

## Master Direction 12/ 2015-16

### Acquisition and Transfer of Immovable Property under Foreign Exchange Management Act, 1999

#### **Modes of acquiring property outside India by a resident**

- ❖ According to section 6(4) of the FEMA A Resident can ...:
  - such property was acquired, held or owned by him/ her when he/ she was resident outside India
  - A resident can acquire immovable property outside India by way of gift or inheritance from
  - A resident can purchase immovable property outside India out of foreign exchange held in his/ her Resident Foreign Currency (RFC) account
  - A resident can acquire immovable property outside India jointly with a relative who is a person resident outside India, provided there is no outflow of funds from India.
  - Under LRS
- ❖ **Companies having overseas offices**
  - Can acquire office or residential properties : 15% of last two FY average turnover or 25% Net worth whichever is higher
  - Recurring exp 10% of last two FY average TO

#### **Part II - Acquisition and Transfer of Immovable Property in India**

- ❖ As per section 6(5) of FEMA, A person resident outside India , when he/ she was resident in India or inherited from a person resident in India.
- ❖ **Acquisition/ transfer by a Non- Resident Indian (NRI)**
  - An NRI can acquire by way of purchase any immovable property (other than agricultural land/ plantation property/ farm house) in India
  - An NRI may transfer any immovable property (other than agricultural land or plantation property or farm house) to an NRI or a PIO resident outside India. However he can transfer any immovable property to Resident in India.
  - Payment any mode inward/ NRE/NRO/FCNR(B)

❖ **Acquisition/ transfer by a Person of Indian Origin (PIO)**

- A PIO resident outside India can acquire by way of purchase any immovable property (other than agricultural land/ plantation property / farm house) in India.
- **Gift/ Inheritance of immovable property**  
A PIO resident outside India may acquire  
(a) any immovable property (other than agricultural land/ plantation property/ farm house) in India by **way of gift from a person resident in India or an NRI or a PIO resident outside India;**  
  
(b) any immovable property in **India by way of inheritance** from a person resident outside India who had acquired such property in accordance with the provisions of the foreign exchange law in force or FEMA regulations, at the time of acquisition of the property or from a person resident in India.
- **Transfer of immovable property**  
A PIO resident outside India can transfer  
(a) by way of **sale**, any immovable property in India (other than agricultural land/ farm house/ plantation property), to a person resident in India;  
  
(b) by way of **gift or sale**, agricultural land/ farm house/ plantation property in India, to a person resident in India who is a citizen of India;  
  
(c) by way of **gift**, residential or commercial property in India, to a person resident in India or to an NRI or to a PIO resident outside India.
- **Assets Remittance scheme \$1M . Up to 2 residential properties realization can be remitted.**