

Treatment of Gifts by NRIs to Resident Relatives and non-relatives or vice-versa

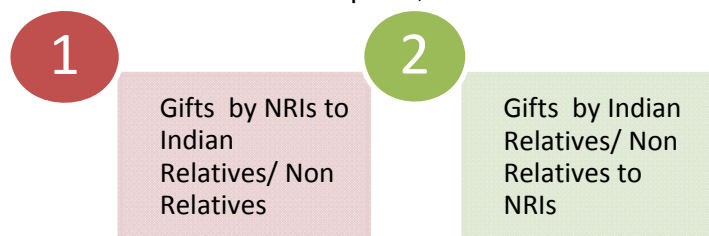
The NRIs/PIOs often have queries, ranging from visit to family and friends to attending marriages or to explore a business opportunity or to gift or to adopt a child. Sometimes, because of lack of awareness and information about the procedural requirements relating to such laws in India, they have a challenging time.

Now, the trend of transferring funds online has risen which has in turn simplified the making of financial transactions easy. It is observed that in May, 2012, NRIs deposited \$2.76 billion in Indian Banks, sharply higher than as compared to that of April's \$1.99 billion. In just these two months, NRIs have parked close to \$5 billion in banks, higher than amounts seen in long time.

When it comes to transfer of funds, there are number of circumstances when NRI/PIO remits funds to India. One of them is in the form of gifts or sending funds for family maintenance.

A. Remittance in the form of Gifts

Gifts can be divided into two parts;



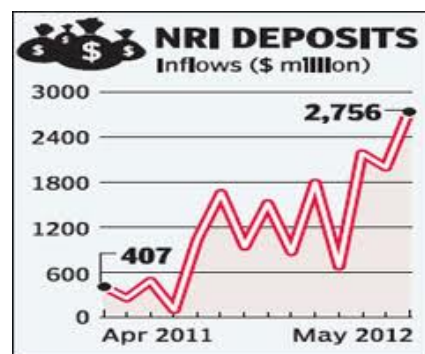
i. Treatment of gifts when NRI sends it to Indian relatives/Non relatives

NRIs can send gifts (in the form of money/ cash transfers/goods) to their relatives/ Non relatives irrespective of any amount as per FEMA Act and rules. However, there are some limits given under Income Tax Act, 1961

As per Income Tax Act, 1961

Treatment of gifts	To Relatives	To Non relatives
In the form of Cash/ Cheque or any articles/goods	Exempt from tax irrespective of Gift value	Exempt from tax upto Rs. 50,000/- in aggregate in one Financial Year

Facts & figures:



Who is NRI?

Non Resident Indian (NRI)

An Indian citizen ordinarily residing outside India and holding Indian Passport

Who is PIO?

Person of Indian Origin (PIO)

A person who or whose any of ancestors was an Indian national and who is presently holding another country's overseas citizenship/ nationality

“Government may cut spend, raise NRI deposit rates to boost economy” -

Economic Times, 24th June, 2012

ii. Treatment of gifts when Resident Indians sends it to NRIs

A resident Individual is permitted to make a rupee gift to a NRI/PIO who is a close relative as defined under Companies Act, 1956.

The gift amount should be within the overall limit of USD 200,000 per Financial Year as permitted under Liberalised Remittance Scheme (LRS) for a resident individual. It would be the responsibility of the resident donor to ensure that the gift amount is under the LRS and remittances in the form of gifts during the Financial Year including the gift amount have not exceeded the limit prescribed under the LRS. It may be observed that only LRS limit of the remitter would be utilized and gift amount would actually be credited to NRO A/c of NRI/PIO close relative.

Meaning of Close Relatives under Companies Act, 1956

Father	Mother (including Step mother)
Wife	Husband
Son (including step son)	Son's daughter
Son's wife	Son's daughter's husband
Daughter (including step daughter)	Daughter's son
Father's father	Daughter's son's wife
Father's mother	Daughter's daughter
Mother's mother	Daughter's daughter's husband
Mother's father	Daughter's husband
Son's son	Son's Son's wife
Sister (including step-sister)	Sister's husband
Brother (including step-brother).	Brother's wife

Meaning of Relatives under Income Tax Act;

- i. Spouse of Individual
- ii. Brother or sister of the individual
- iii. Brother or sister of the spouse of Individual
- iv. Brother or sister of either of the parents of the individual
- v. Any lineal ascendant or descendant of the individual
- vi. Any lineal ascendant or descendant of the spouse of the individual, spouse of the person referred to in clause (ii) to (vi)



Meaning of Non Relatives

Those individuals who are not covered in the definition of Relatives are Non Relatives.

B. Money Transfer Service Scheme

Money Transfer Service Scheme was launched by RBI in 2003 which was later modified in June 2012. This scheme is a quick and easy way for NRIs for transferring personal remittances from abroad to beneficiaries in India. Under this scheme, only personal remittances such as remittances towards family maintenance and remittances favouring foreign tourists visiting India are permissible.

Conditions:

- a. A cap of USD 2500 has been placed on individual transaction under this scheme. Amounts upto Rs. 50,000/- may be paid in cash. Any amount exceeding this limit shall be paid by means of Cheque/D.D./P.O. etc. or credited directly to beneficiary's account only.
- b. Only 30 remittances can be received by a single individual during a calendar year.

So, now, Non Resident Indians (NRIs) can easily send as well as receive funds in the form of gifts to India with great ease.

Channels to repatriate money in India

After knowing that it is legally allowed under FEMA rules to transfer funds in India subject to certain limits, let's throw some light on the channels of transfer. The initial step to transfer money in India by NRI would be through opening right Bank Account.

- **NRE (Non Resident External) account:** Is freely repatriable (principal and interest) and does not require prior permission from RBI.
- **FCNR (Foreign Currency Non Resident) account:** FCNR Deposits are fully repatriable (principal and interest). And the entire deposit is exempt from tax.
- **NRO (Non- Resident Ordinary) account :** NRO deposits are not repatriable (principal) except on current NRI income like rent, dividend, pension, etc. and remittances indicated under "Repatriation of NRO Funds" only after payment of taxes due in India. Interest is freely repatriable. The NRI may remit up to USD one million per calendar year.