

Press Release of Government of India

Ministry of Finance

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Government's advice on acquiring land by persons residing outside India



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Government of India has advised State Governments to be extra vigilant in matters of acquisition and transfer of immovable property in India by a person resident outside India and satisfy themselves about the eligibility under FEMA before registering a sale or purchase of immovable property in India. The enquiries may include both the intending buyers and sellers. The relevant travel documents and the nature of visa may also be verified before registering such sale / purchase. Government has further advised all including concerned authorities in the State Governments that wherever appropriate, the authorities may consider reviewing registration of sale / purchase already made to determine their compliance with legal requirements. Further, persons acquiring immovable property have to fulfil the requirements, if any, prescribed by the State authorities.

A foreign company which has established a Branch Office or other place of business in India under the provisions of Foreign Exchange Management (Establishment in India of Branch or Office or Other Place of Business) Regulations, 2000 (FEMA 22/2000-RB dated the 3rd May, 2000) can acquire immovable property in India which is necessary for or incidental to carrying on such activity, subject to the conditions stipulated in Regulation 5 of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000 (Notification No. 21/2000-RB dated the 3rd May, 2000).

Apart from above, a foreign national who is residing in India for more than 182 days during the course of the preceding financial year for taking up employment or carrying on business / vocation or for any other purpose indicating his intention to stay for an uncertain period can acquire immovable property in India as he would be a 'person resident in India' as per section 2(v) of FEMA, 1999. To be treated as a person resident in India under FEMA, a person has not only to satisfy the condition of the period of stay (being more than 182 days during the course of preceding financial year) but also his purpose of stay as well as the type of Indian visa granted to him to clearly indicate the intention to stay in India for an uncertain period. In this regard, to be eligible, the intention to stay has to be unambiguously established with supporting documentation including visa.

As per the provisions contained in Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulation 21/2000 (Notification No. 21/2000-RB dated the 3rd May, 2000), an Indian citizen resident outside India and a Person of Indian Origin resident outside India may acquire immovable property in India other than agricultural land, plantation or a farm house.

It has come to the notice of the Central Government that foreign nationals are buying immovable property illegally in some parts of the country, particularly in Goa, which has raised concerns. Many organisations and social groups have also made representations to the Central Government expressing their serious concerns in this regard. It has also been observed that foreign nationals coming to India and staying beyond 182 days on a tourist or other visa meant for a certain period are illegally acquiring immovable property in India in violation of the extant rules and regulations under FEMA.

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