NRI PROPERTY GUIDE

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NRI investment in India

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NRI INVESTMENT IN INDIA

CHAPTER-1

1.01 Introduction:

Property prices at prime locations have appreciated significantly in India, extremely lucrative among overseas investors. Overseas Indian Facilitation Centre (OFIC), every other investment query is regarding buying residential property in India. With the approval of Real Estate (Regulation and Development) Bill, the sector should soon become more transparent and better protect consumer interest. NRIs and Persons of Indian Origin (POI) can acquire immovable property in India other than agricultural property, plantation or a farmhouse. The Reserve Bank of India (RBI) states NRIs and PIO purchasing immovable property in India, can pay for the acquisition by funds received in India through normal banking channels by way of inward remittance from outside the country.

1.02 NRI investment in Indian real estate

The most preferred destination for NRI's to invest in India and particularly in the real estate sector. Most of the developers acknowledges that there has been a sudden spurt in demand from NRIs of the Middle East and there have been good number of enquiries from NRIs residing in US, Australia, UK, Canada and Malaysia along with other countries.

- NRIs and PIOs may acquire any immovable property for residential/commercial purposes in India, other than agricultural/plantation/farm house, without the permission of Reserve Bank of India.
- No declaration is required to be made to the RBI. Only information regarding details of the property and costs incurred should be given to the RBI. This will help at the time of repatriation.
- No permission from the RBI is required to transfer any immovable property other than the agricultural land or plantation property or a farm house in India by way of sale to a person resident in India.
- The lock-in period of 3 years has been done away with.
- If property has been acquired through NRE account then repatriation is allowed only for 2 residential properties.
- NRI/PIO is permitted to transfer by way of mortgage his residential commercial property in India to an authorized dealer/housing finance institution in India.
- NRI/PIO can avail housing loan in rupees from an authorized dealer or housing finance institution in India approved by the National Housing Finance Bank for purchase of residential Sale proceeds of residential/commercial property received by way of gift by NRI/PIO can only be credited to NRO account.
- Sale proceeds of any immovable property in India inherited, by a person resident outside India (i.e. NRI or PIO or foreign national of non-Indian origin resident outside India), from a person resident outside India cannot be repatriated by him or his successor without prior permission of the RBI.
- NRI/PIO can rent out the residential/commercial property purchased out of foreign exchange/rupee funds.
- The purchase consideration should be met either out of inward remittances in foreign exchange through normal banking channels or out of funds from NRE/FCNR accounts maintained with banks in India.

- The non-resident Indians who are staying abroad may enter into an agreement through their relatives and/or by executing the Power of Attorney in their favour as it is not possible for them to be present for completing the formalities of purchase (negotiating with the builder or Developer, drafting and signing of agreements or taking possession). These formalities can be completed through some known person who can be given the Power of Attorney for this purpose.
- Residential property can be given on rent if not required for immediate residential use. Rental income cannot be remitted abroad and will have to be credited to the ordinary non-resident rupee account of the owner of the property.

- General permission is granted to NRIs and PIOs to repatriate the sale proceeds of property inherited from an Indian resident, subject to certain conditions. If those conditions are fulfilled, the NRI need not seek the RBI's permission. However, if the NRI has inherited the property from a person residing outside India, he or she must seek specific permission from the RBI.
- The conditions for repatriation of such funds are not really complicated - the amount per financial year (April-March) should not exceed USD 1 million, and should be done through authorized dealers. NRIs must provide documentary evidence with regard to their inheritance of the property, and a certificate from a chartered accountant in the specified format.
- The income tax implications in their country of residence. Many countries tax their residents on their income regardless of where it originates from, while others provide partial or total exemption on capital gains arising on sale of a residential house if certain conditions are met. The income tax liability in the country of residence on the amount of gain, and whether claiming exemption under Sections 54/54F/54EC is really worth it. The NRI may, in fact, be better off claiming only partial or no tax exemption on the capital gains in India.

- For all income tax purposes, the definition of NRI shall be the one as prescribed in the Income Tax Act. For all repatriation purposes, the definition of NRI would be one under FEMA.

- Non Resident Indians (NRIs) are allowed to invest in the following areas in the Housing and Real Estate Sector under the Automatic Route of FDI:

    i) Development of services plots and construction of built up residential premises.

    ii) Investment in real estate covering construction of residential and commercial premises including business centers and offices.

    iii) Development of townships.

    iv) City and regional level urban infrastructure facilities, including both roads and bridges.

    v) Investment in manufacture of building materials.

    vi) Investment in participatory ventures in (i) to (v) above.

    vii) Investment in housing finance institutions.

Most of the Indians living abroad certainly have some immovable property in India. It could be an ancestral land or house or a self acquired piece of land or a flat. An NRI would be keen to know his right to inheritance in the property owned by his grandparents or parents. There are cases where

- The land is simply transferred by way of natural succession depending on the applicable law i.e.
- The transfer of property is challenged by relatives in India. The relatives claim to be owners by way of some forged documents.
- The property has to be transferred on basis of the Will.
- There are forged Wills made by relatives in India.
- Non residents generally leave the properties with the closest relatives, friends to look after the property, receive rent from the tenants, make any renovations if needed, deal with the government authorities on their behalf. Some people rent out their property to a tenant.

The information/documents pertaining to the ancestral property and help you understand the status of your title to the property.

- Obtaining the documents including jamabandi / title proof/ documents pertaining to any mutations of the property from the revenue authorities.
- History of the owners of property.
- Map of the property.
- Photographs for the property. The sequence of the photographs is such that you feel that you have a virtual tour of your land. The photographs give an overview of the area, the road that leads to the land, the pictures of land from different positions etc.

1.03 Important Definitions

1.03.01 Non-Resident Indian (NRI)

Non Resident Indian (NRI) is a person of Indian origin but not residing in India.

Under the Income Tax Act to be assessed as a "resident", an individual should fulfill either of the two conditions:

- He should have been present in India in the previous year for at least 182 days. This period of 182 days need not be continuous.
- He should have been in India for at least 365 days in the preceding four years and he stayed in India for not less than 60 days in the previous year in consideration.

All those persons who are not 'residents' are called 'Non Residents'.

Under the Foreign Exchange Regulation Act of 1973, Non-Resident Indians are: Indian citizens who stay abroad for employment or carrying on business or vocation outside India or for any other purpose in circumstances indicating an indefinite period of stay abroad.

OR
Government servants who are posted abroad on duty with the Indian missions and similar other agencies set up abroad by the Government of India where the officials draw their salaries out of Government resources;
OR
Government servants deputed abroad on assignments with foreign Governments or regional/international agencies like the World Bank, International Monetary Fund (IMF), World Health Organization (WHO), Economic and Social Commission for Asia and the Pacific (ESCAP)

OR
Officials of the State Government and Public Sector Undertakings deputed abroad on temporary assignments or posted to their branches or offices abroad.

1.03.02 Person of Indian Origin (PIO)

A Person of Indian Origin (PIO) is a citizen of any other country but whose ancestors were Indian nationals at least four generations away.
Abbreviation for "Person of Indian Origin":
A. For the purpose of availing of banking facilities (opening and operating bank accounts and investments in shares / securities in India):
A foreign citizen (other than a citizen of Pakistan or Bangladesh) is deemed to be of Indian Origin, if,
i) he, at any time, held an Indian passport,
ii) he or either of his parents or any of his grandparents was a citizen of India by virtue of the Constitution of India or Citizenship Act, 1956 (57 of 1955)
A spouse (not being a citizen of Pakistan or Bangladesh) of an Indian Citizen or of a person of Indian Origin is also considered a person of Indian origin for the above purpose.
B. for Investment or Transfer of immovable properties:
A foreign citizen (other than a citizen of Pakistan, Bangladesh, Afghanistan, Bhutan, Sri Lanka, China, Iran or Nepal), is deemed to be of Indian origin if,
i) he held an Indian passport at any time, OR
ii) 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)
The person is a spouse of an Indian citizen or a person referred to in sub-clause (a) or (b).
PIO Card
PIO card is issued to a „Person of Indian Origin", by the „Indian mission" (Embassy of India / High Commission of India / Indian Consulate) in a foreign country. It extends to the cardholder certain facilities, as prescribed by the Ministry of External Affairs, and is valid for a period of 15 years

1.03.03 Overseas Corporate Body (OCB)

- Companies, partnership firms, societies and other corporate bodies
- Owned, directly or indirectly,
- To the extent of at least 60% by individuals of Indian nationality or origin resident outside India as also overseas trusts in which at least 60% of the beneficial interest is irrevocably held by such persons.

  The various facilities granted to NRIs are also available, with certain exceptions, to OCBs so long as the ownership/beneficial interest held in them by persons of Indian nationality/origin resident outside India continues to be at or above the level of 60%

- An Overseas Citizen of India is:

  (a) Any person of full age and capacity:

    i) Who is a citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the constitution, or

- ii) Who is a citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the constitution, or
- iii) Who is a citizen of another country, but belongs to a territory that became part of India after the 15th Day of August, 1947.
- iv) Who is a child of such a citizen, or

(b) A person, who is minor child of a person mentioned in clause (a)

- Provided that no person, who is or had been a citizen of Pakistan, Bangladesh shall be eligible for registration as an Overseas Citizen of India.

Non-Resident under Income Tax Act, 1961

- Liability to pay tax in India does not depend on the nationality or domicile of the Tax payer but on his residential status. Residential Status is determined on the basis of physical presence i.e. the number of days of stay in India in any year.

1.03.04 Resident:

- A. An individual is resident if any of the following conditions are satisfied:
  - he stayed in India for 182 days or more during the previous year, or
  - he stayed in India for 365 days or more during the four preceding years and stays in India for at least 60 days 9 182 days in case of an Indian citizen or a person of Indian Origin coming on a visit to India or 182 days in case of an Indian citizen going abroad for an employment) during the previous year.
  - Stay in India for the above criteria may be continuous or intermittent.
- B. Hindu Undivided Family (HUF) or firm or other Association of persons is resident of India except in cases where the control and management of its affairs is wholly situated outside India in the previous year
- C. A company is resident in India if:
  - It is an Indian company, or
  - during the previous year, the control and management is situated wholly in India.
- An NRI has to pay stamp duty as well as registration fees at the time of purchase of a property. He / she is entitled to avail all / any benefits at par with Indian residents on the interest paid for the home loan.
- Proceeds from sale of property come under the head of income from property, therefore, standard deduction is applicable as per the standard slab. In this case, the NRI will have to pay the applicable tax if he is residing in the country where worldwide income is taxable unless the country has Double Tax Avoidance Agreement with India.
- The special advantage for an NRI is the amount which is paid for the interest of home loan is deductible from NRI's taxable income without any upper limit. The NRI is legally responsible for the payment of capital gains tax as prescribed under the Income Tax Act, in case he sells off the property.

1.03.05 "FERA"

Foreign Exchange Regulation Act (FERA) An act to regulate certain payments dealing in foreign exchange, securities, the import & export of currency and acquisition of immovable property by foreigners. Under Section 31 (1) of the Foreign Exchange Regulation Act (FERA) of 1973, It is mandatory for foreign corporations, which are not incorporated in India to obtain permission from the Reserve Bank Of India (RBI) to acquire, hold, transfer or dispose off in any manner (expect by way of lease for a period not exceeding five years) any immovable property in India.

1.03.06 Foreign Exchange Management Act (FEMA)

Ans. Residential status and nature of transaction i.e. capital account transaction (e.g. purchase/ sale of shares, property) or current account transaction (e.g. remittance of income on shares, property) are the cornerstones of FEMA. Under FEMA, certain types of transactions do not require RBI permission while others either require prior approval of RBI/ Government or it is mandatory to inform RBI of the same.

1.04 Acquisition of property in India by an NRI:

- A person resident outside India who is a citizen of India may
- acquire any immovable property in India other than agricultural/plantation/farm house.

1.05 Transfer of property in India by an NRI:

- A person resident outside India who is a citizen of India may -
- Transfer any immovable property in India to a person resident in India.
- Transfer any immovable property other than agricultural or plantation property or farmhouse to a person resident outside India who is a citizen of India or to a person of Indian origin resident outside India.

1.06 Acquisition of property in India by a person of Indian origin

- A person of Indian origin resident outside India may -
- Acquire any immovable property other than agricultural land/farm house/ plantation property in India by purchase, from out of
    - Funds received in India by way of inward remittance from any place outside India or
    - Funds held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank under the Act.
- Acquire any immovable property in India other than agricultural land / farm house /plantation property by way of gift from a person resident in India or from a person resident outside India who is a citizen of India or from a person of Indian origin resident outside India
- Acquire 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 at the time of acquisition by him or the provisions of these Regulations or from a person resident in India
- It is necessary for a PIO to purchase property through NRE or NRO accounts.

1.07 Transfer of property in India by a person of Indian origin

- A person of Indian origin resident outside India may -
- Transfer any immovable property in India other than agricultural land/farm house/plantation property, by way of sale to a person resident in India
- Transfer agricultural land/farm house/ plantation property in India, by way of gift or sale to a person resident in India who is a citizen of India
- Transfer residential or commercial property in India by way of gift to a person resident in India or to a person resident outside India who is a citizen of India or to a person of Indian Origin resident outside India.

- Transfer an immovable property being agricultural land or plantation property or farmhouse in India by way of a gift or sale to a person resident in India without any permission from the RBI provided that the purchaser is a resident as well as a citizen of India.

1.08 Acquisition of immovable property for carrying on a permitted activity:-

- A person resident outside India who has established in India in accordance with the Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000, a branch, office or other place of business for carrying on in India any activity, excluding a liaison office, may -
- Acquire any immovable property in India, which is necessary for or incidental to carrying on such activity; Provided that
    - all applicable laws, rules, regulations or directions for the time being in force are duly complied with; and
    - the person files with the Reserve Bank a declaration in the form IPI annexed to these regulations, not later than ninety days from the date of such acquisition
- Transfer by way of mortgage to an authorised dealer as a security for any borrowing, the immovable property acquired in pursuance of clause (a).

1.09 Repatriation of sale proceeds:-

- A person referred to in sub-section (5) of Section 6 of the Act, or his successor shall not, except with the prior permission of the Reserve Bank, repatriate outside India the sale proceeds of any immovable property referred to in that sub-section
- In the event of sale of immovable property other than agricultural land/farm house/plantation property in India by a person resident outside India who is a citizen of India (NRI) or a person of Indian origin (PIO), the authorised dealer may allow repatriation of the sale proceeds outside India, provided the following conditions are satisfied, namely
    - The immovable property was acquired by the seller in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these Regulations
    - The amount to be repatriated does not exceed
        - The amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels or out of funds held in Foreign Currency Non-Resident Account or
        - The foreign currency equivalent, as on the date of payment, of the amount paid where such payment was made from the funds held in Non-Resident External account for acquisition of the property.
- In the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.
- In the case of the sale of an immovable property, other than an agricultural land/farm house/ plantation property in India by an NRI or PIO, repatriation of the sale proceeds outside India (including credit to RFC, NRE or FCNR Accounts), is allowed.
- Sale proceeds of any immovable property inherited by NRI/PIO from a person resident in India may be remitted abroad but the amount not to exceed USD one million, per calendar year subject to production of documentary evidence in support of inheritance and Tax clearance certificate/no objection certificate from Income Tax authority to authorized dealer for remittances.
- The RBI has also now permitted authorized dealers to allow the facility of repatriation of funds by NRI/PIO in their Non-resident Ordinary Rupee (NRO) Account up to US $ 1,00,000 per year

representing the sale proceeds of the immovable property held by them for a period of not less than 10 years subject to payment of the applicable taxes.

- Prohibition on acquisition or transfer of immovable property in India by citizens of certain countries.
- No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan without prior permission of the Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding five years.

Residential property can be given on rent if not required for immediate residential use. Rental income cannot be remitted abroad and will have to be credited to the ordinary non-resident rupee account of the owner of the property

1.10 NRI Housing

A. Acquisition & Transfer of property by NRI, PIO & foreign Citizen

Acquisition and transfer of property by NRI/ PIO/ Foreign Citizen is governed under FEMA Regulation, 2000. General Permission has been given to NRIs/ POI for the acquisition and transfer of residential immovable property in India.

B. Mode of payment by NRI/ PIO

The payment/ consideration amount for purchasing the residential immovable property by NRI/ PIO can be made out of
a) Funds remitted to India through normal banking channel, or
b) Funds held in NRE/ FCNR (B)/ NRO account maintained in India.
No payment can be made either by traveler‟s cheque or by foreign currency notes. No payment can be made outside India.

C. Process for Registration of the property

At the time of registration of conveyance deed, following documents are required to be presented before Sub registrar:

Documents required in all cases i.e. Indian Citizens, NRI & PIO:

Photocopy of Residence Proof of each owner like Passport, Election Identity. Aadhar Card, Driving License, Ration Card and any identity card issued by Center Govt. / State Govt,

Photocopy of PAN Card of each owner/ Form No. 60 of Income Tax Rules*

Photocopy of Possession Certificate,

Two Passport size photographs of each owner.

Persons of Indian Origin Card (PIO card) issued by ministry of External Affairs, Government of India.

Overseas Citizenship of India Card (OCI Card) issued by Indian consulate of the country in which NRI/ PIO resides. PIO/ OCI status and card no. should be mentioned in the Conveyance Deed with the purchaser‟s details.

NRI/ PIO will produce and attach the detail of payment regarding residential unit with proof and mention the same in the receipt clause of Conveyance Deed. For the purpose of registration, NRIs and PIOs who are not holding any of the cards mentioned above are required to seek permission from District Collector.

- Original POA
- One photograph of the executor which shall be attested by the Attorney Holder
- An affidavit by the Attorney Holder that this POA is still in force and not cancelled and that the executor is still alive.
- ID proof of the Attorney Holder
- Details and ownership interest of executor in the property be confirmed from this PO

1.11 Relevant Statutory Regulations

Non Residential Indians or NRIs are one of the important investors who lend their support in country‟s development. As esteemed investors, they should have given privilege and proper guidance for their investment. A team of well experienced real estate professionals who understand the perception of NRIs and their unique approach towards investment, thus helping them out with a complete solution. Moreover, the professional consultants are well aware about RBI laws as well as other legal aspects that administer the rules and regulation for NRIs buying property in India.

Can an NRI sell property in India?

- Yes, an NRI can sell residential or commercial property in India. He can sell to:
  - A person resident in India (the definition of resident in this case will be as per FEMA)
  - An NRI
  - A Person of Indian Origin (PIO)
- However, an NRI can sell agricultural or plantation land or a farm house only to a person who is resident in India and a citizen.
- In which account must the sales proceeds be credited?
- There are two scenarios that may arise here:
  - Sale of property purchased as a resident Indian
  - The sale proceeds in such cases would have to be credited in the Non Resident Ordinary (NRO) Account.
  - Sale of property purchased as a non-resident Indian
- If the property was purchased out of rupee resources, that is, income earned in rupees, or the home loan is repaid by a relative who is a resident of India, the amount must be credited in the NRO account.
- In all other cases, there are limits to repatriation that are discussed in the next question.
- What are the rules for repatriation of sale proceeds of property sold in India?
- If the property was purchased while you were a resident of India, then the sale proceeds must be credited to the NRO account. You can repatriate up to USD 1 million per calendar year from your NRO Account (including all other capital transactions), provided you have paid all taxes due.
- Now, if the property was purchased while you were a non-resident, you can repatriate the proceeds outside India provided that you fulfill certain conditions:
  - You should have purchased the property in accordance with the foreign exchange laws prevalent at the time you bought the property
  - The amount to be repatriated will follow these limits:
    - a. If you purchased by remitting foreign exchange to India through normal banking channels, then the repatriation cannot exceed the amount that you remitted.
    - b. If you purchased using funds in the Foreign Currency Non Resident (FCNR) Account, then the repatriation cannot exceed the amount paid through this account.

- c. If you purchased using funds lying in your Non Resident External (NRE) Account, then the repatriation cannot exceed the foreign exchange equivalent, as on date of purchase, of the amount paid through NRE Account.
- d. If you purchased a property by taking a home loan, then repatriation cannot exceed the amount of loan repayment that has been done using foreign inward remittances or debit to NRE/FCNR Accounts.
- e. If you purchased the property using balance in your NRO account, then the sale proceeds must be credited to your NRO account and you can repatriate to the extent of USD 1 million (including all other capital account transactions).

- In all these cases, the balance sale proceeds can be credited to the NRO account and you will be able to repatriate up to USD 1 million per calendar year (including all other capital account transactions).
- In all cases, repatriation is restricted to sale of two residential properties.

1.12 What Types of Investments can a NRI get involved in real estate?

The RBI & FEMA have clearly laid down that a NRI can only make specific investments in the real estate sector such as :

- According to the regulations of FEMA and RBI, an NRI is permitted to make specific investment in real estate. A NRI is allowed to do the following investments in property:
  - Any immovable property can be purchased by an NRI in India other than any agricultural land, farm house and plantation property.
  - He can get any immovable property as mentioned above by gift from Indian resident, Indian citizen residing outside India or person of Indian origin.
  - Obtain any property by inheritance.
  - He can transfer immovable property to any resident of India by sale.
  - He can transfer any agricultural land, farm house or plantation land to any resident of India by gift.
  - He can also transfer his residential or commercial property by means of gift to any person either residing in India or abroad or person of Indian origin.
- **1.13 Ground realty checks**

First, determine the nature of the property. As per the guidelines from the Reserve Bank of India (RBI), an overseas Indian cannot buy agricultural land, plantations and farm land in the country.

Examine all the legal documents before buying the land. There have been cases of residential projects being built on agricultural land without securing approval from the government. In such cases, the investment will be deemed illegal, irrespective of who buys the land.

Therefore, ensure that you have seen the title deed, in original, and that it is solely in the name of the seller. If the seller is unable to produce the original and shares a photocopy, there is a possibility that a loan has been taken against the property. Initiate a thorough check to avoid the pitfall of the sale being challenged at a later stage.

Besides this, also ascertain that the property has secured all clearances required by law, such as environment and municipal clearances and the authority to transfer the undivided share of land to each apartment owner and the entire plot to the society upon completion of the project. Even for projects under construction, insist on these documents to ensure that your investment is safe.

It would be advisable to use the services of a lawyer in India to ratify the claims made and ensure that the builder has secured all the necessary approvals. This will ensure you've covered all legal aspects.

In case the property (irrespective of its nature) was acquired or inherited by you (the overseas Indian or NRI) when you were a resident of India, you can sell or build on the property without the approval of the Reserve Bank of India. However, if you wish to sell it, you must be a resident citizen of India.

1.14 How is the property purchase process in India?

A foreign national of non-Indian origin resident outside India cannot buy any immovable property in India. It is illegal for foreign nationals to own property in India unless they satisfy the residency requirement of 183 days in a financial year (a tourist visa lasts for 180 days). It is also illegal to buy property on a tourist visa.

Moreover property cannot be purchased jointly in the name of one eligible person with one non-eligible person. That means a non-resident Indian (NRI) or foreign national of Indian origin (PIO) cannot buy a property jointly with a foreigner

However, a foreign national resident in India does not require approval of RBI to purchase any immovable property in India. This is because once he is a resident in India, he gets the rights like any other resident. This freedom is however not available to citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal and Bhutan.

1.15 Purchase on satisfaction

Having identified a property after due diligence and negotiation, you will arrive at a price at which the sale is agreed. Subsequently, a sale agreement must be drawn on a Rs 50 stamp paper, which will mention the final amount, advance payment, time limit to pay the due amount and details of installments.

Once the sale deed is completed, you need to get it registered at the sub-registrar or Sub-District Magistrate. The overseas buyer's foreign address has to be mentioned in the sale agreement. He can appoint a representative in India (with a power of attorney) to act on his behalf. The power of attorney should be notarised with the Indian consulate in the buyer's country of residence.

The property can be registered in the name of the NRI and the holder of the power of attorney can sign on his behalf by producing a copy of the document to the appropriate authorities.

The payment of purchase price, if any, should be made from either funds received in India through normal banking channels or funds held in a nonresident bank account. You could pay through rupee denominated non-resident ordinary (NRO) or nonresident external (NRE) accounts and foreign currency non-resident (FCNR) accounts.

1.16 Repatriation of sale proceeds

In the event of sale of immovable property other than agricultural land/ farm house/ plantation property in India by the above 2 categories of persons repatriation of sale proceeds is possible subject to the following conditions:-

- Immovable property was acquired in accordance with the provisions of Foreign Exchange law/ Regulations in force at the time of acquisition.
- The property is held for at least 3 years from the date of its acquisition or from the date of payment of final installment of consideration whichever is later;
- Amount to be repatriated should not exceed (a) amount paid for acquisition of the property in foreign exchange remitted into India or out of Funds held in FCNR account OR (b) the foreign currency equivalent as on the date of payment of the amount paid from funds held in NRE account for acquisition of property.

- Repatriation of sale proceeds in case of residential properties is restricted to maximum 2 properties.

1.17 Buying process

Some of the factors to consider while purchasing a flat are: a. Locality i.e. transport, schools, hospitals, market, business district, entertainment centers, hotels, restaurants, pollution levels

a. Quoted area of the flat i.e. Carpet, Built Up Area and super Built Up Area
b. Car parking slots
c. Quality of construction
d. Reputation of the builder or seller
e. Sufficient water and electric supply, sewerage, power, telephone, internet & other utilities
f. Cost components: price, stamp duty, registration charges, transfer fees, monthly outgoings and society charges, costs of utilities
g. Potential for resale or renting out of the property
h. Any other distinguishing features or advantages of the property

1.18 Checklist for buying a residential property?

a. Market Trends about prevalent rates of property in the vicinity and last known transactions
b. Ask for photocopies of the all deeds of title related to the property to be purchased. Examine the deeds to establish the ownership of the property by seller, preferably through an advocate. Ascertain the survey number, village and registration district of the property, as these details are required for registration of the sale. Previous encumbrances and loans, if any on the property must be cleared before completion of purchase of the property. The title of the Vendor to the property must be clear and marketable.
c. Check for approved layout plan and approved building plan with number of floors
d. Clearance from Municipality, Electricity, Water, Pollution, Lift authorities
e. Check the building bye-laws in that area to verify any issue with setback, side setback, height, etc
f. Confirm transfer fees, stamp duty and registration charges to be paid on purchase of the property as well as outgoings to be paid for the property i.e. property tax, water and electricity charges, society charges, maintenance charges

1.19 NRI Property investment options

The RBI regulations are highly conducive for investing in India. There is no need to seek prior permission from the concerned authorities like RBI. The rules pertaining to *property transactions involving NRIs* fall under the Foreign Exchange Management Act or FEMA. A NRI or Person of Indian Origin can own residential and/or commercial properties in India and there are no restrictions on the number of properties that can be owned. However, a NRI/PIO cannot purchase any farm house, agricultural land and plantation property. The monetary transactions should take place in INR and through normal banking channels only through a NRI operated NRE/NRO account.

CHAPTER-2

Foreign Direct Investment: Investing in Real Estate in India

Indian real estate has huge potential demand in almost every sector especially commercial, residential, retail, industrial, hospitality, healthcare etc. The increase in purchasing power and exposure to organized retail formats has redefined the consumption pattern. As a result the country has experienced mushrooming of retail projects across the cities. The main growth thrust is coming due to favorable demographics, increasing purchasing power, existence of customer friendly banks & housing finance companies, professionalism in real estate and favorable reforms initiated by the government to attract global investors.

2.01 Foreign Direct Investment (FDI) in Real Estate Sectors in India

Foreign Direct Investment is encouraged and permitted, subject to certain conditions, in the following real estate sectors in India:

Hotel Development

Tourism

Hospitality

Township development

Developing Commercial Real Estate

Built-up infrastructure

Housing and construction projects

Building Resorts

Building Hospitals

Building Educational institutions

Building Recreational facilities

Infrastructure projects: regional and local level

Special Economic Zones (SEZ's)

Smart Cities & Smart Villages

2.02 Conditions for Foreign Investment in Real Estate Sector in India

Foreign Direct Investment in some of the aforesaid areas (not all) is subject some conditions, some of which are as follows:

Develop a minimum land area of 10 hectares for serviced housing plots, and a minimum built-up area of 50,000 sq m in case of construction projects. The policy does not clearly define „built-up", though FSI (Floor Space Index)/FAR (Floor Area Ratio) could be used as a basis for the same.

Fulfill the minimum capitalization norm of $10 million for a wholly-owned subsidiary and $5 million for JVs. The funds would have to be brought in within six months of commencement of business (which needs to be defined) of the subsidiary or JV.

Complete at least 50% of the integrated project within five years from the date of obtaining all clearances.

Do not sell undeveloped plots (with no infrastructural backup). Provide infrastructure and obtain the completion certificate from the concerned local body before disposal. This clause needs amendment because certificates are sometimes not issued for months on end, even years, an uncertainty which tends to raise project cost, often beyond viability.

Do not repatriate original investment before three years from completion of minimum capitalization. Early exits require prior approval of the Foreign Investment and Promotion Board.

Conform with all applicable local and state laws, and abide by all regulations and norms.

2.03 Forms in which business can be conducted by a foreign company in India?

A foreign company planning to set up business operations in India has the following options:

As an incorporated entity by incorporating a company under the Companies Act, 1956

through Joint ventures; or

Wholly owned subsidiaries

As an office of a foreign entity through

Liaison Office / Representative Office

Project Office

Branch Office

Such offices can undertake activities permitted under the Foreign Exchange Management (Establishment in India of Branch Office or other place of business) Regulations, 2000.

2.04 How does a foreign company invest in India? What are the regulations pertaining to issue of shares by Indian companies to foreign collaborators/investors?

The Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India issues a "Consolidated FDI Policy Circular " on an yearly basis on March 31 of each year (since 2010) elaborating the policy and the process in respect of FDI in India. The latest "Consolidated FDI Policy Circular" dated April 17, 2014 is available in the public domain and can be downloaded from the website of Ministry of Commerce and Industry, Department of Industrial Policy and Promotion governed by the provisions of the Foreign Exchange Management Act (FEMA), 1999. FEMA Regulations which prescribe amongst other things the mode of investments i.e. issue or acquisition of shares / convertible debentures and preference shares, manner of receipt of funds, pricing guidelines and reporting of the investments to the Reserve Bank. The Reserve Bank has issued Notification No. FEMA 20 /2000-RB dated May 3, 2000 which contains the Regulations in this regard. This Notification has been amended from time to time.

2.05 Eligibility for Investment in India

A person resident outside India or an entity incorporated outside India, can invest in India, subject to the FDI Policy of the Government of India.

Activities after investment is made under the Automatic Route or with Government approval

A two-stage reporting Housing and real estate business (except development of townships, construction of residential/commercial premises, roads or bridges to the extent specified in Notification No. FEMA 136/2005-RB dated July 19, 2005) procedure has been introduced for this purpose.

2.06 Are the investments and profits earned in India repatriable?

All foreign investments are freely repatriable except for the cases where NRIs choose to invest specifically under non-repatriable schemes. Dividends declared on foreign investments can be remitted freely through an Authorised Dealer.

2.07 Can a foreigner set up a partnership/proprietorship concern in India?

No. Only NRIs/PIOs are allowed to set up partnership/proprietorship concerns in India. Even for NRIs/PIOs investment is allowed only on non-repatriation basis.

2.08 Can I invest in Rights shares issued by an Indian company at a discount

There are no restrictions under FEMA for investment in Rights shares at a discount, provided the rights shares so issued are being offered at the same price to residents and non-residents.

2.09 What are the regulations for Foreign Venture Capital Investment?

A SEBI registered Foreign Venture Capital Investor with general permission from the Reserve Bank of India can invest in a Venture Capital Fund or an Indian Venture Capital Undertaking, in the manner and subject to the terms and conditions specified in Schedule 6 of RBI Notification No. FEMA 20/2000-RB dated May 3, 2000 as amended from time to time.

INVESTMENT OPTIONS IN REAL ESTATE

Residential properties - flats

Landed residential properties – houses with land

Commercial properties –shops /offices

Land – commercial/ industrial/ residential

Land – agricultural.

Real Estate Investment Trust (REIT)

Real estate funds

Real estate equity

REAL ESTATE INVESTMENT TRUST

The investor gets the upside of real estate without the large funds required with risk spread over and assured exit plan.

2.10 Indian Transfer of Property Act

The Transfer of Property Act governs the transfer of property by various means. Sales, mortgages (other than by way of deposit of title deeds) and exchanges of immovable property are required to be registered by virtue of the Transfer of Property Act. Therefore, all the above documents must be in writing and registered.

2.11 Indian Registration Act, 1908

Instruments which require mandatory registration include:
(a) Instruments of gift of immovable property;
(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, to or in immovable property;
(c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of instruments.
(d) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent

Sales, mortgages (other than by way of deposit of title deeds) and exchanges of immovable property are required to be registered by virtue of the Transfer of Property Act. Evidently, therefore, all the above documents have to be in writing.

2.12 Indian Urban Land (Ceiling And Regulation) Act, 1976

This legislation fixed a ceiling on the vacant urban land that a 'person' in urban agglomerations can acquire and hold. A person is defined to include an individual, a family, a firm, a company, or an association or body of individuals, whether incorporated or not. This ceiling limit ranges from 500-2,000 square meters. Excess vacant land is either to be surrendered to the Competent Authority appointed under the Act for a small compensation, or to be developed by its holder only for specified purposes. The Act provides for appropriate documents to show that the provisions of this Act are not attracted or should be produced to the Registering officer before registering instruments compulsorily registration under the Registration Act.

2.13 Stamp Duty

Stamp duty is required to be paid on all documents which are registered and the rate varies from state to state can be refer as general information from stamp duty chart.

2.14 Rent Control Acts

Rent legislation in India has been in existence for a very long time. Rent control by the government initially came as a temporary measure to protect the exploitation of tenants by landlords after the Second World War. However these rent control acts became almost a permanent feature. Rent legislation provides payment of fair rent to landlords and protection of tenants against eviction. Besides, it effectively allows the tenant to alienate rented property.

CHAPTER-3

3.01 NRI's property buying process

We always look forward to give our NRI fraternity a chance to experience security and comfort of their home but we have to communicate to them, the steps involved in buying a property in India. To begin with, we need to understand the definition of Non-Resident Indian.

3.02 Step By Step Guide For NRI/PIO To Buy A Home In India

By living abroad you have worked very hard, saved up all your money, and are now looking for a good investment opportunity in your home country. Whatever the reason might be, may be you are moving back to India to live with your family and friends, may be you are just looking for a good investment, India has got all potential and hence it stands in the forefront of the world"s economy. Under Section 29 of the Foreign Exchange Regulation Act 1973, RBI has granted General Permission to Non-resident Indians holding Foreign Passport (i.e. Foreign Citizens of Indian Origin) to acquire, hold, transfer or dispose off by way of sale or inheritance immovable properties situated in India provided:

- The property is for the Purchaser"s bona fide residential purpose.
- The purchase consideration is met either by remittance of funds from abroad through normal banking channels or out of NRE/FCNR Account or out of FCNR Special Deposit Account.

Foreign citizens of Indian origin are however required to declare the properties to RBI within a period of 90 days from the date of purchase in Form IPI 17. The following documents must be submitted along with the declaration.

- A certified copy of the purchase deed or a certificate from the Co-operative Housing Society or an Association of the apartment owners as evidence of transfer / registration of the property in the declarant"s name.
- Certificate from the declarant"s bankers in India evidencing receipt of inward remittance(s) in foreign exchange through normal banking channel or withdrawal of funds from the declarant"s NRE/FCNR account/ FCNR Special Deposit Account and payment of consideration for the property out of those funds.

Where a Foreign Citizen of Indian origin wishes to acquire a property, out of funds held in NRO Account then the permission from RBI will be required which can be applied for in Form IPI 1.

Where a Foreign Citizen of Indian origin wishes to acquire a property from the sale proceeds of another property, prior permission of RBI is essential and may be obtained by applying in Form IPI1.

Any number of properties can be acquired by non-resident Indians regardless of whether they are holding Indian passport provided they are required for bona fide residential purposes.

3.03 Choosing a Property

Before choosing to buy a property, get to know the purpose of the purchase. Are you buying a property in India to live with your family or you buying a property for your parents back home or is it just purely for investment purpose? Determine the purpose first as your decision will directly affect on where to choose and which developer to choose. Next determine your budget. When it comes to the price of the property there are many things to consider, it is not just the base sale price. Reputed builders come with extra charges including preferential location charge (PLC), external development charge (EDC), infrastructure development charge (IDC), parking charges, club membership fees, maintenance charges, etc. In addition to all this there are some charges which has to be considered before the possession of the property including stamp duty charges, registration charges, legal fees, brokerage fees (if applicable), yearly taxes and more.

Next is the crucial step where you will have to decide the city or region where you want your house to be. Check whether the region you have chosen has got a good infrastructure including connectivity to road, rail and air, good growth rate and employment opportunities and also on the quality of life the place will provide. In case if you want to go for future rentals or resale your house or above all the appreciation value the location of the house will play a major role.

When you choose the builder, do a complete research on the builder including the builders‟ reputation in the market, ease of transaction, on time delivery of the project, quality of construction and delivery of the promises made including amenities, security and other facilities. If you are going for a home loan then make sure the bank is approving loans for the particular builder. There are some builders who do homes with modern amenities so depending on your budget you can choose the builder.

3.04 Buying Process

The most advantageous fact in buying a property in India is you can buy a property in India without even leaving your country of residence. You are allowed to appoint power of attorney to someone in India and they can sign the papers at the time of property possession and registration. It is not necessary to submit your PIO/OCI card at the time of purchase; it is more than enough if you can just establish your NRI status. The card is mandatory only at the time of the sale and during repatriation of funds. NRIs can obtain up to two houses by way of gift from an Indian citizen or a person of Indian origin whether resident in India or not, provided gift tax has to be paid.

3.05 Repatriation of Funds

Repatriation of funds from the rental income and eventual sale of the property is the final step involved in buying a property in India while being abroad. At present NRIs are allowed to repatriate up to $1million per person each year. In case if you don‟t have a PIO/ICO card, you can apply through Indian embassy and it can be obtained in 7 days. Capital gain taxes are applicable at the time of sale, and are considered long-term after 36 months of ownership, ending up in a significant tax break. It is to be noted that if the tax is paid to India then the income is not subject to tax in the residence country with proof of payment. Rental income must be credited to an NRO account, maintained by an Indian Bank.

Liability to pay tax in India does not depend on the nationality or domicile of the Tax payer but on his residential status. Residential Status is determined on the basis of physical presence i.e. the number of days of stay in India in any year.

3.06 Mode of payment by NRI/ PIO

The payment/ consideration amount for purchasing the residential immovable property by NRI/ PIO can be made out of

a) Funds remitted to India through normal banking channel, or

b) Funds held in NRE/ FCNR (B)/ NRO account maintained in India.

No payment can be made either by traveler‟s cheque or by foreign currency notes. No payment can be made outside India

Prohibition on acquisition or transfer of immovable property in India by citizens of certain countries.

No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan without prior permission of the Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding five years.

CHAPTER-4

CRITICAL FACTORS:

4.01 Buying Tips for purchasing a flat or vacant land in India

1. Builder‟s reputation should be checked out. What other projects has this builder built? Don‟t just look at glossy brochures and be satisfied.
2. See the documentation for the lands on which to flats are to be built.
3. Check that the plans provided by the builder have been approved by the local government authorities.
4. What happens if project is delayed? It is not uncommon for builders to raise prices later if market prices go up. So ask questions before giving deposit.
5. Get promises in writing as verbal promises are not worthless when there is a dispute.
6. Take steps to make the builder aware that you will be provided with a completion certificate that has been granted by the local authorities BEFORE possession.
7. Get clarification in writing on how builder will hand over after construction is completed. Such as cooperative society etc. This may not seem important to many purchasers when buying but can prove to be a costly affair later.

Following are some important things to know before buying a house to minimize your risk.

The first step towards buying a property suits your needs and fits your budget with best rates and best quality homes. However, it is important to select the property when buyer should keep in mind some of the important criteria:

4.02 Carpet Area, Built-Up Area and Super Built-Up Area

Carpet Area is the area enclosed within the walls, actual area to lay the carpet. Carpet Area is the total usable area enclosed within the four walls of an apartment or commercial space. It refers to the actual area over which a carpet can be laid if required by the owners. It does not include the thickness of the inner walls.

Built-Up Area is the carpet area plus the thickness of outer walls and the balcony.

Super Built - Up Area is the built up area in addition to the proportionate area of common areas such as the lobby, lifts shaft, stairs, etc. The plinth area along with a share of all common areas proportionately divided amongst all unit owners make up the Super Built-Up area. At times it may also include the common areas such, swimming pool, garden, clubhouse, etc. The term is therefore only applicable in the case of multi-dwelling units.

4.03 Clear Title
The land on which the property is being constructed is not under any legal dispute and the papers are "The Title Deed ".

The Title Card is an investigation into the title of the land, over a period of 30 years, states whether the property is unencumbered and has a clear and marketable title. The detailed report should be prepared for the seller by his lawyer and should be checked by the purchaser's lawyer. If the title were not clear and marketable, most of the major financial institutions would refuse to finance this property. Hence, you should approach a financial institution in order to check if they would provide a loan for that particular property. See the documentation for the lands on which the flats are to be built.

4.04 Government Approvals:
Make sure the builder has taken all the necessary approvals from the municipal and other bodies required for the construction of property. Any slack here will delay the possession.
- Ensure that urban land ceiling NOC (if applicable) has been obtained or not.
- Permissions from water and electricity authorities also have to be obtained.
- Permissions from lift authorities and other Government agencies as applicable.
- Environment & Pollution clearances.

4.05 Reputation & Track Record of Builder

Previous track record of the builder on the completion of projects on time. Most builders do not adhere to the schedules. Of course such a risk is not there when you are buying an already constructed property. Before purchasing a property one should look into the credibility of the builder. This essentially means checking on the developers past projects, their previous projects, quality of construction, rate of appreciation in value, current demand in the market and number of future projects being undertaken. It is also an added advantage if the developer is affiliated with a governing body like CREDAI. Before proceeding with your purchase, check out your potential home‟s builder. How many projects has he completed? Were there delays in completion?

4.06 About builders: There are series of questions a property buyer should ask a builder. The more you know or communicate to your builder, the happier you will be at the end of the project. Buyers should also research and verify a developer‟s reputation. To ensure that the builder is faithfully following what he has promised you, ask for a copy of the project‟s drawings duly stamped by the municipal authorities. The developer is allowed to make some changes in the original plan.

4.07 Inspect a property before buying

It is definitely important to inspect the property before purchase as probably it is one of the largest single investment made by most buyers. It is crucial to know all the details of the property and ascertain need for any major repairs / modifications before it is purchased. It is easy to crosscheck the commitment made by builder and actual implementation if a pre-purchase inspection has been carried out. A close inspection points out the positive and negative aspects of the property, as well as the maintenance that will be necessary to keep it in good shape.
Few important points to check while inspection are:

- Plumbing systems, drainage, water faucets and sanitary fittings.
- Electrical systems, circuit breakers, wires, capacity of the electric meter and functioning of light fittings.
- Roof, walls, ceilings, floors, paint work.
- Foundation, basement and visible structures.

- Doors and windows, latches, locks.
- Structural stability of the building.

- Have there been any neighbor disputes?

Buying a property is perhaps the single biggest investment made by a person during his lifetime. Thus, you need to exert due caution in buying a property, so it pays to do your research.

A building inspection covers the condition of the building and identifies any potential problems, including cracks and rising damp, structural movement or inadequate plumbing.

The first step towards buying a property starts from being able to identify the one that suits your needs and fits your budget, However, it is important to select the property depending on following criteria:

Parameter	Question to be asked
Location of the site	While choosing the location, you need to keep the following parameters in mind like proximity to the main roads, bus stops, railway lines, transportation services, civic amenities like educational institutions, park, police station, temples, community hall, hospitals, and auditorium within reach.
Affordability	Does the location fit your budget?
Place of work	How far is the office from the desired location?
Market place	Where is the nearest market?
School	Where is the nearest school?
Public transport	Are buses/trains easily available from the location?
Builder	Does the builder have a good reputation in the market?
Availability of water and electricity	Is there a steady supply of both?
Residential/ commercial	Commercial areas face traffic jams during working hours and level of noise is rather high
Hospital/ Medical services	Are they available easily?
Society expenses	Is the monthly outgo on the society and maintenance a strain on your budget?
Security	Are the security systems in place, like a professional guard or electronic systems?
Parking	If you own a vehicle, you will need space to park it

Type of ownership	In some areas, property is available only on a power of attorney or "pugree" basis. Getting funding for such properties is a problem.
Self constructed property(SCP)	SCP is a situation where you buy a plot of land and construct a house there. All banks may not fund such projects.
Under construction property at an early stage	Many banks may not prefer to fund such projects. But if the builder is well reputed then it should not be a problem.

In case of a ready / resale property, you need to bear the following additional points in mind while selecting a property

Parameter	Questions to be asked
Chain of title	It is important to have all the proper registered documents from the proposed seller that declares his ownership. These documents are important for you to garner a loan from the bank.
Maintenance	Check the internal as well as the external condition of the building
Water leakages	A flat with water leakages should be strict no as it adversely impacts the overall condition of the building.
Condition of the flat	Is the paint peeling off or concrete crumbling?
Neighbors	Grumpy neighbors can make life very unpleasant.
Society transfer charges	If they are too high then you need to factor that in your budget.

4.08 See what's available

Potential buyers should start their search online. Property websites that list nationwide properties for sale, will prove to be very useful. Information with regards to price, the suburb, photos and number of bedrooms and bathrooms, balcony will be available on these sites.

4.09 Choosing a mortgage

Although banks have recently eased their lending criteria and will consider maximum home loans, a deposit will increase your chances of your home loan being approved at a favorable rate.

4.10 Structural aspects of a house

The cracks in structural elements, settlements and all other structural defects should not appears in different weather conditions.

4.11 Property Under Construction
For a project under construction, you should ask for the allotment letter and development agreement. The allotment letter contains details regarding the agreed price, payment and construction schedule, house plans, delivery date and builder's liability in case of late completion or problems after possession. The development agreement is inked between the builder and the landowner and contains details regarding the terms and conditions on which the landowner has permitted development of his property.

When you are buying a property from a builder in a building under construction, you have to check the following:

- Approved plan of the building along with the number of floors. Ensure that the floor that you are buying is approved.
- Check if the land on which the builder is building is his or he has authority under an agreement with a landlord. If so, check the title of the land ownership with the help of an advocate.
- Check the building by-laws as applicable in that area and ensure that the builder is building without any violation of front setback, side setbacks, height, etc.
- Check specifications given in the agreement to sell of the sale brochure. Is he providing the same actually on the ground or not?

Check the reputation of the builder.

- Check with your bank or financial institution papers needs to complete loan process.
- Before finalizing, check with developer that they have these documents to support your loan application.
- Power of attorney that developer has if they are not the owner of the land.
- Carpet area of house you are buying, check parking lot allocation, club membership terms etc before you enter into agreement.
- Cost involved in sale deed, registry, VAT, sales tax and similar government duties and taxes and ensure that all together fits your budget.
- Developer is following FSI rules.
- Meet senior people in developer company if you have any queries and questions.
- Documents regarding title of property, title certificate from reputed solicitor/Advocate.

Ensure that the vendor has taken a no objection certificate for selling the property from the society and check that the flat is free from tenancy

Choosing a right property in a right location is like picking up a good stock. Buy when prices are low but has a potential to go up in the medium to long-term.

4.12 Property buying Tips:

So you‟re in the market for a home, but you‟re not sure where to begin. Following these simple tips for buying a house can make finding the right home much easier.

Budget: You need to know how much money you will have each month to meet your expenses. Remember that your first property will seldom be your final property, so search after your present property getting needs first, and let the long term take care of itself. You should guarantee that the property you are getting will satisfy your present needs and be within your budget. As a property buyer, understanding your family‟s present major needs will help you make the right decision. It is better to get pre-approved home loan, in order to ascertain exactly what you can afford before starting the hunt.

Location, location, location

It is often said that there are only three things to consider when buying property - location, location and location. Property should be an investment which will continue to grow in value in the years to come. Always research an area thoroughly and consider the following when purchasing property:

- Always look at the surrounding areas - what sort of infrastructure exists, how good or bad is the security of the area?
- Ensure that you are comfortable with the commute to work and the distance and time that you will spend on the road each day.
- Try to purchase property in a good school district. This advice applies even if you don't have school-age children. When it is time to sell, strong school districts are often a top priority for many home buyers, thus helping to boost property values.
- Always be on the lookout for facilities that can create unwanted noise or disturbances in the area.
- Location is another key factor to consider before making an investment. It is always prudent to buy in a high-growth area where there is potential for growth and subsequent capital gains. Keep things like connectivity to business areas, proximity to educational institutions, malls and hospitals in mind. It is also important to be aware of future planned developments in the area that could have a positive or detrimental effect on the future value of the property.
- At the same time, the location should be suited to your personal requirements and budget.
- A healthy mix of the two above considerations will guide you towards your ideal location

Take a good look at the location and the locality. It is better to try a place adjacent to the prime location of your city so that the price is not that high. Location will also have a large impact on the resale value of your home. Choose wisely and your home may be your best investment.

Rental rates in the area: If you are are planning about investing in a rental property, homes in high-rent or highly populated areas are ideal. Knowing the rental rate in the area helps you to choose the right property and location.

Good Resale Value: Resale sale Value is an important thing to consider before you plan to invest or buy a property. Property buyers never consider resale value when they buy. They make the mistake of focusing solely on a prime locality or the budget of the property. If you choose the wrong property or location, it is possible that your future sales price will always be less than the other homes around it.

Loan eligibility: Home loan eligibility depends upon the repayment capacity, income, existing loans or debts and age of the loan applicant. The lending company or banks provide online services such as Home loan eligibility calculator to calculate loan eligibility of the home loan borrower. The maximum loan that can be sanctioned varies with the banks and the eligibility criteria may vary according to the bank or RBI regulations. As home loan rates increase, the loan eligibility for a borrower becomes stiffer.

Stamp Duty & Registration Fee: This is an important expense or tax, much like the sales tax and income tax that are collected by the Government. When planning your budget for property buying and deciding to buy a property, you need to know the rate and charges applicable in your city. If you want to know the market value of your property and the stamp duty amount on it, you need to contact the Ready Reckoner to locate your valuation zone and sub-zone. Find out the stamp duty amount applicable to you as per the market value. The instruments that attract Stamp Duty on market value of the property are- Agreement to Sell, Conveyance Deed, Exchange of property, Gift Deed, Partition Deed, Power of Attorney, settlement and Deed, Transfer of lease.

Additional Costs: Even if this isn‟t your first home buying experience, you required to get help from a team of professionals. Fees or service charge by real estate agents, lenders or mortgage brokers, home inspector, land surveyor, lawyer or notary etc should be considered. Find out how much is the maintenance charge. Will car parking be provided and do you have to pay extra for it. If your previous owner did not have a vehicle, speak to the secretary of the society and ask for a parking lot.

Connectivity: Connectivity plays a vital role in boosting your property‟s resale price or attracting tenants. Ensure that the property is located in an ideal location with good connectivity. Investing in property that can be easily reached to and from destinations like the airport, railway station, bus stops etc are ideal and recommended.

Neighborhood Amenities: When searching for a new home, there are the usual considerations of location, price, and layout. Neighborhood amenities is one of the important things you should consider before investing in a property. While making the list of amenities, include the proximity to schools, hospitals, banks, shopping centers, restaurants, entertainment facilities and parks.

Traffic in Peak Time: Some areas or localities of a city are infamous for traffic jams and working professionals or tenants try to avoid such locations. Drive by the property at peak traffic times to get a feel of the neighborhood at different times of the day and week. Check what is the amount of passing traffic, will it be noisy at peak hours etc.

Property insurance: Property insurance safeguards your financial future if certain damages occur to your property.

Tax Planning: Tax planning, a legitimate exercise and should not be confused with tax avoidance or tax evasion. Tax benefits can be claimed on both the principal and interest components of the home loan as per the Income Tax Act. You can also purchase property in joint names. Joint home loan is an option that might prove fruitful for married couples. Know about your home loan and tax benefit available on it.

Water supply and sewage disposal systems: If you are buying property, you need to consider your water supply, particularly in areas, towns etc where excessive development has taken place. The affect on the local water supply and the additional sewage and waste disposal problems has, in many areas, been deplorable and will most likely, in the near future escalate the cost of providing quality drinking water. Before investing on property, ensure that your property will get quality drinking water throughout the year and that the civic body provides good sewage systems.

Legal Advice: Be it construction, purchase, sale or lease of property, legal advice is mandatory. Since property prices are ever increasing, real estate investment is a very profitable form of investment. Just buying and selling is not enough in real estate investment, you have to be clear about the laws that govern the area of the property. Before buying the property you must take legal advice and prepare an agreement.

Understand your Payment Plan

- For a new property it is also advisable to check with the builder on a construction-linked payment plan or a time-linked payment plan. This will have an effect on your cash flow and other aspects of your personal finance.
- a) Construction linked Payment Plan: Under this plan you are paying an initial booking amount upfront while the rest is linked to construction milestones, say 10% with each floor constructed.
- b) Time linked: You pay according to a set timetable, whether the construction is on time or not. Under this plan you are contractually bound to pay your installments, even though the property has been delayed.
- However, the RBI recently issued a circular asking banks to desist from upfront disbursal of sanctioned housing loans to builders and instead link housing loans to stages of construction of a project to protect the home buyer and the lender from additional risks.
- This is primarily to protect the homebuyers against endless delays in the construction of new projects

Due Diligence on the Property

- One must also check all the sanctions, plan approvals and agreements to ensure that the builder has completed regulatory and legislative obligations before investing in a property. Any deficiency on this front can lead to serious consequences for the buyer.

Learn the difference between carpet area, built up and super built up

- During purchase of a flat/property, there should be no ambiguity related to carpet area, super built-up area and super built up area. The carpet area is the space available for flooring a carpet, the super built-up area is the carpet area including the wall, balcony space and other areas. The super built up area is the super built area plus the corridor space. It also including the area for common use like lobby, lifts, staircase etc, garage and alley. This difference between the super-built up and carpet area is called loading.

- When you are buying it is important to ensure that you are paying for the carpet area and not for the super built up area that sometimes has a loading of nearly 30-40 per cent.

Negotiate

- Do not hesitate to negotiate better rates, Sometimes builders might be willing to offer promotional discounts during festive seasons or if their sales are slow. Also when buying a new property is the initial stages of construction, do enquire about special pre-launch and launch prices.

Allotment Letter

- Once you have selected a property and made the initial payment, you will receive an allotment letter from the builder. This allotment letter includes the details of the flat that has been allotted to you such as the like flat number, area, price the payment details, any extra charges levied to you amenities such as car parking, club membership, and maintenance charges to be levied at time of occupancy.

- If you have a preference for a certain floor or view, then you must request this from the builder at the time of the initial application with the builder. Once the allotment letter is given to you, your flexibility to change your unit might be limited.

Site Visits

- Making regular site visits to your property when it is under construction is important so that you can check of the status of construction, quality of materials. If you want to make minor non structural changes such as layout of kitchen, change the plumbing fixtures, this would be best time to get it done.

Evaluate Your Commute

While it might not seem like a big issue now, the distance between your home and workplace can become a problem later on. Find a property that is closer for a more pleasant commute and overall working experience.

Analyse Connectivity

Will your home be close to schools, shopping areas, hospitals and other important places? If not, you might want to reconsider a place that is better connected to the rest of the city.

Pay Attention to Ventilation and Lighting

A comfortable living environment should include plenty of access to natural light and air. These features will ensure that your new home creates a satisfying living experience.

Check Out Your Amenities

If you like the simple life, things like having a public pool or gym might not interest you. However, if you are interested in these conveniences, be sure to investigate the same at your potential new residence complex.

Evaluate the Construction Quality

Quality of materials, structural workmanship, finishing and services. Is the finish on the walls nicely painted? Is the flat constructed soundly and securely? Pay attention to these details when you assess the home. Pre-approved property loan some facts

Look at Road Conditions

Are the roads near your home well connected and reliable? These will be your way to get to and from your home every day, so pay attention to them.

Assess the Rate of Safety
Is your home in a safe neighborhood? Do you feel comfortable allowing your children to play outside? Making these judgments can avoid possible dissatisfaction with your home later on.

Neighborhood Environment
When you are looking for buying your property, search for good environment, as it makes a very important element of the overall deal that you would looking forward to.

Basic Amenities
Existence of basic amenities is very important. Irrespective of where we stay, we need basic services like electricity, water supply, Rain water harvesting, sewerage, solid waste, safety & security.

History of Land
It becomes very important to enquire about any disputes or issues with regards to the history of the property. One should always buy a clean property.

Price Fluctuation
If there is price fluctuation at the location of the property you are going for, you should not buy the property at that time. It is always advisable to wait when the prices will return towards normalcy.

Long Term Investment
Property should be taken keeping in mind the long term investment perspective rather than going in for momentary gains. And hence, one should always look at the bigger picture and decide.

The Sale Deed

A sale deed is one of the most valuable legal documents in a purchase or sale of a property. It is governed by the Registration Act and is an important document for both the buyer and the seller. The purchase or sale of property is not legally complete until a sale deed is signed between the buyer and the seller. Usually a sale deed is signed only after both the parties are satisfied and comply with the terms and conditions as said in the agreement.

Verify All Legal Documents

There are a lot of important legal documents without which the sale of a property is not complete. It is the duty of the buyers to verify all these documents and ensure that they are duly signed. Some of these legal documents include- share certificate, sale agreement, society documents, sanction plans, encumbrance certificate, etc.

Possession And Registration

The final step in that will complete the purchasing process is the Possession And Registration

Possession is the physical transfer of the property, but is not sufficient to establish legal transfer of ownership. For this you will have to get the property registered in your name with the local authority, with the seller documenting that the property is being transferred to you. At the time of registration you will also have to pay a stamp duty which is a government tax levied on property transactions.

Maintenance By the Builder

When the construction is complete the developer receives an Occupancy Certificate (O.C) by the local body that confirms the handing over of property.

over of the property to the buyers. From the date of receiving this certificate to the next 18 months the developer is responsible for the maintenance of the building. This includes general cleaning, security, payment of electric charges for the common areas, property tax, running costs of DG sets and any repair or maintenance works.

Formation of the Housing Society

The developer initiates the formation of a housing society. The builder normally creates a bank account in the name of the society and transfers the unspent money on the project. The society elects it representatives and takes the responsibility of the maintenance of the building and collection of maintenance charges.

4.13 Property Selling Tips

In order to attract attention and to make your home more memorable, consider custom designs or additions, such as landscaping, high-grade windows or a new roof. This can help improve the home's aesthetics, while potentially adding value to the home. Maximum Homebuyers start their house hunt online, and they will never even get in the car to come see your home if the online listings compelling. In real estate, compelling means pictures! Upload your homes pictures, videos on site for attract people. Keep the windows and doors of the house open, when the buyers arrive to check the property. Reach the property site before the buyers arrive. It will help you to make sure the house is ready to see. Keep all house related documents together. Buyers may want to have a look at all the documents. When selling a property, If the market is fast and prices are escalating, you may have to respond quickly to offers and compete aggressively to find your next house. In a slow market, you may be forced to list your home for less and offer incentives to attract buyers Stage the exterior with fresh paint, immaculate landscaping and even outdoor furniture to set up a Sunday brunch on the deck vignette. Buyers often fantasize about enjoying their backyards by entertaining and spending time outside. Indian banks‟ bad loan problems have opened up an opportunity for property buyers. Many banks are now advertising auctions of property repossessed by them, from loan defaulters. So, if you have been thinking of buying a flat or an independent house, you could consider bidding for it at one of these auctions listed properties.

CHAPTER - 5

NRI Real Estate Services

The real estate sector in India is being recognised as an infrastructure service that is driving the economic growth engine of the country. India continues to be among the finest destination for Investments with high returns. Non-Resident Indians and foreign citizens who are Persons of Indian Origin (PIO) are allowed to purchase immoveable property in India. Residential property prices have stabilized now, making them attractive to NRI home buyers. Industry experts feel that with attractive pricing, innovation in construction technology and variety of designs, NRIs are taking a fresh look at India as a unique market in which they can invest.

NRI are seeking to invest their foreign currency in Indian property market for the best capital appreciation. Propikr.com showcase potential properties to facilitate NRI‟s to choose the dream property across the country.

With substantial knowledge and experience about Indian Real Estate, the team at propikr.com offers advisory to identify the suitable property. We have been handling seamlessly full spectrum of real estate projects and are aware of the most competitive environment. Thus, providing innovative solutions in a practical, constructive, beneficial, business-oriented manner and ensuring our users to get various investment options across India.

We have practically understood how challenging buying/selling/ renting property in India for NRI who is staying away from his home country. we make sure Our NRIs friends to have Healthy, Professional Experience in Real estate requirement and we make sure you satisfy with our overall service

We provide digital marketing and advisory services for global NRIs property investments, management and related services. Our experienced management professionals are ideally poised to help our users identify and build a unique property propositions in India. Information about the properties that best suit your lifestyle and help you streamline your search to find homes that are easily accessible to schools, public transportation, restaurants and hospitals, and other amenities.

- Determining your budgets, type of property requirement and suitable location to search the appropriate property.
- Keeping you update of the property market developments in India from time to time through our News letter, e mails or phone calls.

CHAPTER-6

BANK LOAN TO NRI FOR PROPERTY BUYING

If you intend taking a loan, you must apply for it well in advance. You can go for a pre-approved bank loan. Nonetheless, given the huge sums involved, it makes sense to seek legal advice on the purchase. Also, apart from the stamp duty and registration charges, you may have to cough up money for some unexpected expenses too. The home loan amount should not exceed 85% of the cost of the dwelling unit, as the remaining amount that is 15% needs to be provided an own contribution towards the cost of unit financed. The cost of the dwelling unit which is own contribution financed less the loan amount, can be met from direct remittances from abroad through normal banking channels, the Non-Resident (External) [NR(E)]

Account and /or Non-Resident (Ordinary) [NR (O)] account in India. The repayment option for NRIs is they can pay through the funds held in any non-resident account maintained in accordance with the provisions of the Foreign Exchange Management Act, 1999, and the regulations made by the RBI from time to time. The procedure to avail a home loan remains more or less the same as applicable to any resident Indian. However, there are some criteria to be kept in mind.

6.01 Eligibility

- Income and educational qualifications play an important role in deciding the maximum amount of loan available to an NRI. You need at least a graduate degree to apply for a home loan.
- You need to have at least a diploma or a graduate degree with minimum three years of employment abroad or professional qualification with one year of employment abroad. And if you work in West Asia, you need to have a minimum salary of 36,000 dirham's a year (for loans with a tenor of up to five years) and if you are in the US then you need to earn at least $30,000 a year.
- The income taken into account for calculating the home loan eligibility is the repatriable income (income abroad) plus any income in India.
- The amount of loan that one can avail will differ from bank to bank.

6.02 Submission of documents

- You needn‟t have to make a trip to India to apply for a loan. Many banks have branches in places such as Dubai, Singapore, London and other cities. Some banks even offer this facility online.
- But do remember to execute the PoA authority to someone in India.

6.03 Loan to value (LTV)

- Simply put, LTV is the ratio of the amount that you want to borrow for a home to the actual value of the home. Banks allow an advance of 80-85% of the value of the property, subject to the gross monthly income of an individual.

6.04 Tenor

- While a resident can avail loans with a maximum tenor of 30 years with some banks, the tenor for NRI home loans is restricted. It is available within the range of 5-15 years. "The tenor for NRI home loans is lesser than that of a normal home loan as it is generally seen that their repayment capacity is more than resident Indians. And they do not take home loans of longer tenors".

6.05 Interest rate

- The interest rate is bank specific varies time to time and on NRI home loans is the same as that for a resident Indian.

6.06 Repayment of loan

- The repayment or the equated monthly installment of these loans can only be paid through NRE or NRO accounts with remittance from abroad. No other funds can be used for repayment of these loans. The repayment needs to be made in Indian rupees only.
- The down payment should also be done through normal banking channels or NRE or NRO account in India.

- In case you are not able to repay the loan, do remember that the loan is taken against your property and the bank claim the property if you do not pay up.

- If you have zeroed in on a house or a plot of land in India, you can fund it by taking a home loan. But do keep in mind that you need required documents and keep them ready for the know-your-client process. Also make sure that you have appointed a PoA for the loan. Do see if the bank that you are taking the loan from charges a prepayment penalty or not.
- The home loan amount should not exceed 85% of the cost of the dwelling unit, as the remaining amount that is 15% needs to be provided an own contribution towards the cost of unit financed
- The cost of the dwelling unit which is own contribution financed less the loan amount, can be met from direct remittances from abroad through normal banking channels, the Non-Resident (External) [NR(E)] Account and /or Non-Resident (Ordinary) [NR (O)] account in India
- However, repayment of the loan, comprising of the principal and interest including all the charges are to be remitted to the HFC from abroad through normal banking channels, the Non-Resident (External) [NR(E)] Account and /or Non-Resident (Ordinary) [NR (O)] account in India.

The repayment option for NRIs is they can pay through the funds held in any non-resident account maintained in accordance with the provisions of the Foreign Exchange Management Act, 1999, and the regulations made by the RBI from time to time.

6.07 Financial Planning

- It is essential to ensure proper financial planning before you make the decision to invest in a property.

i) Assess Your Future Needs and Goals

- When deciding to invest in a property, it is important to not only have a clear picture of your present needs but also take into account your future needs and goals. Some of us are just looking for a home for our family, some of us want capital appreciation through a long term investment. Some just want to be part of a new upcoming complex or some want to move closer to their workplace. When we invest we should be clear about our goals to ensure we make an informed choice.

ii) Learn About Different Interest Rate Options

- A common dilemma for the first fine home investor is choosing between a fixed rate of interest and a floating rate of interest. A consumer has to choose between peace of mind by opting for fixed home loan where the interest rate remains constant during the entire loan tenure and does not change with market fluctuation or should they take a risk by going for floating loans. In this scenario the interest rate is dependent on the market and fluctuates according to economic situation in the country.

- A new option that is growing in popularity is the fixed-floating home loans that come with a fixed interest rate in the initial years and floating rates thereafter. This option gives customers stability on their EMIs outflows for the first few years, thus helping them plan finances better and provides protection against future fluctuations in interest rates.

iii) Go Loan Shopping

▪ Shopping around for a home loan will give you a great market insight and help you select the best suited financing option. Comparing loans and negotiating with banks can save you a lot of money. Once you know what each bank has to offer in terms of rates and fees, negotiate for the best deal.

These days, banks also offer home loan insurance as a bundled product along with your home loan that protects your family from loan liabilities in case of your unfortunate demise within the policy term. When selecting for a lender, it is also advisable to check the prepayment penalty and foreclosure charges. You can also consider co-ownership between tow family members to get a bigger loan amount.

iv) Get Pre Loan Approval

A pre approved home loan means that the bank or financial institution has carried out their due diligence checks on buyers credit report and have made a virtual confirmation of the loan and loan amount. This pre-approved home loan boosts the confidence level of the purchaser and gives him a clear idea of the EMI & budget within which he will be able to buy a house. However the buyer must be aware that once he gets the pre-approval for a loan, he has only a limited timeframe within which to finalize the property, failing which the pre-approval can be cancelled

Following these tips can ensure that you have invested in real estate in a smart way. Additionally, if you are looking to rent out your newly purchased property immediately, these can also serve as tips for buying a rental property.

6.08 Documents required for buying property in India

- Pan card (Permanent account number)
- OCI/PIO card (In case of OCI/PIO)
- Passport (In case of NRI)
- Passport size photographs
- Address proof

General permission is granted to NRIs and PIOs to repatriate the sale proceeds of property inherited from an Indian resident, subject to certain conditions. If those conditions are fulfilled, the NRI need not seek the RBI's permission. However, if the NRI has inherited the property from a person residing outside India, he or she must seek specific permission from the RBI.

- The conditions for repatriation of such funds are not really complicated - the amount per financial year (April-March) should not exceed USD 1 million, and should be done through authorized dealers. NRIs must provide documentary evidence with regard to their inheritance of the property, and a certificate from a chartered accountant in the specified format.

- What NRIs must pay attention to is the income tax implications in their country of residence. Many countries tax their residents on their income regardless of where it originates from, while others provide partial or total exemption on capital gains arising on sale of a residential house if certain conditions are met. The most important point to ponder is the income tax liability in the country of residence on the amount of gain, and whether claiming exemption under Sections 54/54F/54EC is really worth it. The NRI may, in fact, be better off claiming only partial or no tax exemption on the capital gains in India.

- What is the capital gains tax applicable on sale of properties in India?
- For all income tax purposes, the definition of NRI shall be the one as prescribed in the Income Tax Act. For all repatriation purposes, the definition of NRI would be one under FEMA.

- If you have zeroed in on a house or a plot of land in India, you can fund it by taking a home loan and keep ready the KYC Documents. Also make sure that you have appointed a PoA for the loan. Do see if the bank that you are taking the loan from charges a prepayment penalty or not.

6.09 NRI Home Loan Documents

- A copy of your passport and visa.
- Salary certificate in English, specifying name, date of joining, designation and salary details.
- Both domestic (NRE/NRO/FCNR) and international bank statements for the last six months.
- If you are not available in India when the application form is submitted, then a General Power of Attorney duly attested by the Indian consulate in your resident country needs to be submitted. If you will be in India then the Power of Attorney can be locally notarized.
- A copy of your appointment letter as well as contract.
- In case you are employed in the Middle East, you need to submit a copy of your labour card/identity card that is translated in English and countersigned by the respective consulate.
- In case you are employed in the merchant navy, you need to submit a copy of your CDC as well as your contract slip with Income details.

6.10 Salaried NRI Applicants

- Copy of valid passport showing VISA stamps
- Copy of valid visa / work permit / equivalent document supporting the NRI status of the proposed account holder
- Overseas Bank A/C for the last 3 months showing salary credits
- Latest employment contract copy evidencing Salary / Salary Certificate / Wage Slips
- Latest Salary slip
- Latest work permit
- Overseas Bank statement for 4 months or NRE/NRO a/c 6 months statement
- showing salary credit
- Utility bill for address proof
- PIO/OCI card
- Power of Attorney (if applicable, in respective bank"s format)
- Customer credit check report
- Property agreement duly registered or other related docs
- Income Tax returns last 2 years

6.11 Self-Employed NRI Applicants

- Passport copy with valid visa stamp
- Brief profile of the applicant and business/ Trade license or equivalent document
- 6 months overseas bank account statement and NRE/ NRO account for company or individual
- Computation of income, P&L account and B/Sheet for last 3 years certified by the C.A. / CPA or any other relevant authority as the case may be (or equivalent company accounts)
- Income tax returns (3 years)
- Utility bill for address proof
- PIO/OCI card
- Power of Attorney (if applicable, in respective bank"s format)
- Credit check report
- Property agreement or other related docs

CHAPTER - 7

PROPERTY TAX

Property tax is a levy charged by the municipal authorities for the upkeep of basic civic services in the city. In India it is the owners of property who are liable for the payment of municipal taxes. Generally, the property tax is levied on the basis of reasonable rent at which the property might be let from year to year. The reasonable rent can be actual rent if it is found to be fair and reasonable. In the case of properties not rented, the rental value is to be estimated on the basis of letting rates in the locality.

- No taxes to be paid while purchasing property.
- Certain taxes to be paid when selling property. If NRI/PIO has held property for less than 3 years then he would have to pay 30% tax. If property has been held for more than 3 years then tax payable is 20%. Tax is payable on rental income too.

At the time of renting out property or repatriation PAN card is required.

- In case of inherited property, the date and cost of purchase for purposes of computing the period of holding as well as cost of purchase is taken to be the date and cost to the original owner. To be more precise, the amount of long term capital gains together with the cost to the previous owner (i.e. the person from whom the property is inherited) would be considered as the cost of purchase. NRIs are subject to a Tax Deducted at Source (TDS) of 20% on the long term capital gains. But there are certain instances when NRI can get a waiver of TDS. One such case would be if the NRI is planning to re-invest the capital gains of the property in another property or in tax exempt bonds. In such cases, the NRI will be exempt from tax in India, and no TDS will be deducted either.

- The Indian real estate market is attractive for non-resident Indians (NRIs) as it is easier to earn in a stronger currency and pay in Indian rupees. Things have further become easier as they can avail home loans from banks in India to purchase property here at attractive rates.

- Anyone who comes under the definition of the Foreign Exchange Management Act, 1999 (FEMA) can avail a home loan in India. FEMA defines an NRI as someone who resides outside India for “employment, carrying on business or vocation in circumstances as would indicate an intention to stay outside India for an indefinite period”. It also says that an individual will also be considered NRI if his stay in India is less than 182 days during the preceding financial year.
- However, as an NRI you cannot buy more than two residential properties in India. This is regardless of if you own a property in the country that you are working in and residing in. There are no such restrictions on commercial property though. However, NRIs are not allowed to purchase agricultural land here.”
- This means that an NRI home loan can be availed to purchase, construct, renovate a new or existing house. You can also take home loans to purchase a plot of land for residential use.
- The procedure to avail a home loan remains more or less the same as applicable to any resident Indian. However, there are some criteria to be kept in mind.
- If you decide to let out your property on rent you will be required to pay tax in rental income according to the income tax provision of Resident Indians. However citizens of countries enlisted under
- NRI's, especially those looking to migrate back to India are investing in property, houses and real estate in India. There are no objections on the way of the NRIs to make profits from business in India. As Indian Economy basks in the light of the real estate boom. NRIs are seeking to invest their foreign Currency in Indian climbing property market from where they can buy/sell properties for the best capital value appreciation.

7.01 Long term capital gains:

- As in the case of resident Indians, NRIs who sell property after three years from the date of purchase will incur long term capital gains tax of 20%. The gains are calculated as the difference between sale value and indexed cost of purchase. Indexed cost of purchase is nothing but the cost of purchase adjusted to inflation.

7.02 Short term capital gains:

- If the NRI sells the property before three years have elapsed since the date of purchase, short term capital gains tax at his or her tax slab is incurred. Short term capital gain is calculated as the difference between the sale value and the cost of purchase (without the indexation benefit). The NRI will be subject to a TDS of 30% irrespective of his or her tax slab.

- NRI selling their properties can apply to the income tax authorities for a tax exemption certificate under section 195 of the Income Tax Act. A NRI has up to two years from the date of sale to invest in another property, or up to six months to invest in bonds.
- Section 54 - This section stipulates that if NRI sells a residential property after three years from the date of purchase and reinvest the proceeds into another residential property within two years from the date of sale, the profit generated is exempt to the extent of the cost of new property. To illustrate - if the capital gains is Rs 20 lakh and the new property costs Rs 16 lakh, the remaining Rs 4 lakh are treated as long term capital gains. The sold residential property may be either have been self-occupied property or given on rent. The new property must be held for at least three years.
- NRIs cannot invest the proceeds on the sale of a property in India in a foreign property and still avail the benefit of Section 54. However, some recent hearings with the appellate authorities have held that exemption can be claimed even if the new house is purchased outside India. However,

this is not explicitly specified clearly under the law, and it is advisable for an NRI to consult a tax expert before making any investment decisions outside India to avail of tax benefits.

- Section 54EC - This section of the Income Tax Act states that if an NRI sells a long term asset (in this case, a residential property) after three years from the date of purchase and invests the amount of capital gains in bonds of NHAI and REC within six months of the date of sale, he or she will be exempt from capital gains tax. The bonds will remain locked in for a period of three years.

  Certain taxes to be paid when selling property. If NRI/PIO has held property for less than 3 years then he would have to pay 30% tax. If property has been held for more than 3 years then tax payable is 20%. Tax is payable on rental income too.

- At the time of renting out property or repatriation PAN card is required.

  Apart from the registration cost and stamp duty, a service tax is also levied on the transaction.

  It depends upon the property you are buying and the location.

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