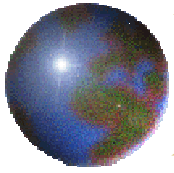


FEMA WORKSHOP

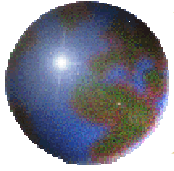
TOPIC:

- ✚ Remittances and Investments facilities to RESIDENTS
- ✚ Current a/c Transaction Rules
- ✚ Immovable properties outside India
- ✚ Liberalized remittance Scheme to Residents



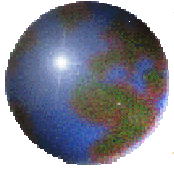
Remittances facilities for Residents *some frequently asked questions*

- ❖ Foreign Exchange entitlement for going on excursion tour/ Business trip
- ❖ Immovable property abroad
- ❖ bank account abroad
- ❖ Holding of assets acquired abroad as NR
- ❖ Lottery / Horse racing
- ❖ Investments in shares



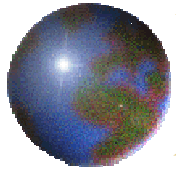
Remittances facilities for Residents some frequently asked questions

- ✿ Remittances for Medical treatment abroad
- ✿ For education abroad
- ✿ Maintenance of relatives abroad
- ✿ Sending Donation to NGO abroad
- ✿ Technical Fee / Royalty etc.
- ✿ Use of international Credit card



FOREIGN EXCHANGE MANAGEMENT ACT 1999

- **FEMA – Introduction and Basic Structure**
- **The ACT**
- **The regulation/ The rules**
 - **Master Circulars**
 - **AP DIR Circulars**
 - **Notifications**
 - **Press notes**



FEMA-RESIDENTIAL STATUS

- ✚ **Resident Status of a person**

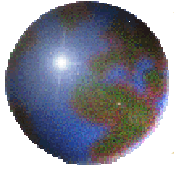
- ✚ **Section 2(v)**

Citizenship is no criteria

Different from Income Tax

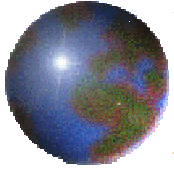
- ✚ **Conditions for resident in India**

- i. **Residing in India > 182 days in the immediate preceding year but excludes persons leaving India with the intentions of staying outside India e.g., employment, business, etc.**



Resident

- ❖ **Includes a person who has come to India on employment or for carrying on business or with the intention of staying in India for uncertain period**
- ❖ **Companies registered in India**
- ❖ **Office/branch in India though owned by a person resident outside India**
- ❖ **Office/branch outside India if owned by a person resident in India**

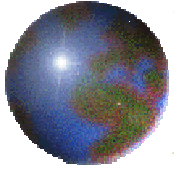


Person of Indian Origin (PIO)

FEM(Remittance of Assets) Reg 2000

- **Citizen of any country other than Pakistan or Bangladesh**
- **Has held Indian Passport at any time in the past or he or either of his parents/grand parents was a citizen of India or spouse of any such person**

Definition may differ in different regulations

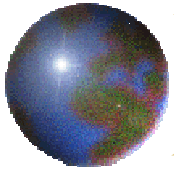


Remittances facilities for Residents-

The statute:

Section 4:

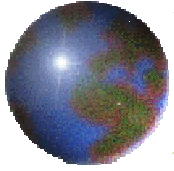
Save as otherwise provided in this Act, no person resident in India shall acquire, hold, own, possess, or transfer any Foreign exchange, Foreign Security, or any Immovable property outside India



Remittances facilities for Residents- *The statute: Section 5*

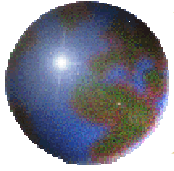
Any person may sell or draw foreign exchange **to or from an authorised dealer** if such sale or drawl is a current account transaction.

Provided that the central govt may in public interest and in consultation with RBI impose such reasonable restrictions as may be prescribed.



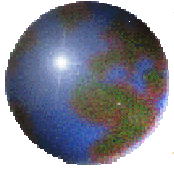
*FEMA Remittances facilities for
Residents-The statute: Section 6*

RBI in consultation with Central Govt to
make regulations for capital account
transactions



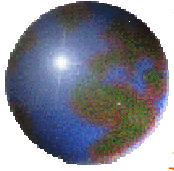
Section 6(4)

- ❖ A person resident in India may hold, own, transfer or invest in foreign currency, foreign security, or any immovable property situated outside India if such asset was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India



FEMA Remittances facilities for Residents- *The statute: Section 8*

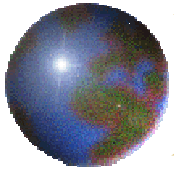
Save as otherwise provided in this Act where any amount of foreign exchange is due or has accrued to any person resident in India such person shall take all reasonable steps to realize and repatriate to India such Foreign Exchange within such period and in such manner as may be specified by RBI



FEM (CURRENT A/C TRANS.) RULES 2000

REMITTANCES BY RESIDENTS: **Schedule I**

- Prohibited Transactions e.g. Lottery, Racing, Riding, Stake Games, banned magazines etc.
- Commission on exports towards equity investments
- Callback services of Telephones

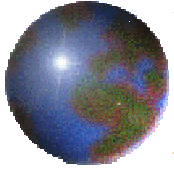


FEM (CURRENT A/C TRANS.) RULES 2000

REMITTANCES BY RESIDENTS: **Schedule II**

Transactions with prior approval of Central Govt. :

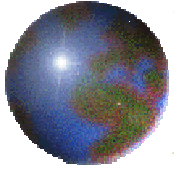
- Cultural Tours- Ministry Of HRD
- Advertising in foreign print media by PSU-MOF
- Hiring of transponders- I & B ministry
- Container detention charges: DG of Shipping



FEM (CURRENT A/C TRANS.) RULES 2000

REMITTANCES BY RESIDENTS:

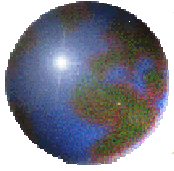
- Schedule III – Transactions requiring RBI approval if remittance above threshold limit e.g. Travel, Medical, Education, Commission



FEM (CURRENT A/C TRANS.) RULES 2000

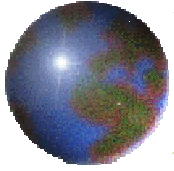
REMITTANCES BY RESIDENTS: Schedule III

- USD 10,000 per year for private visit(s)
- Gifts – USD 5,000 p.a. per Donor
- Donations – USD 5,000 p.a.
- USD 25,000 per trip for business travel
- Education – Higher of USD 1 Lac per academic year or estimate of foreign Inst.



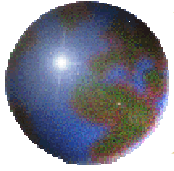
REMITTANCES BY RESIDENTS

- ❖ > USD 100,000 for persons going abroad for employment.
- ❖ For medical Treatment > estimate by Indian/foreign doctor or foreign Hospital
- ❖ Remittance exceeding USD 10 million per project, for any consultancy service procured from outside India for infrastructure projects (1 million for other projects).



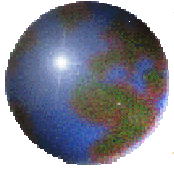
REMITTANCES BY RESIDENTS:

- Reimbursement of pre-incorporation expenses - 5% of FDI or USD 1 Lac whichever is more
- Use and purchase of Trademark/Franchise – No limit, no approval
- Royalty & Lump sum Fee for Technical Collaboration – No Limit



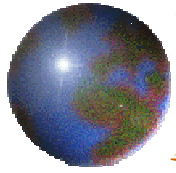
Use of International Credit card (ICC)

- ❖ Limit for expenses while on visit outside India not applicable if paid through ICC
- ❖ Can be used on Internet for legitimate purposes
- ❖ No monetary limit on internet
- ❖ Not to be used for foreign exchange payment in Nepal & Bhutan



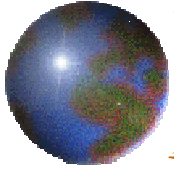
Use of International Debit card (IDC)

- ✿ Limit for expenses while on visit outside India applicable if paid through IDC
- ✿ Can be used on Internet for legitimate purposes
- ✿ Not be used for foreign exchange payment in Nepal & Bhutan



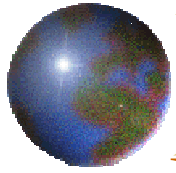
Liberalized Scheme of Remittances

- Liberalised scheme of remittance upto 2 Lac USD per FY by individuals (only) including minors(PAN Mandatory)
- Eligible for current account/capital account transactions
- Immovable property, shares, donations, gifts and other permissible transactions
- Opening of bank account outside India
- To Pak, Bhutan, MU, Nepal not permitted



Liberalized Scheme of Remittances

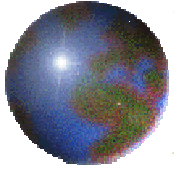
- The limit is over and above facilities under schedule III
- Only in case of Gifts and Donations the limit is subsumed
- Transactions otherwise prohibited under FEMA not available under the scheme.
- Banks not to extend credit facility for remittance under this scheme.



Liberalized Scheme of Remittances

Remittance procedure:

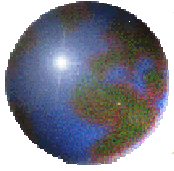
- Identify designated AD
- Application cum Declaration in prescribed format
- KYC norms to be complied
- AD to ensure compliance



Remittances by NR on employment in India

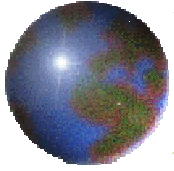
- ✚ If *resident but not permanently resident* the entire salary net of taxes can be remitted
- ✚ In other cases upto \$ 1 lac.

For the purpose of this item, a person resident in India on account of his employment or deputation of a specified duration (irrespective of length thereof) or for a specific job or assignment; the duration of which does not exceed three years, is a resident but not permanently resident



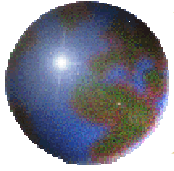
Unutilized Foreign Currency

- ❖ To be surrendered within 180 days
- ❖ May be utilised for other legitimate transaction
- ❖ Upto 2000 USD can be retained
- ❖ Can be deposited in RFC(Domestic)
a/c



Resident Foreign Currency (Domestic) a/c

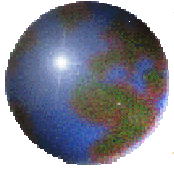
- ❖ Currency received as gift, remuneration, honorarium, Settlement of lawful obligation from any NR on visit outside by the resident or from a NR on his visit to India
- ❖ Unspent foreign exchange out of travel abroad



IMMOVABLE PROP. ABROAD BY RES.

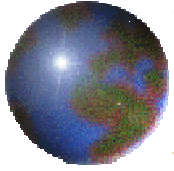
FEM(Acquisition and Transfer of Imm. Prop. outside India) regulation 2000

- Residents can hold property acquired as non-resident
- Can acquire property out of RFC account
- Out of liberalized 2 Lac USD scheme
- Can inherit/receive as gift



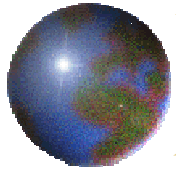
IMMOVABLE PROP. Cont..

- Such property can be transferred by way of gift to relative resident.
- Resident but national of a foreign state permitted to acquire/hold/transfer
- Corporate having branches can acquire within the monetary limits set for branch expenses
- Other acquisitions by RBI approval



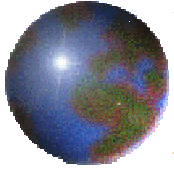
Possession & Retention of Foreign Currency by Residents

- Foreign Coins : No Limit
- Currency, Travellers' Cheque- not exceeding \$2000/- provided acquired:
 - On visit outside India for services rendered outside India
 - From NR on visit to India as Gift, Fee , settlement of lawful obligation
 - Received as Gift while on visit outside
 - Unspent amount taken from AD



Foreign securities by resident individuals

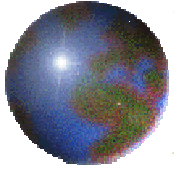
- ❖ As gift from NR
- ❖ Cashless ESOPs
- ❖ In inheritance
- ❖ Purchase under ESOP
- ❖ Qualification shares < of 1% of paid up capital or \$20000PA
- ❖ Right Shares/ under Liberalized scheme



Remittances by NRI/PIO

Students going abroad for studies are eligible for all facilities of NRI/PIO

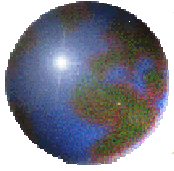
- ✿ Can Receive upto one Lac USD P.A. towards maintenance
- ✿ Remittances under 1 million scheme also available



DIRECT INVESTMENTS IN JV/WOS ABROAD

OFFICES ABROAD:

- AD Banks have been delegated the power to allow remittances
- Monetary limits for initial expenses and for recurring expenses
- Acquisition of immovable property within the above monetary limits
- No financial liability to be created outside
- Surplus funds to be remitted



Thank you

 CMA SONAL BAKSHI