duration of which does not exceed three years.

6. Reserve Bank's prior permission in certain cases .-(1) A person who desires to make a remittance of assets in the following cases, may apply to the Reserve Bank, namely:--

(i)[Remittance exceeding US \$ 10,00,000 (US Dollar one million only) per [Substituted by G.S.R. 90(E), dated 18.9.2007 (w.r.e.f. 31.5.2007).] [financial] [Substituted by G.S.R. 400(E), dated 15.5.2007, for " calendar" (w.r.e.f. 16.11.2006).][year-(a)on account of legacy, bequest or inheritance to a citizen of foreign State, permanently resident outside India; and(b)by a Non-Resident Indian (NRI)/Person of Indian Origin (PIO), out of the balances held in NRO accounts/sale proceeds of assets/the assets in India acquired by way of inheritance/ legacy;](ii)remittance to a person resident outside India on the ground that hardship will be caused to such a person if remittance from India is not made; [Substituted by G.S.R. 630(E), dated 8.7.2003 (w.e.f. 4.8.2003).](iii)[Authorised Dealer shall act as per regulation (7) as regards closure of Branch/Liaison Officer] [Substituted by G.S.R. 199(E), dated 19.1.2011 (w.e.f. 1.2.2011 @ It is clarified that no person will be adversely affected as a result of retrospective effect being given to these regulations).]

7. [Permission to remit winding up proceeds of branch office (Other than Project Office)

-(1)A branch or office established in India by a person resident outside India may, for making remittance of its winding up proceeds, apply to the Authorised Dealer concerned supported by the following documents, namely:(A)copy of the Reserve Bank's permission for establishing the branch/office in India;(B)Auditors certificate :-(i)indicating the manner in which the remittable amount has been arrived and supported by a statement of assets and liabilities of the applicant, and indicating the manner of disposal of assets;(ii)confirming that all liabilities in India including arrears of gratuity and other benefits to employees etc. of the branch/office have been either fully met or adequately provided for;(iii)confirming that no income accruing from sources outside India

(including proceeds of exports) has remained unrepatriated to India; and(iv)confirming that the branch/office has complied with all regulatory requirements stipulated by the Reserve Bank of India from time to time regarding functioning of such offices in India.[* * *](D)confirmation from the applicant that no legal proceedings in any Court in India are pending and there is no legal impediment to the remittance; and(E)a report from the Registrar of Companies regarding compliance with the provisions of the Companies Act, 1956, in case of winding up of the office in India.(2)[On consideration of the application made under sub-regulation (1), the authorized dealer concerned may permit the remittance subject to the directions issued by the Reserve Bank in this regard, from time to time and payment of applicable taxes in India, if any.] [Substituted for the word "(2) On consideration of the application made under sub-regulation (1), the authorised dealer concerned may permit the remittance subject to the directions issued by the Reserve Bank in this regard, from time to time" by Notification No. G.S.R. 803 (E) dated 31.10.2014 (w.e.f. 5.5.2000)]Leg[See regulation 6]APPLICATION FOR REMITTANCE OF LEGACIES, BEQUESTS OR INHERITANCES TO BENEFICIARIES RESIDENT OUTSIDE INDIAInstructions

1. The application should be completed and submitted through an authorised dealer through whom the remittance is sought to be made to the office of Reserve Bank under whose jurisdiction the applicant resides.

Documentation

2. Certified copy of the probate together with a copy of the Will annexed thereto, or letters of administration or succession certificate, as the case may be, in respect of the Indian assets of the deceased person.

3. Tax Clearance/No Objection Certificate from the Income-Tax authorities to show that no liabilities are outstanding in respect of the estate of the deceased person on account of Income-tax, Wealth-tax, Capital Gains tax, etc.

4. A statement of Indian assets of the deceased person, indicating the form in which they are held. The number and date of Reserve Bank's approval for holding or acquiring shares of Indian companies and immovable property should be indicated, wherever applicable.

5. A certificate from a Chartered Accountant showing how the remittable amount has been arrived at and that all liabilities of the estate in India have been met or adequately provided for.

1. Particulars of the deceased person:

1.

- | | |
|--|-------|
| (i) Name | (i) |
| (ii) Nationality | (ii) |
| (iii) Country of permanent residence at the time of death | (iii) |
| (iv) Date and place of demise | (iv) |
| (v) Whether the deceased was residing in India at any time during his life time; if so, state period | (v) |
| 2. Particulars of the beneficiary/ies : | 2. |
| (i) Name/s | (i) |
| (ii) Nationality/ies | (ii) |
| (iii) Country/ies of permanent residence | (iii) |
| 3. Whether the deceased person had made any investments in India, if so, details as under : | 3. |
| (i) Investments made on non-repatriation basis | (i) |
| (ii) Investments made with repatriation benefits | (ii) |
| 4. Amount of remittance applied for | 4. |
- I/We hereby declare that the particulars given above and the documents submitted herewith are true and correct to the best of my/our knowledge and belief. I/We also declare that I/We have not made any application to any other office of the Reserve Bank of India for the same purpose.....(Signature/s of Applicant)Place.....Date.....]