

INDIA USA CROSS BORDER ISSUES

Historically, India – USA relationship was never better. While many Indians have migrated over past several decades to the United States and contributed in every area from Space Research to Retailing, the current explosion in the Indian services sector is bringing American Expatriates to work in India. With the Economic Boom that India is currently witnessing, it is easy to imagine that there are millions of individuals who are living and working across the USA and India.

If you are one of them or are soon going to become one of them, you might have many questions, but you are not alone. Here are few of the most common questions answered, but importantly you also need to know that there are advisors who are specialized in helping you. While this article seeks to highlight issues and their possible resolutions, for several reasons including changing laws as well peculiarities of each person and his or her circumstances, you need to seek specific advice from an experienced cross-border financial planner or other specialist professionals and not rely on the following material as recommendations.

I work for a multinational in the United States. Last two years I worked in India on deputation. The salary I received there was net of deductions made to the Employees Provident Fund. Now that I have completed my assignment, is there a way in which I can claim a refund of the money lying to my credit in the EPF?

The withdrawals of amounts deposited in the EPF are subject to certain conditions. If those conditions are not met, the withdrawal is subject to taxes. Subject to these conditions, it should be possible to withdraw and remit the money lying to your credit in the EPF.

I am a US citizen and have traveled all over the world including a few times to India. I have taken a liking for the life and culture in India and wanted to plan my finances such that I could consider retiring in India. That's not a certainty but I would like to work in that direction. What might be the best way to do that?

If you are considering buying property or investing in money in India, you need to be aware of tax, estate and currency regulations that would be applicable to you. The good news is that Long Term Capital Gains tax on investment in listed equity is zero and there isn't any estate tax either.

If neither your parents nor grandparents ever had anything to do with India, including holding an Indian Passport, investing in India requires planning. Currently such investments need to be structured as a sub-account of a registered Foreign Institutional Investor. As a foreign national you would be restricted from buying property here too, although you are allowed to acquire property on lease. Things would change for the better once you become a resident of the country but its best that you plan your transition well.

Foreign exchange laws in India allow a person resident in India to retain foreign assets acquired out of foreign exchange. The best way would be to remit the assets gradually to India on becoming resident.

I am 40 years old and am immigrating from India to the United States. Can I take all the money I have here, with me to the US, where I plan to reside for the rest of my life?

Unlike most developed countries, India has foreign exchange regulations in place which do not allow free conversion of Indian Rupees into a foreign currency. Although the laws are substantially relaxed now, the current regulation does not allow you to take all your money with you when you immigrate overseas.

You are allowed to carry USD 100,000/- when you immigrate or take up permanent employment. If the country, to which you are emigrating, has a higher amount prescribed as a pre-condition to the immigrant status, then you could get permission for the higher amount.

On becoming a non-resident, there are specific regulations for remittance of assets/inheritance and proceeds of property sale subject to payment of Indian taxes.

I have been born and brought up in United States. My parents were first generation emigrants from India. During my last visit to India I made up my mind to eventually retire there. How should I go about transferring resources for my retirement there?

It is important to understand that there are foreign currency regulations in India. This means all money is not treated at par when it comes to converting the Indian Rupee to another foreign currency. What can be converted is called 'repatriable' and this would apply to all the money you bring in as foreign currency provided you adhere to the relevant rules.

Even though you were not born in India, you are likely to be eligible for the status of 'Person of Indian Origin' i.e. PIO which makes you eligible for benefits available to Non-Resident Indians, most important of which is general permission to purchase immovable property in India.

Foreign exchange laws allow a person resident in India to retain foreign assets acquired out of foreign exchange. Also returning Indians can avail the facility of opening a "Resident foreign Currency Account" in India. The funds held in this account may be transferred back or repatriated in case you decide to migrate back to a foreign country. Therefore we advice that you should gradually transfer your assets to India and deposit amounts in the RFC account. You may then plan your investments out of the RFC account to take care of your requirements for retirement.

Since you are making long term plans to be here in India, it would be useful for you to keep in mind the Indian jurisdiction while doing your Estate Planning. While there are no estate taxes in India, your assets here are most likely to be subject to estate taxes in the United States. However your assets domiciled in India would be governed by the Indian laws and your estate plan must take care of that separately since inheritance would get determined by laws applicable in India.

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