

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY

Set-3-List of Quest-41 to Quest-50

Chapters Covered- FEMA

Weightage as per Exams -Approx 6-8 Marks

Quest-41	Mr. A had resided in India during the financial year 1999-2000 for less than 183 days. He had come to India on April 1, 2000 for employment. What would be his residential status during the financial year 2000-2001?
Solution	<p>As per <u>Section 2 (v) of FEMA, "Person resident in India" means:</u></p> <p><i>(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—</i></p> <p><u>(A) a person who has gone out of India or who stays outside India, in either case—</u></p> <p>(a) for or on taking up employment outside India, or</p> <p>(b) for carrying on outside India a business or vocation outside India, or</p> <p>(c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;</p> <p><u>(B) a person who has come to or stays in India, in either case, otherwise than—</u></p> <p>(a) for or on taking up employment in India, or</p> <p>(b) for carrying on in India a business or vocation in India, or</p> <p>(c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;</p> <p><i>(ii) any person or body corporate registered or incorporated in India,</i></p> <p><i>(iii) an office, branch or agency in India owned or controlled by a person resident outside India,</i></p> <p><i>(iv) an office, branch or agency outside India owned or controlled by a person resident in India;</i></p> <p><u>Section 2 (w) "Person Resident Outside India"</u> means a person who is not resident in India</p> <p>In the given case since Mr. A had come to India for taking up employment.</p> <p>Conclusion:- Thus w.e.f. 1st April 2000, he would be considered as PRII, as he came with specific purpose of employment.</p>
Quest-41A	Mr. X had resided in India during the financial year 1999-2000 for less than 183 days. He had come to India on April 1, 2000 for business. He intends to leave the business on April 30, 2001 and leave India on June 30, 2001. What would be his residential status during the financial year 2000-2001 and during 2001-2002 up to the date of his departure?
Solution	<u>Mention definition of PRI and PROI</u>

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY
Set-3-List of Quest-41 to Quest-50
Chapters Covered- FEMA
Weightage as per Exams -Approx 6-8 Marks

	<p>In given case, Mr. X had resided in India during the financial year 1999-2000 for less than 183 days. He had come to India on April 1, 2000 for business.</p> <p>He intends to leave the business on April 30, 2001 and leave India on June 30, 2001</p> <p><u>Thus, his residential status for</u></p> <p>2000-01-W.e.f. 1st April 2000, he shall be PRII as came for specified purpose i.e. Business</p> <p>2001-02-Since he stays in India for more than 182 days during F.Y. 2000-01, thus upto the date of departure, he is PRII, however w.e.f. 1st July 2001, he shall be PROI.</p>
Quest-42	<p>Mr. Z had resided in India during the financial year 1999-2000. He left India on 1st August, 2000 for United States for pursuing higher studies for 3 years. What would be his residential status during financial year 2000-2001 and during 2001-2002?</p>
Solution	<p><i>Mention definition of PRI and PROI</i></p> <p>Mr. Z had resided in India during financial year 1999-2000 for more than 182 days.</p> <p>Further, he has gone to USA for higher studies. In other words, he has not gone out of, or stayed outside India for or on taking up employment, or for carrying a business or any other purpose, in not circumstances as would indicate his intention to stay outside India for an uncertain period.</p> <p>Accordingly, he would be 'person resident in India' during the financial year 2000-2001.</p> <p>For the financial year 2001-2002, he would not have been in India in the preceding financial year (2000-2001) for period exceeding 182 days. Accordingly, he would not be 'person resident in India' during the financial year 2001-2002.</p>
Quest-43	<p>Toy is a Japanese company having several business units all over the world. It has a robotic unit with its head quarter in Mumbai and has a branch in Singapore. Headquarter at Mumbai controls the branch of robotic unit. What would be the residential status of robotic unit in Mumbai and that of the Singapore branch?</p>
Solution	<p>As per <u>Section 2 (v) of FEMA, "Person resident in India" means:</u></p> <p><i>(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—</i></p> <p><u>(A) a person who has gone out of India or who stays outside India, in either case—</u></p> <p><i>(a) for or on taking up employment outside India, or</i></p>

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY
Set-3-List of Quest-41 to Quest-50
Chapters Covered- FEMA
Weightage as per Exams -Approx 6-8 Marks

	<p>(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;</p> <p><u>(B) a person who has come to or stays in India, in either case, otherwise than-</u></p> <p>(a) for or on taking up employment in India, or (b) for carrying on in India a business or vocation in India, or (c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;</p> <p>(ii) any person or body corporate registered or incorporated in India, (iii) an office, branch or agency in India owned or controlled by a person resident outside India, (iv) an office, branch or agency outside India owned or controlled by a person resident in India;</p> <p><u>Section 2 (w) "Person Resident Outside India"</u> means a person who is not resident in India</p> <p>Toy being a Japanese company would be a person resident outside India. [Section 2(w)]. Section 2(u) defines 'person', which would include any agency, office or branch owned or controlled by such 'person'. Accordingly robotic unit in Mumbai, being a branch of a company, would be a 'person'.</p> <p>Section 2(v) defines 'person resident in India'.</p> <p>Under clause (iii) thereof 'person resident in India' would include an office, branch or agency in India owned or controlled by a person resident outside India.</p> <p>Robotic unit in Mumbai is owned or controlled by a person 'resident outside India'. Hence, it would be 'person resident in India'.</p> <p>However, robotic unit in Mumbai, though not 'owned' controls Singapore branch, which is a person resident in India. Hence <i>prima facie</i>, it may be possible to hold a view that the Singapore branch is 'person resident in India'.</p>
Quest-43A	<p>Examine with reference to the provisions of the Foreign Exchange Management Act, 1999, the residential status of the branches mentioned below:</p> <p>(i) NNM Ltd. an Indian Company having its registered office at Mumbai, India established a branch at New York USA on 1st April, 2005.</p>

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY

Set-3-List of Quest-41 to Quest-50

Chapters Covered- FEMA

Weightage as per Exams -Approx 6-8 Marks

	<p>(ii) DDI Ltd. a company incorporated and registered in London established a branch at Kanpur in India on 1st April, 2005.</p> <p>(iii) DDI Ltd. has a branch office at Singapore which is controlled by its Kanpur branch</p>
Solution	<p>(i) Section 2(V)(ii), all companies registered or incorporated are persons resident in India and according to section 2(V)(iv) every branch or office or agency outside India under the control or ownership of a person resident in India is also treated as a person resident in India. Therefore, NNM Limited is a person resident in India and its New York Branch is also a person resident in India.</p> <p>(ii) According to section 2(V)(iii) every branch or agency or office in India, under the control or ownership of a person resident outside India, is a person resident in India. Therefore, Kanpur branch of DDI Limited, a company registered in London, is a person resident in India.</p> <p>(iii) As per section 2(v)(iv) any branch or agency or office outside India, of a person resident in India will also be treated as a person resident in India. In the given case, the Singapore branch of DDI Ltd. is controlled by its Kanpur Branch which is a "Person resident in India". Therefore, the residential status of the Singapore branch of DDI Ltd. shall be that of a "Person resident in India".</p>
Quest-43B	<p>Examine whether the following branches can be considered as a 'Person resident in India' under Foreign Exchange Management Act, 1999:</p> <p>(i) ABC Limited, a company incorporated in India established a branch at London on 1st January, 2003.</p> <p>(ii) M/s XYZ, a foreign company, established a branch at New Delhi on 1st January, 2003. The branch at New Delhi controls a branch at Colombo.</p>
Solution	<p>The term 'Person Resident in India' has been defined under section 2(V). Clause (iii) and (iv) provide as under -</p> <p style="text-align: center;">(iii) any branch, office or agency in India owned or controlled by a person resident outside India</p> <p style="text-align: center;">(iv) any branch, office or agency outside India owned or controlled by a person resident in India</p> <p>(i) By virtue of section 2(V)(iv) London branch of a company incorporated in India is a person resident in India.</p> <p>(ii) By virtue of section 2(V)(iii), New Delhi branch of XYZ, a foreign company, is a person resident in India and Colombo branch, being under control of New Delhi office, becomes a person resident in India.</p>
Quest-44	<p>Miss Lizza is an airhostess with the British Airways. She flies for 12 days in a month and thereafter a break for 18 days. During the break, she is accommodated of 'base', which is normally the city where the airways are head quartered. However, for security</p>

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY

Set-3-List of Quest-41 to Quest-50

Chapters Covered- FEMA

Weightage as per Exams -Approx 6-8 Marks

	<p>considerations, she was based on Mumbai. During the financial year, she was accommodated at Mumbai for more than 182 days. What would be her residential status under FEMA?</p>
Solution	<p>Miss Lizza stayed in India at Mumbai 'base' for more than 182 days in the preceding financial year. The issue here is whether staying can be considered 'residing'. FEMA emphasizes 'residing'. 'Stay' is a physical attribute, while 'residing' denotes permanency. Thus, while Miss Lizza may have stayed in India for more than 182 days, it is doubtful whether she can be said to have 'resided' in India for more than 182 days. Further under section 2(v)(a), she would become resident only if she has come to or stayed in India for employment. It would be doubtful and debatable, whether by staying at Mumbai base during the break, Miss Lizza can be said to have come to stay in India for or on taking up employment. Hence Miss Lizza would continue to be non-resident.</p>
Quest-45	<p>Mr. Ram, citizen of India, left India for employment in U.S.A. on 1st June, 2002. Mr. Ram purchased a flat at New Delhi for ` 15 lakhs in September, 2003. His brother, Mr. Gopal employed in New Delhi, also purchased a flat in the same building in September, 2003 for ` 15 lakhs. Mr. Gopal's flat was financed by a loan from a Housing Finance Company and the loan was guaranteed by Mr. Ram. Examine with reference to the provision of Foreign Exchange Management Act, 1999 whether purchase of flat and guarantee by Mr. Ram are Capital Account transactions and whether these transactions are permissible.</p>
Solution	<p>Section 2(e) of Foreign Exchange Management Act, 1999 states that 'capital account transactions' means (a) a transaction which alters the assets or liabilities, including contingent liabilities, outside India of person's resident in India (b) a transaction which alters assets or liabilities in India of persons resident outside India and includes transactions referred to in Section 6(3). According to section 6(3) all capital account transactions are prohibited unless specifically permitted. RBI is empowered to issue regulations in this regard. Permissible capital account transactions by persons resident outside India are given in Schedule II to Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000. According to the said regulations both the purchase of immovable property by Mr. Ram and guarantee by Mr. Ram are permissible.</p>
Quest-45A	<p>Ms. Milap had resided in India for 182 days in the financial year 2019-20. She went to UK on 1st April, 2020 and returned to India on 1st July, 2021 on an employment contract in India for a year. She completed her contract and immediately left India. Under Section 2(v) of FEMA 1999, determine the residential status of Milap for the financial years:</p> <p>(i) 2020-21 (ii) 2021-22</p>
Solution	<p>Residential status of Milap for the financial years will be as follows:</p> <p>(i) For FY 2020-2021: As in the preceding year 2019-2020, Milap resided for 182 days which is not in compliance with the requirement of number of days of her stay (for more</p>

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY

Set-3-List of Quest-41 to Quest-50

Chapters Covered- FEMA

Weightage as per Exams -Approx 6-8 Marks

	<p>than 182 days). Here, residential status of Milap is a Person resident outside India.</p> <p>(ii) For FY 2021-2022: In the preceding year 2020-2021, Milap has not resided in India as she went to UK on 1st April 2020 and returned on 1st July 2021 for employment purpose Thus w.e.f. 1st July 21, he shall be PRII</p>
Quest-46	<p>Mr. F, an Indian National desire to obtain foreign exchange for the following purpose:</p> <p>(i) Payment of US\$10,000 as commission on exports under Rupee State Credit Route.</p> <p>(ii) US\$ 30,000 for a business trip to U.K.</p> <p>(iii) Remittance of US\$ 2,00,000 for payment as prize money to the wining team in a Hockey Tournament to be held in Australia.</p> <p>Advise him, if he can get the Foreign Exchange and under what conditions.</p>
Solution	<p>By virtue of powers under section 5, the Central Government has framed the Foreign Exchange Management (Current Account Transactions) Rules, 2000.</p> <ul style="list-style-type: none"> • Schedule I of the said Rules contains transactions for which drawal of foreign exchange is prohibited, • Schedule II contains transactions for which drawal of foreign exchange requires prior approval of the Central Government and • Schedule III contains transactions for which drawal of foreign exchange requires prior approval of the Central Government. <p><u>Keeping in view these provisions, questions can be answered as under --</u></p> <p>(i) In respect of item No. (i), i.e., payment of commission on exports under Rupee State Credit Route, such payment is prohibited and the same is included in First Schedule to the Foreign Exchange Management (Current Account Transactions) Rules, 2000.</p> <p>(ii) Foreign Exchange Management (Current Account Transactions) Rules, 2000 as amended by Foreign Exchange Management (Current Account Transactions) Amendment Rules, 2015-</p> <p>As per Schedule III- Individuals can avail of foreign exchange facility for the purposes specified for activities in Schedule III within the limit of USD 2,50,000.</p> <p>Any additional remittance in excess of the said limit for the shall require prior approval of the Reserve Bank of India</p> <p>Conclusion- <i>Travel for business outside India is within the activities as prescribed in Schedule-III and thus drawal upto \$2,50,000 shall be allowed</i></p> <p>(iii) This type of payment is covered under Schedule II to the Foreign Exchange Management (Current Account Transactions) Rules, 2000 and for remitting of prize money exceeding US\$ 1,00,000 for sports activity abroad other than International, National or State level body will require the prior permission of the Central Government.</p>

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY

Set-3-List of Quest-41 to Quest-50

Chapters Covered- FEMA

Weightage as per Exams -Approx 6-8 Marks

	<p><i>Since the amount involved in item No. (iii) of the question is more than US\$1,00,000 and Mr. F is not an international, National or State level body, he has to obtain the permission of the central Government before remitting the prize money of US\$ 2,00,000.</i></p>
Quest-46A	<p>Mr. Sane, an Indian National desire to obtain Foreign Exchange for the following purposes.</p> <p>(i) Remittance of US Dollar 50,000 out of winnings on a lottery ticket.</p> <p>(ii) US Dollar 1,00,000 for sending a cultural troupe on a tour of U.S.A.</p> <p>(iii) US Dollar 50,000 for meeting the expenses of his business tour to Europe. Advise him whether he can get Foreign Exchange and if so, under what conditions?</p>
Solution	<p>By virtue of powers under section 5, the Central Government has framed the Foreign Exchange Management (Current Account Transactions) Rules, 2000.</p> <p>Schedule I of the said Rules contains transactions for which drawal of foreign exchange is prohibited,</p> <p>Schedule II contains transactions for which drawal of foreign exchange requires prior approval of the Central Government and</p> <p>Schedule III contains transactions for which drawal of foreign exchange requires prior approval of the Central Government.</p> <p>(i) Under Schedule I of the said Rules, remittance out of lottery winnings is prohibited. Hence Mr. Sane cannot withdraw Foreign Exchange for this purpose.</p> <p>(ii) According to Schedule II to the Foreign Exchange Management (Current Account Transactions) Rules, 2000, foreign Exchange for meeting expenses of cultural tour can be withdrawn by any person after obtaining permission from Government of India. Hence, Mr. Sane can draw the Foreign Exchange after obtaining such permission.</p> <p>(iii) As per third schedule to the Foreign Exchange Management (Current Account Transactions) Rules, 2000 As amended by Foreign Exchange Management (Current Account Transactions) Amendment Rules, 2015.</p> <p>Individuals can avail of foreign exchange facility for the purposes specified in Schedule III within the limit of USD 2,50,000 only. Any additional remittance in excess of the said limit shall require prior approval of the Reserve Bank of India.</p> <p>Schedule III include the transactions such as travel for business or attending a conference or specialized training or for meeting expenses for meeting medical expenses, or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/ check-up.</p> <p>Conclusion:—Thus drawal of foreign exchange exceeding US Dollar 25,000 for a business tour irrespective of period of stay abroad is allowed since it is within the limit of \$ 2,50,000</p>
Quest-46B	<p>Mr. Basu desires to draw foreign exchange for the following purposes:</p> <p>(i) Payment related to "Call back services" of telephones</p> <p>(ii) USD 1,20,000 for studies abroad on the basis of estimates given by the foreign university.</p>

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY
Set-3-List of Quest-41 to Quest-50
Chapters Covered- FEMA
Weightage as per Exams -Approx 6-8 Marks

	(iii) USD 25,000 for sending a cultural troupe on a tour of Europe. Advise him, whether he can get foreign exchange and, if so, under what conditions
Solution	<p>By virtue of powers under section 5, the Central Government has framed the Foreign Exchange Management (Current Account Transactions) Rules, 2000.</p> <p>Schedule I of the said Rules contains transactions for which drawal of foreign exchange is prohibited,</p> <p>Schedule II contains transactions for which drawal of foreign exchange requires prior approval of the Central Government and</p> <p>Schedule III contains transactions for which drawal of foreign exchange requires prior approval of the Central Government.</p> <p><u>Keeping in view these provisions the questions can be answered as under -</u></p> <p>(i) Payment related to 'call back services' of telephone is totally prohibited under Schedule I of Foreign Exchange Management (Current Account Transaction) Rules. Therefore, Mr. Basu cannot draw forex for this.</p> <p>(ii) As per third schedule to the Foreign Exchange Management (Current Account Transactions). Rules, 2000 As amended by Foreign Exchange Management (Current Account Transactions) Amendment Rules, 2015.</p> <p>Individuals can avail of foreign exchange facility for the purposes specified in Schedule III within the limit of USD 2,50,000 only. Any additional remittance in excess of the said limit shall require prior approval of the Reserve Bank of India.</p> <p>Remittance of Foreign Exchange for studies abroad is covered under Schedule III of the said Rules. Foreign Exchange may be released for studies abroad up to an overall limit of USD 2,50,000 or the estimates from the institution abroad, whichever is higher. Above this limit RBI's approval is required.</p> <p>(iii) Cultural troupe is covered is covered under Schedule II of the said Rules. Irrespective of the amount involved prior approval of Central Government, Ministry of HRD (Dept. of Education and Culture) is required.</p>
Quest-46C	<p>Examine whether the following transactions are permissible or not under the above act as Capital Account transactions:</p> <p>(i) Investment by person resident in India in Foreign Securities.</p> <p>(ii) Foreign currency loans raised in India and abroad by a person resident in India.</p> <p>(iii) Export, import and holding of currency / currency notes.</p> <p>(iv) Trading in transferable development rights.</p> <p>(v) <i>Investment in a Nidhi Company.</i></p>
Solution	<p>Meaning of Capital Account Transactions</p> <p>According to section 2(e), capital account transaction means a transaction which alters the assets or liabilities, including contingent liabilities, outside India of persons resident in India</p>

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY

Set-3-List of Quest-41 to Quest-50

Chapters Covered- FEMA

Weightage as per Exams -Approx 6-8 Marks

	<p>or assets or liabilities in India of the persons resident outside India and includes transactions covered under sub-section (3) of section 6.</p> <p>The Reserve Bank of India has framed Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000. The provisions of these regulations are as under:</p> <p>Categories of Capital Account Transactions:</p> <p>As per these regulations, capital account transactions may be classified under the following heads.</p> <p>(1) Permissible capital account transactions of persons resident in India (schedule 1)</p> <p>Foreign Exchange Management (Permissible Capital Account Transactions) (Third Amendment) Regulations, 2015.</p> <p>"PROVIDED that -</p> <p>(a) subject to the provisions of the Act or the rules or regulations or directions or orders made or issued thereunder, a resident individual may, draw from an authorized person foreign exchange not exceeding USD 250,000 per financial year or such amount as decided by Reserve Bank from time to time for a capital account transaction specified in Schedule I.</p> <p><i>Explanation:</i> Drawal of foreign exchange as per Schedule III to Foreign Exchange Management (Current Account Transactions) Rules, 2000 shall be subsumed within the limit under proviso (a) above.</p> <p>(b) Where the drawal of foreign exchange by a resident individual for any capital account transaction specified in Schedule I exceeds USD 250,000 per financial year, the limit specified in the regulations relevant to the transaction shall apply with respect to such drawal.</p> <p>(2) Permissible Capital transactions of persons resident outside India (schedule II).</p> <p>(3) Prohibited capital account transactions.</p> <p>Conclusion: - Among five capital account transaction of question first three i.e. (i), (ii) and (iii) are permissible capital account transactions. A resident individual may, draw from an authorized person foreign exchange not exceeding USD 250,000 per financial year or such amount as decided by Reserve Bank from time to time</p> <p><i>Rest two i.e., (iv) and (v) are prohibited capital transactions.</i></p>
<p>Quest-47</p>	<p>Mr. Ashok, a citizen of India, has been working in a company in Chicago, USA, since last 8 years , and had been settled there with his family.</p> <p>However, the said company opened its branch in India last year and Mr. Ashok has been deputed there for a duration of 26 months from 25th April, 2020.</p>

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY

Set-3-List of Quest-41 to Quest-50

Chapters Covered- FEMA

Weightage as per Exams -Approx 6-8 Marks

He remitted an amount of \$ 280,000 on 20th December, 2021 to his family in USA. The details of salary earned by him from 25th April, 2020 to 30th November, 2021 are as follows: -

Particulars	\$
Gross Salary	350,000
Contribution to Provident	40,000
Fund TDS as per Income Tax Act, 1961	40,000

* Amount is converted to USD from INR.

In the context of aforesaid case-scenario, determine following issues: -

How much excess amount, if any, has been remitted by Mr. Ashok to his family in USA?

Solution

Mr. Ashok is a citizen of India working in a company in USA and has been deputed to its branch in India for a duration of 26 months i.e. for not more than 3 years and Mr. Ashok's stay in F.Y. 2020-21 was more than 182 days in India, so, he would be considered as a resident but not permanently resident in India.

Accordingly, he was allowed to remit an amount upto his net salary i.e. \$ 2,70,000 (\$ 3,50,000- \$ 40,000 - \$ 40,000) while he has remitted an amount of \$ 2,80,000 to his family in USA.

Thus, the excess amount remitted by him is \$ 10,000 (\$ 2,80,000 - \$ 2,70,000).

Quest-48

State whether there are any restrictions in respect of the following transactions:

Drawal of Foreign Exchange for payments due on account of amortization of loans in ordinary course of business.

Solution

According to section 2(e) of the Foreign Exchange Management Act, 1999 (FEMA) "Capital Account Transaction" means a transaction which alters (a) the assets and liabilities, including the contingent liabilities, outside India of persons resident in India or (b) the assets and liabilities in India of persons resident outside India.

It also includes the transactions as provided under section 6(3) of FEMA

Amortisation of Loans: Under provisions of FEMA, 1999 subject to Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000 all capital account transactions are prohibited unless permitted by proviso to section 6(2) of FEMA.

The proviso specifically permits drawal of foreign exchange for payments due on account of amortisation of loans in ordinary course of business.

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY
Set-3-List of Quest-41 to Quest-50
Chapters Covered- FEMA
Weightage as per Exams -Approx 6-8 Marks

	Hence, there is no restriction in FEMA in this regard.
Quest-49	<p>Examine with the reference to the provisions of the Foreign Exchange Management Act, 1999 the residential status of the branches mentioned below:</p> <p>(i) MKP Limited, an Indian company having its Registered office at Mumbai, India established a branch at New York U.S.A. on 1st April, 2004</p> <p>(ii) WIP Ltd., a company incorporated and registered in London established a branch at Chandigarh in India on 1st April 2004.</p> <p>(iii) WIP Ltd.'s Singapore branch which is controlled by its Chandigarh branch.</p>
Solution	<p>Term 'Person Resident in India' has been defined under section 2(V), which provides that all branches and offices in India under the control and ownership of a person resident outside India are persons resident in India. Similarly, all branches and offices outside India under the control or ownership of a person resident in India are also Persons Resident in India.</p> <p>Keeping in mind these provisions, questions can be answered as under -</p> <p>(i) As per section 2(v)(iv) any branch or agency or office outside India under the control or ownership of a person resident in India will always be regarded as a person resident in India. Therefore, New York branch of MKP Ltd. will be treated as 'Person Resident in India'.</p> <p>(ii) As per section 2(v)(iii) any branch or agency or office in India under the ownership or control of a person resident outside India will also be a person resident in India. Therefore, Chandigarh branch of WIP Limited will be treated as a person resident in India.</p> <p>(iii) As per section 2(v)(iv) any branch or agency or office of a person resident in India will also be treated as a person resident in India. In the given case, the Singapore branch of WIP Ltd. is controlled by its Chandigarh Branch which is a "Person resident in India". Therefore, the residential status of the Singapore branch of WIP Ltd. shall be that of a "Person resident in India".</p>
Quest-50	<p>Mr. T. Raghava has secured admission in a reputed and recognized university in Germany, for the study of higher and technical education, outside India. After arrival in Germany, he has gone ill and wants medical treatment facility in a reputed German hospital. He desires to apply to the Government of India for availing the additional remittance beyond the limit approved for foreign currency exchange facility. He has already enjoyed the permitted facility of foreign exchange for studies abroad, for the said financial year. Decide the following as to the facts given in the question as per the provisions of the Foreign Exchange Management Act, 1999:</p> <ol style="list-style-type: none"> As an individual, to what extent Mr. T. Raghava may avail foreign exchange facilities for higher and technical study in Germany. Can Mr. T. Raghava avail the facility of additional remittance in foreign exchange, beyond the limit, for the medical treatment.

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY

Set-3-List of Quest-41 to Quest-50

Chapters Covered- FEMA

Weightage as per Exams -Approx 6-8 Marks

Solution	<p>According to the Schedule III of the FEM (current account transactions) Rules, 2000, Remittance of Foreign Exchange for Studies Abroad: Foreign exchange may be released for studies abroad up to a limit of US \$ 2,50,000 without any permission from the RBI. Above this limit, RBI's prior approval is required.</p> <p>Remittance for Medical Treatment: Remittance of foreign exchange for medical treatment abroad: - It requires prior permission or approval of RBI where the individual requires withdrawal of foreign exchange exceeding USD 2,50,000.</p> <p>According to Schedule III, for the purpose of expenses in connection with medical treatment, the individual may avail of exchange facility for an amount in excess of the limit prescribed under the Liberalized Remittance Scheme, if so, required by a medical institute offering treatment.</p> <p>Any such amount shall be reduced from USD 2,50,000 by the amount so remitted</p> <p>Therefore, in given case, Mr. T. Raghava can draw foreign exchange exceeding USD 2,50,000 by taking prior permission/ approval of RBI.</p>
Quest-50A	<p>Mrs. Chandra, a resident outside India, is likely to inherit from her father some immovable property in India. Are there any restrictions under the provisions of the Foreign Exchange Management Act, 1999 in acquiring or holding such property?</p>
Solution	<p>As per sub-section 5 of section 6 of the FEMA, 1999, a person resident outside India may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or property was acquired, held or owned by such person when he was resident in India or inherited from a person who was resident in India.</p> <p>Accordingly in the problem, Mrs. Chandra, a resident outside India, may acquire or hold any immovable property of his father in India by way of inheritance in both the conditions, firstly, where her father, a resident outside India, had acquired the property in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or as per the provisions of these Regulations or secondly, where her father, a resident in India.</p>