

**Indian Students Studying Abroad – Revision in the Residential Status**  
**A.P.(DIR Series) Circular No. 45 (Dec 8, 2003)**

**Reserve Bank of India**  
**Exchange Control Department**  
**Central Office**  
**Mumbai-400 001**

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December 8, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Indian Students Studying Abroad –**  
**Revision in the Residential Status**

The Reserve Bank of India has been receiving representations from Indian students studying abroad putting forth various difficulties on account of their residential status. The matter has been reexamined by us keeping in view the definition of residential status in terms of Section 2(v)(i) of Foreign Exchange Management Act (FEMA). Under Section 2(v)(i) of the FEMA, “person resident in India’ means- (i) a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include –

- (A) a person who has gone out of India or who stays outside India, in either case –
- (a) for or on taking up employment outside India, or
  - (b) for carrying on outside India a business or vocation outside India, or
  - (c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;”

2. It is observed from the representations that when students leave India for prosecuting a course of specified duration, such stay outside India exceeds the period officially intended for various reasons. While taking up studies, or further advance courses, students may have to take up job or seek scholarships to supplement income to meet their financial requirements abroad. As they have to earn and learn, their stay for educational purposes gets prolonged than what is intended while leaving India.

3. Furthermore, the purport of their argument is that though they are students, they are, in reality, not dependent for a dominant part of their expenses on remittances

from their households in India. Often they are permitted to work and have to undertake certain related financial transactions. They urge, therefore, that the definition needs to be revised.

4. Having regard to the circumstances stated above, it is clear that on both counts viz. their stay abroad for more than 182 days in the preceding financial year and their intention to stay outside India for an uncertain period when they go abroad for their studies, they can be treated as Non-Resident Indians (NRIs).

5. As non-residents, they will in any case be eligible for receiving remittances from India, as follows : (i) up to USD 100,000 from close relatives from India on self-declaration towards maintenance, which could include remittances towards their studies also, (ii) up to USD 1 million out of sale proceeds/balances in their account maintained with an AD in India, (iii) all other facilities available to NRIs under FEMA, (iv) educational and other loans availed of by students as resident in India which can be allowed to continue as per provisions of Notification No. 4/2000-RB dated May 3, 2000.

6. It is clarified that these instructions do not dilute in any way the utilisation of the existing foreign exchange remittance facilities to students in regard to their academic pursuits.

7 Necessary amendments to the Foreign Exchange Management Regulations, 2000 are being issued separately.

8. Authorised Dealers may bring the contents of their circular to the notice of their constituents concerned.

9. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

**Grace Koshie**  
**Chief General Manager**