

la ▲ 2,200-2,500 Powai ▲ 2,500-6,000 Chembur ▲ 3,500-4,500 Ghatkopar ▲ 3,000-6,000 Bhandup ▲ 1,000-2,600



How much tax do I pay if I buy property overseas?

So, you always wanted to have an apartment in New York or a villa on the Riviera. Now there are several different ways in which it is possible. It's much easier for a person who is resident of India to hold property overseas.

Settle in India

If a resident outside of India (in accordance with section 2(v) read with 2(w) of Foreign Exchange Management Act (FEMA) comes to India and had acquired property while he was resident outside India, then u/s. 6(4) of FEMA he is permitted to continue to hold such property overseas. He is not required to declare this to the RBI.

Inherited property

If an Indian resident has inherited property from a person who is a non resident then, also under section 6(4) of FEMA, such a resident of India may continue to retain that property overseas without having to declare to the RBI. In both these cases, he may also remit funds under the U.S. \$ 25,000 Scheme for maintenance of the property and can open a bank account for such purpose. If in addition to inheriting the property, he has also inherited funds, he may open a bank account to hold these funds abroad and can use the funds for property maintenance.

U.S. \$ 25,000 Scheme

A resident of India can remit out funds to the extent of U.S. \$ 25,000 every calendar year for any legitimate purpose. This money can therefore be used to purchase

property abroad. If, therefore, four members of a family remit out U.S. \$ 25,000 each, now, and then again in January, they will accumulate U.S. \$ 2,00,000 that can be used to purchase or rent out property.

Not of Indian origin

If a foreigner, say, a U.K. citizen comes to India to settle down, then such person becomes resident of India under FEMA. However, he can continue to hold assets which were acquired by him overseas without having to declare these assets to the RBI.

Persons emigrating

If a resident wishes to go abroad and settle down then he is permitted at the time of emigration, to send out U.S. \$ 1,00,000. This can be used by him for any purpose overseas including purchase of property.

Foreign companies

Resident Indians are now permitted to invest in shares of overseas companies to a certain extent and in compliance with certain conditions. If a resident does invest in an overseas company, that company could purchase immovable property.

Renting out abroad

If a person acquires property legitimately in any of the ways set out above or any other legally permitted way, he may let out the property abroad and earn the income therefrom. He would be entitled to use the funds received over-

seas for payment of tax and expenses. In certain circumstances he would be permitted to retain the remaining funds abroad. In other cases, he would have to bring back to India the surplus funds.

Income-tax

Although FEMA has been liberalized and permits holding of overseas property (in the above situations), this does not mean that no tax is payable. The Income-tax Act, 1961 continues to apply. If a person is resident of India, he would be subject to tax in India on overseas income and would be liable to declare his entire income in his tax returns here and pay tax thereon. If, however, income tax has been paid overseas on such income, he would be entitled to claim credit for such tax paid overseas.

Wealth-tax

If a person is resident of India, he is liable to pay wealth-tax on immovable property subject to certain exceptions.

Therefore, if an Indian resident holds property abroad he would have to consider the wealth-tax implications and see whether he falls within the scope of any exemptions or has to pay wealth-tax.

It must be noted that under section 6 of the Wealth-tax Act, 1957, a foreign citizen is not liable to pay wealth-tax on property held abroad even though he becomes resident of India.

Capital gains tax

If a resident of India sells property overseas and makes a gain, he

would have to declare that gain in his tax return in India. If he is resident in India he would be entitled to the exemption and benefits under the Income-tax Act, for instance, u/s. 54 (which provides that the capital gain on sale of a residence can be re-invested in another residential house) or sec. 54EC (which provides that the capital gain can be re-invested in specified bonds) and sec. 54F (which provides that the capital gain on the sale of a long-term capital asset other than a residential house may be invested in a residential house).

A question that comes up is that if a person is resident of India and sells a house overseas, can he use the capital gain to buy another house overseas. Since there is no restriction in the Income Tax Act on this issue, he should be permitted to get this benefit. The information contained herein is in the nature of general guidelines, and readers should take independent legal advice before investing abroad. ■



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Are you aware?

- A resident can remit out funds to the extent of U.S. \$ 25,000 every year
- A resident wanting to emigrate is permitted a one time transfer of U.S. \$ 1,00,000
- A resident inheriting from a non-resident Indian does not have to declare it to the RBI