

LRS & OTHER REMITTANCE FACILITIES FOR RESIDENTS

CAPITAL ACCOUNT TRANSACTION SECTION 2E means a transaction which alters the assets/ liabilities, including contingent liabilities, outside India of persons resident in India or assets/ liabilities in India of persons resident outside India.

CURRENT ACCOUNT TRANSACTION SECTION 2J means a transaction other than capital account transaction and includes payments connected to trade, interest on loans and income on investments, expenses connected to travel, family maintenance, medical treatment, etc.

LIBERALIZED REMITTANCE SCHEME IMP SECTIONS

SECTION 4 RESIDENTS CANNOT ACQUIRE FOREX OUTSIDE: no person resident in India, shall acquire, hold, own, possess or transfer any foreign exchange or foreign security or any immovable property situated outside India, unless it was acquired while being a non-resident.

Under liberalization, resident individuals can invest abroad in property/ equity subject to adhering to the extant guidelines.



SECTION 6 – PERMITTED CAPITAL ACCOUNT TXNS Any person may sell or draw foreign exchange to or from an authorized person for a capital account transaction i.e., any class or classes of capital account transactions which are permissible and the limits up to which such transactions are permissible as per the extant regulations under the Act.

SECTION 10 (6): About utilization of FOREX availed from an AD for the purpose for which such foreign exchange has been availed. And if not used and surrendered that shall be deemed to have committed contravention of the provisions of the Act.

SECTION 11 RBI MAY GIVE DIRECTIONS TO APs: Directions with regard to making payments or desist from doing any act relating to forex or foreign security, with regard to furnish such information

with regard to failure to furnish such information or filing any returns impose penalty which may extend to Rs. 10,000 and in case of continuing contravention, with an additional penalty which may extend to Rs. 2,000 for every day.

SECTION 13 PENALTY FOR CONTRAVENTIONS Any person contravenes any of the provisions of the Act or contravention of any rule, regulation or notification, shall upon adjudication be **liable to pay penalty up to thrice the amount involved in such contravention where such amount is quantifiable** or up to Rs. 2,00,000 where the contravention is not quantifiable.



Where the contravention is a continuing one, further penalty may extend up to Rs. 5,000 for every day after the first day during the period of such contravention.

REMITTANCES UNDER LRS

SCHEDULE I – NON – PERMISSIBLE REMITTANCES (PROHIBITED REMITTANCES)

- a) Remittances for margins or margin calls to Overseas exchanges/ Overseas Counterparties.
- b) Payment of commission on exports made towards equity investments in JVs/ WOS (wholly owned subsidiary) abroad.
- c) Payment related to “Call Back Services” of telephones.
- d) Remittance towards banned/ proscribed magazines.
- e) Purchase of FCCBs issued by Indian companies abroad.
- f) Remittance of dividends by any company to which the requirement of dividend balancing is applicable.
- g) Remittance of interest income on funds held in Non Resident Special Rupee accounts.
- h) Remittance out of lottery winnings, remittance for purchase of lottery tickets.
- i) Remittance of income from racing, riding or any other hobby.
- j) Payment of commission on exports under Rupee State Credit Route.

SCHEDULE II – REMITTANCES PERMISSIBLE (PRIOR APPROVAL FROM GOVT DEPTT/ MINISTRIES)

- a) **REMITTANCES TOWARDS CULTURAL TOURS** – approval from Department of Education and Culture - Ministry of Human Resources Development.
- b) **ADVERTISEMENTS IN FOREIGN PRINT MEDIA BY STATE GOVERNMENTS/ PSU UNDERTAKINGS** – Ministry of Finance.
- c) **REMITTANCES TOWARDS FREIGHTS OF VESSELS CHARTERED BY PSUs** – Ministry of Surface Transport.
- d) **PAYMENT OF IMPORTS THROUGH OCEAN TRANSPORT ON CIF BASIS BY GOVT DEPTT/ PSUs** – Ministry of Surface Transport.
- e) Remittances of hiring charges of transponders by TV Channels, Internet Service Providers, etc. – Ministry of Information & Broadcasting, Ministry of Information Technology.
- f) Remittance of prize money, sponsorship of sports activities abroad by a person other than International/ National/State level sports bodies and where the amount involved exceeds USD100,000 - Department of Youth Affairs & Sports, Ministry of Human Resources Development.

SCHEDULE III - REMITTANCES FOR RESIDENT INDIVIDUALS – PERMISSIBLE UNDER THE DELEGATED POWERS OF Ads

- Private visits to any country (other than Nepal & Bhutan)
- **Gift or donation**
- Going abroad for **employment**
- **Emigration**



- Maintenance of close relatives abroad
- **Travel for business** by resident individuals - attending international conferences, specialized training, etc.
- **Accompanying as attendant to a patient** going abroad for medical treatment
- **Expenses in connection with medical treatment** abroad
- **Studies abroad**
- **Purchase of Objects of Art** subject to Foreign Trade Policy
- Others viz., remittances towards health insurance, etc.

GENERAL GUIDELINES

- **PAN is mandatory** under the scheme irrespective of the amount of remittance.
- Remit funds abroad for permissible current (Sch III remittances) or permissible capital account transactions or a combination of both.
- **AD Banks to frame appropriate guidelines for Customer Interface** to ensure ease of transactions within the ambit of the regulatory provisions.
- **Customer to designate a particular branch of the Bank** through which all remittances (under LRS) are to be made, especially, with regard to capital account transactions.
- Transactions **freely allowed up to an overall limit of USD 250,000 per FY** for any permissible current or capital account transactions or combination of both.



- **No restrictions on the frequency of remittances** in an FY. However, once a remittance of USD 250,000 is utilized in an FY, no further remittances allowed.

Even if the proceeds of investments have been brought back in to the country in respect of investments abroad.

- **If a sole proprietorship firm intends to remit the money under LRS by debiting its current account** then the eligibility of the proprietor in his individual capacity has to be reckoned.
- **International Credit Cards, International Debit Cards and ATM Cards can be used for current account transactions.**

Citizens of a foreign state (other than Pakistan) and resident in India on account of employment or deputation of specified duration or for a specific job or assignments, **the duration of which does not exceed 3 years**, is a resident but not permanently resident. Such individuals are eligible to make remittances under LRS subject to deduction of taxes, contributions to Provident Fund and other deductions.

- **Any amount in excess of the LRS limits** requires prior approval from RBI.
- **AD should carry out due diligence** on the opening and maintenance of the account for a new customer.
- AD should **obtain bank statement for the previous year** to satisfy itself about the source of funds or if the bank statement is not available, copy of the ITR to be obtained.
- **Source of funds** – examining the statement of account to ensure the previous credits in the accounts with transaction summary, STRs filed, if any, in respect of transactions in the account.

DOCUMENTATION

RBI does not prescribe the documents which should be verified by the AD while permitting remittances for various transactions, especially, current account transactions.

Documents which generally need to be obtained while handling requests for remittances towards LRS:

- a) **Form A2** vis-à-vis FEMA Declaration (Online submission allowed)
- b) Simplified documentation for individuals for amounts up to USD 25,000 (subject to the satisfaction of the AD Bank)
- c) **Declaration** of source of funds.
- d) **PAN**, irrespective of the amount.
- e) **Copy of confirmed ticket and VISA**, if the remittance is for travel abroad.
- f) Where the services of Tour Operators are being availed, the tour operator can collect the amount from the resident individual either in INR or in FC. in which case the tour operator can open a Special foreign currency account with a Bank in India.
- g) Tax Collected at Source (TCS) applicable in respect of release of exchange by the tour operators irrespective of the threshold limits.

REMITTANCES UNDER LRS (CURRENT ACCOUNT TXNS)

Private visits to any country (other than Nepal & Bhutan) Irrespective of the number of visits undertaken in a FY, cash towards release of exchange can be accepted up to Rs. 50,000/- beyond which transaction to be routed through the a/c.

Unutilized foreign exchange to be surrendered to the AD within 180 days from the date of return to India.



- a) Foreign exchange in full may be released in the form of FC Notes or up to the cash limit specified by the Haj Committee of India, to the **Haj Pilgrims**.
- b) Travelers proceeding to Islamic Republic of Iran, Russian Federation (including erstwhile CIS countries) – full exchange may be released in the form of FC Notes.
- c) Travelers proceeding to Iraq and Libya - USD 5000/-
- d) **All other countries - USD 3000/-**

GIFT TO A PERSON RESIDENT OUTSIDE INDIA

Companies Act, 2013 defines “relative” as one who is related to another if:

- a) they are **members of HUF**, Documentary evidence required
- b) they are **husband and wife**,
- c) father (including step father), mother (including step mother), son (including step son), daughter, daughter’s husband, brother (including step brother), sister (including step sister), etc.

- Certain relatives included under Companies Act 1956 are not included under the definition of relative for gifting. Step daughter, father’s father, father’s mother, mother’s father, mother’s mother., Son’s son, Son’s son’s wife, son’s daughter, son’s daughter’s husband, daughter’s son, daughter’s son’s wife, daughter’s daughter’s husband, brother’s wife, sister’s husband.
- A resident cannot gift to another resident, in foreign currency or foreign security, for the credit of the latter’s foreign currency account held abroad, under this scheme.

DONATION TO A PERSON/ ORG OUTSIDE INDIA

EMIGRATION – AS PRESCRIBED BY THE COUNTRY OF IMMIGRATION:

Foreign exchange beyond USD 250,000 may be released **if it is so required by the country of Emigration** for meeting any incidental expenses in the country of Immigration subject to suitable documentary evidence submitted by the individual to the satisfaction of the AD Bank.

GOING ABROAD FOR EMPLOYMENT

MAINTENANCE OF CLOSE RELATIVES ABROAD – RELATIVE AS DEFINED U/S 2(77) OF COMPANIES ACT 2013.

PURCHASE OF OBJECTS OF ART – subject to Foreign Trade Policy, Resident Individuals importing objects of art for personal purposes not connected with trade or commercial purpose.

BUSINESS TRIPS

- travel for business.* 1
- attending conferences.* 2
- specialized training.

If an employee is being deputed by an entity for any of the above and expenses are borne by the Company, these are outside the purview of the LRS and may be permitted without any limit.

EXPENSES IN CONNECTION WITH MEDICAL TREATMENT ABROAD –up to an amount of USD 2,50,000 or its equivalent per FY without insisting on any estimate from a hospital/ doctor.

ADs may release amount exceeding per FY limit under general permission based on the estimate from the doctor in India or hospital/ doctor abroad. an amount up to USD 250,000 per financial year is allowed to a person for **accompanying as attendant to a patient** going abroad for medical treatment/ check-up.

STUDIES ABROAD – AFTER HAVING OBTAINED ADMISSION IN THE OVERSEAS UNIVERSITY

- a) **Foreign exchange beyond USD 250,000 may be released if it is so required by the University** where the admission is secured, subject to suitable documentary evidence submitted by the individual.
- b) Foreign Bank guarantees towards educational purposes in favour of Overseas Universities/ entities are not permitted.

Students going abroad for studies are considered as NRIs (FEMA) and the existing resident account needs to be designated as NRO.

They can **remit up to USD 1Mn from their NRO accounts** per FY provided the credits in the NRO are legitimate dues, due in India, to the erstwhile resident.

TAX COLLECTED AT SOURCE (TCS)

The **Finance Act, 2020** has a new insertion in the Income Tax Act on Tax Collected at Source (TCS) at 5% on foreign remittance - LRS, with effect from 1st October 2020.

The threshold for TCS is Rs 7 lakhs for an entire FY and TCS is applicable only on the remittance amount that exceeds the annual cap of Rs 7 lakhs.

- In case of **non-availability of PAN/ Aadhar** – TCS is at 10%.
- TCS is also applicable for transactions **involving transfer from domestic rupee account to the NRO account under LRS.**
- Remittances under LRS, towards studies abroad **where the source of funds is educational loan**, 0.5% will be the TCS and applicable over the threshold limit of Rs. 7 lakhs.

Customer A – PAN CARD HOLDER

REMITTANCE AMT	DATE OF TXN	TCS
Rs 650000	4 th April 2021	No TCS
Rs 950000	5 th May 2021	TCS on (650000+950000-700000) = 900000 @5% = 45000
Rs 40000	10 th Dec 2021	5% TCS on 40000 = 2000

REMITTANCE AMT	DATE OF TXN	TCS
Rs 20,00,000	20 th April 2020	TCS on (2000000-700000 = 1300000 @5% = 65000)
Rs 400000	5 th May 2020	TCS on 400000 @5% = 20000

Remittances other than LRS such as remittances by non-individuals, remittances for payment of import of goods or services, etc. are not subject to TCS provisions.

LRS – CAPITAL ACCOUNT TRANSACTIONS

Remittances to International Financial Services Centres (IFSCs) With a view to deepen the financial markets in the IFSCs.



An opportunity is provided to the resident individuals to diversify their portfolio wherein **residents are permitted to make remittances under LRS to IFSCs**, set up in India under the Special Economic Zone guidelines, subject to the overall limit permissible.

FOLLOWING PROVISIONS TO BE ADHERED TO BY RESIDENTS:

- **only for making investments in IFSCs** in securities, other than those issued by entities/ companies resident (outside IFSC) in India.
- **Opening of a non-interest-bearing Foreign Currency account (FCA)** in IFSCs permitted for making the above permissible investments.
- **Any funds lying idle in the account for a period up to 15 days** from the date of credit into the account shall be immediately repatriated to domestic INR account of the investor in India.
- **No domestic transactions are permissible** to be settled with other residents through these FCAs held in IFSC.

CAPITAL ACCOUNT REMITTANCES UNDER LRS

Opening of foreign currency accounts abroad.

a) Purchase of Immovable Property abroad.

b) **Making Investments abroad** in the form of:

- *acquisition & holding of shares/debt instruments* both in Listed/ Unlisted Cos.
- **acquisition of qualification shares of an Overseas Co., for holding the post of Director,**

- **acquisition of shares of a foreign company towards professional services rendered or in lieu of Director's remuneration,**
 - units of Mutual Funds, Venture Capital Funds, Unrated debt securities, Promissory Notes, etc.,
 - setting up of JVs/WOS outside India where the JV/WOS is engaged in a bonafide business activity*.
- c) extending loans including loans in INR to NRIs who are close relatives.

A resident individual is prohibited from making direct investments in a JV/WOS which is engaged in the following:

- In real estate business,
- Banking business or business of financial service activities.

Following need to be complied for capital account transactions [LRS]

- a) The resident individual **to designate a Branch of an AD Bank** through which all the remittances relating to Capital account transactions are to be effected.
- b) The individual should have **maintained account with the Branch for a minimum period of one year** prior to the date of remittance and the dealings should be satisfactory.
- c) *Investment in Property by resident individuals up to the limit of USD 250,000 in a FY.*
- d) **No Credit facilities** to be extended
- e) **Remittances can be consolidated in respect of family members** subject to individual family members complying with the terms & conditions & all the family members are co-owners, co-partners of the Overseas Property, ie., Joint ownership.

OVERSEAS DIRECT INVESTMENTS (ODI) REMITTANCES – LRS

A resident individual (either singly or in association with another resident individual/ Indian party), may make Overseas Direct Investments **in equity shares and compulsorily convertible preference shares** of a JV/ WOS outside India.

DIRECT INVESTMENT OUTSIDE INDIA MEANS

- a) Investments by way of **contribution to the capital**
- b) **Subscription to MOA** of the foreign entity
- c) **Purchase of existing shares of a foreign entity** either by market purchase or private placement or through stock exchange.

A resident individual is prohibited from making direct investments in a JV/ WOS which is engaged

- In real estate business,
- Banking business or business of financial service activities.

Investments can be either in listed companies or unlisted companies or a combination of both subject to a maximum overall limit for all purposes put together at USD 250,000/FY.

INVESTMENTS IN THE EXISTING JV/ WOS, VALUATION SHALL BE AS FOLLOWS:

- a) **Where investments are more than USD 5 Mn** (or equivalent in other currencies), valuation by Category I Merchant Banker registered with SEBI or an Investment Banker/ Merchant Banker outside India registered with appropriate regulatory authority in the host country.

b) **Where investments is less than USD 5 Mn** (or equivalent in other currencies), a Certificate by a C.A. or a C.P.A.

- **Repatriate all dues** viz., Dividends, Royalties, Technical fees, etc., within 60 days of such amounts falling due.
- **Disinvestments shall be allowed only after one year** from the date of making the first investment.
- **No write-off allowed in respect of disinvestments** by resident individuals.
- A resident individual is **prohibited in making Direct Investments in FATF Non-compliant countries**.
- **The JV/ WOS should be engaged in bonafide business activity.**

The **permissible ceiling shall be within the overall limit under LRS** and the investments made out of balances in the EEFC/RFC accounts shall be restricted to the LRS limit.

Resident individuals should not be on the RBI Caution list or list of defaulters to the banking system or under Investigation by any Investigation or Enforcement Agency or regulatory body concerned.

DOCUMENTATION FOR ODI

- **Form A2** vis-à-vis FEMA Declaration – Online submission allowed
- **Simplified documentation for individuals** for amounts up to **USD 25,000**, subject to the satisfaction of the AD Bank*
- Declaration of source of funds
- **PAN**
- Form ODI (in respect of investment in WOS/JV abroad)



- **Part I of Form ODI to be submitted within 30 days** of making the first remittance.

Designated AD Bank to report to RBI in Form ODI (Part I & II) within 30 days from the date of making the remittance by the resident individual.

- **Resident individual should submit share certificates/ any other document as evidence**, within 6 months from the date of making the remittance.
- **Post investment changes/ alterations in share holding pattern to be reported** to the Designated AD within 30 days from date of such changes.
- Submit the Annual Performance Reports - APRs every year, before 31st December.
- **Disinvestments allowed after one year** from the date of remittance. And shall be repatriated to India immediately
- **In any case not later than 60 days from date of disinvestment & same** is to be reported to the designated AD within 30 days from the date of receipt of disinvestment proceeds.

LOANS BY RESIDENT INDIVIDUALS TO NRI CLOSE RELATIVES

- Loan is free of interest.
- Minimum maturity of loan is one year.
- For borrower's personal requirements or for business purposes.

Loan shall not be utilized for:

- a) business of chit funds/Nidhi funds.
- b) agricultural, plantation or real estate activities, construction of farm houses, trading in TDRs, etc.

- **Proceeds may be credited to the NRO account of the NRI/ PIO.**
- The loan amount **shall not be remitted outside India.**
- **Repayment shall be from inward remittances or transfer** from NRO/ NRE/ FCNR accounts.

REPORTING REQUIREMENTS UNDER LRS

Earlier reporting of LRS by the AD Banks was based on the declarations made by the resident individuals and no independent reliable sources for verification were available.

From April 2018, a daily reporting system by AD Banks of transactions undertaken by the resident individuals has been put in place by RBI.

- a) ADs are required **to upload daily transaction-wise information** undertaken by them under the LRS.
- b) The **reporting of daily transactions are to be reported on the XBRL platform** by close of business of the next working day.*
- c) **NIL report to be uploaded** if there are no transactions on a particular business day.
- d) The data on such daily reporting is made available to all the AD Banks.



**LEARNING
SESSIONS**

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