



## NRI Investment Guide for Real Estate in India

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**SEAFARERS WELFARE HOUSING ASSOCIATION**



## NRI Investment Guide for Real Estate in India

SWHA provides one-point-solution - a much needed platform for NRIs looking to buy a property in India. SWHA extends a whole range of essential services to all NRIs who are in need of them.

### *An NRI is looking for in terms of service and quality, including:*

- Assistance for accurate information;
- Help to make a decision; and
- To finalize a right property choice.

As an NRI, one can breathe a sigh of relief knowing that someone responsible is handling everything just the way he would.

For the added benefits, SWHA brings the viable projects at-the-right-time and location.

**One of the most important considerations for an NRI investing in Indian Real Estate is to understand the relevant financial landscape.**

### **SWHA offers the following services for those SWHA Privilege Members who are NRIs and would like to invest in property in India.**

**A. Top notch property options:** Now avail a personalized touch to your need in Real Estate and choose from the best and safe property investment in India.

**B. Personalized service:** When investing money, it is always a difficult call to take especially if you are unaware of the developments and updated scenario of the real estate market. Considering this we have Property Experts who will handhold you in the process to buy the properties. Discuss with them about your property requirements based on your budgets, need and suitable location.

**C. Safe online transactions and guidance:** All the transactions are carried out securely with valid information. You are always a Final decider in the transaction.



**D. Exclusive promotional offers for NRIs:** Stay privileged with exclusive offers to NRIs. **Register Now** to know more.

**E. Hassle free and minimum documentation:** Not only project explanation but our Property Experts will ensure that booking, documentation and assistance till possession of your property will be hassle free. **Click to register as a privilege Member.**

### **CHECKLIST FOR NRI BUYERS BEFORE BUYING A HOME IN INDIA**

There are plenty queries and ambiguity around a purchase, executing Power of attorney (POA), home loans and tax matters related to an investment in property in India for NRIs. If you are an NRI looking to invest in a property in India, here are few things you need to keep in mind before you start looking out for properties:

#### **REGULATORY ACT**

If you have an Indian passport, you do not require any prior permission to make a property investment in India. The Reserve Bank of India has made the rules very simple to attract more foreign investment. Real estate transactions are governed by the rules under the **Foreign Exchange Management Act (FEMA)**.

#### **Who are termed as NRIs?**

A Non Resident Indian (NRI) as per India's Foreign Exchange Management Act 1999 (FEMA), is an Indian citizen holding an Indian passport or Foreign National of Indian Origin resident outside India for purposes of employment, carrying on business or vocation in circumstances as would indicate an intention to stay outside India for an indefinite period. An individual will also be considered NRI if his stay in India is less than 182 days during the preceding financial year.

#### **Who are PIO and OCI? Can they buy a property in India?**

Other than an NRI who holds an Indian passport, any **Person of Indian Origin (PIO)** who is currently holding a passport of a different country, but was himself an Indian citizen earlier or whose ancestors have been Indians upto the fourth generation (great grandparents), is considered as a PIO.

The current country of residence can be any except Afghanistan, Bangladesh, Bhutan, China, Iran, Nepal, Pakistan & Sri Lanka. He will have a free passage to India without a visa.



**Overseas citizen of India (OCI)** on the other hand has a lot of misconceptions around it. People think that it is a dual-citizenship card. Please understand that there is no such thing, as India does not allow any citizen of other country to hold an Indian citizenship. An OCI has no voting rights in India and he cannot have a government job or hold any legislative position in India. Simply put, he is not an Indian citizen.

*In fact, the Government of India has announced vide Gazette Notification No.26011/01/2014-F.I dated 09.01.2015, that all PIO cards issued till 09.01.2015 are deemed to be OCI card. The scheme has been withdrawn now. Henceforth, applicants may apply for OCI card only, as PIO card scheme is no longer in existence. Transfer of PIO Card to OCI card is optional. One can apply for OCI card in lieu of valid PIO card free of any charges. Any NRI, PIO and OCI can buy residential or commercial properties in India.*

A spouse (not being a citizen of Pakistan or Bangladesh) of an Indian citizen or of a Person of Indian Origin is also treated as a Person of Indian Origin for the purpose of NRI deposits if the accounts are held jointly with the NRI/PIO spouse. PIOs are extended the same facilities for bank account maintenance in India as NRIs and are also, for such purposes, called by the generic name as NRIs.

### **What type of property an NRI is not eligible to buy in India?**

They cannot buy an agricultural or farmland or plantation property. However, they can inherit them.

### **Does it require RBI permission?**

No permission from RBI is required. They should hold valid passport with PIO/OCI Card (wherever applicable), Address Proof, PAN (Permanent Account Number) in India and photograph to buy a residential or commercial property in India.

### **How to fund the property purchase?**

Overseas currency can be brought to India through legitimate banking channels to make such purchase, or if the NRI holds a **Non-Resident External (NRE)** or **Non-Resident Ordinary (NRO)** Rupee Account in India, which holds the fund, then by issuing a cheque from that account can do.

If the NRI has any deposits in his **Foreign Currency Non-Resident (FCNR) Account**, that fund can also be used to make the purchase.



### **Is a power of attorney required to purchase property in India?**

If the NRI does not want to travel to India for registering the property in his own name, then he can execute a Power of Attorney (POA) from abroad to a close relative residing in India to sign on his behalf, on the purchase contract and register the property in his absence. The POA has to be signed by the principal (who is giving the power) in presence of the consulate officer or notary abroad, and will have to be attested by them.

### **What is adjudication of POA?**

The POA issued abroad will have to be sent to India and the POA-holder will have to sign and adjudicate it, within 3 months from the date of assigning the power, in India at the registrar's office. Only after this the POA will be considered 'given'.

### **How to repatriate the funds?**

Repatriation of funds is the transfer of the sale proceeds of the property from India to abroad. It gets transferred from Indian rupee to a foreign currency. As per Indian Income Tax laws, just ownership of a property in India does not make you pay for any taxes, unless you have rental income coming from it. Upon selling the property, however, one is exposed to the Short-term or Long-term Capital Gains Tax.

**Short Term Capital Gain (STCG) tax** is when the property is sold for a profit within 3 years of purchasing it. The profit then is taxable under the income tax slab in which the seller falls in. For example, if you bought a property worth Rs 60 lakh in 2012 and sold it in 2014 for Rs 80 lakh, then income tax on the profit of Rs 20 lakh will be levied on the tax slab you fall in India.

**Long term capital gains(LTCG) tax** is when you sell the property after 3 years of purchasing it. You get the benefit of indexation. Also the profit so arrived at after availing indexation is taxed at 20.6%. However, if you reinvest the profit, in Section 54EC bonds issued by REC or NHAI (within 6 months of the sale) or buy another property with it within next specific number of years, then the tax gets waived off.

### **Is income from rental income taxable in India as well as abroad?**

If there is a rental income in India, then tax papers need to be filed in India mentioning the PAN and tax to be paid. Also to note, that though holding one property in India is considered as 'self-owned', a second property, even if it is not on rent, is considered 'deemed rented' and tax needs to be paid for that. One can, however, show 30% of the



deemed rental as 'maintenance cost'. There is no tax to be paid abroad (say, USA) on 'deemed' income, but declaring it is important as during repatriation of funds from India, it should not cause any issue.

### **Is home loan available in India for NRI, PIO & OCI?**

Home loan is easily available for all three categories in India. Some multinational banks have special schemes and easy paperwork too. They do not seek a POA for extending home loan to NRIs. However, there are plenty country restrictions with different lenders. So, getting an advisor on your side will be an intelligent move.

### **What are the tax benefits in India on home loan?**

According to section 24 of the Income Tax Act, the interest on a home loan is deductible from the income gained from house property to the extent of Rs 2 lakh per annum for self occupied property. For other than self occupied property, you can claim actual interest paid. Moreover, up to Rs 1.5 lakh of the principal repayment can be deducted under section 80C (subject to an overall limit of Rs 1.5 lakh of that section including other investment options which allow grant under the same section).

### **Can a POA sell/rent an NRIs property in India?**

There are specific POA given to the person here in India, which if authorised to do such transactions on behalf of the owner, it can be done. Proper stamp charges to be paid at the registrar's office during execution of such POA, so that after many years also it can be traced in the record during such transactions. Happy investing in properties in India !

### **NRI Guide: Repatriation of funds post realty sale in India**

Selling a property in India and taking money out of India is a grey area for many NRIs. Here is how you can do it in a compliant manner:

**“An investment in knowledge pays the best interest.” - Benjamin Franklin**

Being in control of your money is a great stress reliever. For NRIs who invest in India in properties, with expectation of getting a good return, should understand the pros and cons of repatriating the money back to their country without any hassles. The planning should be done from the day of deciding to make the purchase and not during the sale of the asset. Following are a few important aspects an NRI buyer should know.



## **Repatriation of the Principal Amount invested while purchasing the property:**

**1. Funds brought into India through banking channels :** Funds held in any overseas account and brought in India via bank transfer to make payment for the purchase is one aspect of 'Principal Amount'. Another could be through funds already parked in his NRE (Non-Resident External) Account, which, via drawing to a cheque can be paid to the seller and will be considered in the principal amount. This principal invested can be repatriated back to his foreign country in the foreign currency without any restrictions and permission from RBI. This also does not have any upper cap on the amount. However, this is applicable for a maximum number of 2 residential properties plus an unlimited number of commercial properties in the lifetime of the NRI buyer.

**Restriction:** From the 3rd property onwards, even this principal portion has to be deposited in an **NRO (Non Resident Ordinary) Account** of the NRI, from which a maximum of USD 1 Million (approx Rs. 6.3 crores) can be repatriated per financial year to the overseas bank account.

**2. Property is purchased entirely with funds lying in NRO account in India:** The complete sale proceeds (both principal and profits) must first be deposited in an NRO account and then a maximum amount of USD 1 Mn can be repatriated out of that sum, per financial year.

**3.** It's a combination of 1 and 2, i.e., some funds lying in NRO account and fresh foreign currency remitted from abroad or from balances existing in NRE/FCNR accounts: then the respective rules explained above apply in proportion of funds invested. It means, the principal invested out of the NRO account can be repatriated only to the extent of USD 1 Mn per annum and the principal invested from external sources or NRE/FCNR funds can be repatriated completely without any limit at one go initially (but subject to same restriction on number of residential properties as explained earlier).

A qualified chartered accountant needs to certify the amounts initially invested in the property during purchase, which can be substantiated with the bank statement reflecting those transactions. The Short and Long term Capital Gains Tax matter also need to be understood from your chartered accountant and then only an NRI investor can decide a crucial thing - when to sell the property and save maximum.

Indian Income taxes applicable are also to be noted. Taxation in the foreign country on the amount invested in India also requires special notation. If the property is rented out in India or in some cases lying vacant, the applicable tax laws are different in India too. Hope this clears some doubts about the repatriation of funds post property-sales.



## List of documents required for NRI investment into real estate

- Latest work permit
- Bank statement for 4 months or NRE/NRO a/c 6 months' statement
- PIO/OCI Card
- Property agreement duly registered or other related docs
- Income Tax returns last three years
- Bank A/c statements for last 6 months for company and individual, both
- Passport/visa copy
- Power of Attorney (if applicable, in respective bank's format)
- Credit check report.

## Conclusion

We believe that the prices have bottomed out and this is the right time to invest in the market, to gain substantial property price appreciation. Various factors that make real estate an attractive investment avenue are rupee weakening, prevailing low property prices, a reviving market, NRI friendly regulations and taxes, and a wide range of property options.

All the above clearly defines why India is the ultimate destination for Non-Residentially Indians in a profit-promoting scheme of things?

**“It is the absence of facts that frightens people: the gap you open, into which they pour their fears, fantasies, desires.”**

- Hilary Mantel, (Author of prize-winning book Wolf Hall)

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