FEMA

Foreign Exchange Management Act 1999

Foreign Exchange Reserve [FER]

$1.2 billion
(1990–1991)
$500B
FDI
imports > export
(trade def.)

₹ = ₹1,000
2,000/day → 30 days

US forex
Liberalised Remittance Scheme
(LRS)
FEMA
Regulations

Travel & tourism
my dollars
$10mn
Invest
value

FEMA 1999

Purpose:
↓
to consolidate & amend law relating to forex
with an objective to:

Facilitating external trade & payments
&
Promoting orderly development & maintenance of forex markets.

Fixed forex rate

FEMA vs. FERA:

	FERA	FEMA
objective	Conserve foreign exchange	promote & develop forex.
Person resident in India (PRI)	Based on citizenship	Based on stay in India
Strictness	More harsh & penalised upon violation	Forex transaction is penalty based violation penalised
Need-wise classification of forex-related activities	Prohibition of existence of forex-related activities	Need-wise, two processes responsibility of practicable to pass.
compounding of offences	not allowed	on offences are compoundable.

Assets → Liabilities
Income → Expenses

Applicability:

this act extends to whole of India.

It also applies to branch, office & agencies
↓
outside India
↓
owned & controlled by a PRI

Definition [Section 3]

Person	PRI	PRNI
↓	↓	↓
• trust	Not fictitious	means a person
• HUF		who is not a PRI
• Proprietorship		
• Firm		
• company		
• AOP		
• Any person who is citizen or citizenship obtained by other person	Not	

Person Resident in India (PRI)

Individual	Person other than individual
Person residing in India for > 182 days during the preceding FY	• Any person or BC ✓ Registered ✓ incorporated in India

But does not include:

(a) A person who has gone out of India for
- taking up employment w/o India.
- carrying on business etc outside or remain etc outside.
- other purpose which there is intention to stay for uncertain period.

• Any BoA in India
i.e. owned/controlled by PRI
• Any BoA outside India owned/controlled by PRI.

(b) A person who has come to India.

Exception:
If
documentary evidence given person comes to India for:
- Employment in India
- business in India
- other purpose - uncertain period
↓
considered as PRI.

Illustration:

1. 20 yr → Person Succeeds → 2018-19 PRI

2. 24 yrs → 2018 → Person remains abroad → 2018-19 → PRI
Note: Citizenship is irrelevant to determine residential status.

3. 34 yrs → Became → 01-07-15 → US → employment → 26 yrs
26-27 → PRI
27-28 → 01-07-15 → 31-12-15 → PRI
01-01-16 → PRNI

Note: In India, transactions started to end for a year. It's determined on a particular date

4. 01-08-15 (Dec) → 31-12-16 → 55 yrs → 57 yrs → vacation → 8m
01-01-17 → 31-12-17 → PRNI
01-01-18 → 31-12-18 ↓ PRNI
FY 18-19 → PRNI

Biswajit → US → 4 yrs → Home → Vacation → Come → Vacation

5. ..... → 01-07-15 → 56 yrs → passenger
01-01-15 → 30-06-15 → PRNI
01-07-15 → 31-03-16 → PRI

Illustration

Note: Where a person comes to India for employment or business or possible to constitute period he immediately becomes PRI irrespective of no. of days in preceding FY

6. 32 → 35 yrs → 01-04-18 ↓ salary higher studies
01-04-16 → 30-06-16 → PRNI
01-07-16 → 31-03-18 → PRI

Note: where person leaves India for higher studies, he should be treated as PRI [PRI continuation]

7. 30 yrs → 01-01-15 → 2-03-16 → India
01-01-15 → 30-04-16 → PRNI
01-05-16 → 31-12-16 → PRI
Part of year is residence
01-01-17 → 31-03-21 → PRNI
01-04-21 → 31-03-22 → PRNI

8. 100 a motors Ltd → PRI
Tesla motors LLC → PRNI
branch → Mumbai → GIFT → PRNI
Manufac → PRI
Trades → PRI

9. 2 LLC (Singapore) → Indian investor → PRI → Indian investor → PRI
5 LLC → PRNI
Indian → PRI
Indian → PRI

6 days challenge
Nilanjana
Forex.

Q1 → 2018
Q2 → 2018
Q3 → 2018
Q4 → 2018