

THE EXCHANGE BONDS (IMMUNITIES AND EXEMPTIONS) ACT,
1991

[Act No. 41 of 1991]

Preamble

An Act to provide for certain immunities to persons receiving
remittances in foreign exchange

and to persons owning the Foreign Exchange Bonds and for certain
exemptions from direct

taxes in relation to such remittances and bonds and for matters
connected therewith or

incidental thereto.

WHEREAS the position relating to balance of payments has become
difficult and it is

necessary to attract large inflow of foreign exchange.

and WHEREAS with a view to attracting such inflow of foreign
exchange, it is expedient to

provide for certain immunities and exemptions to render it possible
for certain persons to

receive the said remittances in foreign exchange and to own the said
Bonds.

be it enacted by Parliament in the Forty-second Year of the Republic
of India as follows:--

Section 1 - Short title and extent

(1) This Act may be called the Remittances of Foreign Exchange and
Investment in Foreign

Exchange Bonds (Immunities and Exemptions) Act, 1991.

(2) It extends to the whole of India.

Section 2 - Definitions

In this Chapter, unless the context otherwise requires,--

(a) "recipient" means a person as defined in clause (31) of section 2
of the Income-tax

Act, 1961 (43 of 1961) who receives any remittance under this Chapter;

(b) "remittance" means remittance made in foreign exchange by any person resident

outside India to a person resident in India on or after the date of commencement of this

Act but before the specified date, in the form of drafts, traveller's cheques, cheques

drawn on banks situated outside India, telegraphic transfers, mail transfers, money

orders, or by way of transfer from Non-resident (External) Account, Foreign Currency

Nonresident Account or Foreign Currency Non-resident Special Deposit Account

maintained in India under the rules made under the Foreign Exchange Regulation Act,

1973 (46 of 1973).

Explanation.--For the purposes of this clause, "specified date" means the 1st day of

December, 1991 or such other later date as the Central Government may, by

notification in the Official Gazette, specify in this behalf;

REMITTANCES OF FOREIGN EXCHANGE AND INVESTMENT I...
<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=1407>

1 von 4 21.02.2012 15:37

(c) all other words and expressions used in this Chapter but not defined and defined in

the Foreign Exchange Regulation Act, 1973 (46 of 1973) shall have the meanings

respectively assigned to them in that Act.

Section 3 - Immunities

(1) Notwithstanding anything contained in any other law for the time being in force,--

(a) no recipient, who claims immunity under this Chapter in accordance with such scheme

as the Reserve Bank of India may, by notification in the Official Gazette, specify for the

purposes of receiving remittances under this Chapter, shall be required to disclose, for

any purpose whatsoever, the nature and source of the remittance made to him;

(b) no inquiry or investigation shall be commenced against the recipient under any such

law on the ground that he has received such remittance;

(c) the fact that the recipient has received a remittance shall not be taken into account

and shall be inadmissible as evidence in any proceedings relating to any offence or the

imposition of any penalty under any such law.

(2) Nothing in sub-section (1) shall apply--

(a) to any foreign exchange which is required to be brought into India under any of the

provisions of--

(i) the Foreign Exchange Regulation Act, 1973 (46 of 1973); or

(ii) the Income-tax Act, 1961 (43 of 1961), read with the Foreign Exchange

Regulation Act, 1973 (46 of 1973), if the period within which such foreign exchange is

to be brought into India has not expired or where such period has been extended, in

any manner, by the Central Government or the Reserve Bank of India or any other

authority, such extended period has not expired on the date of commencement of this

Act;

(b) in relation to prosecution for any offence punishable under Chapter DC or Chapter

XVII of the Indian Penal Code (45 of 1860), the Narcotic Drugs and Psychotropic

Substances Act, 1985 (61 of 1985), the Terrorist and Disruptive Activities (Prevention)

Act, 1987 (28 of 1987), the Prevention of Corruption Act, 1988 (49 of 1988) or for the

purpose of enforcement of any civil liability.

(3) The Central Government shall cause the scheme notified under clause (a) of sub-section

(1) to be laid, as soon as may be after it is notified, before each House of Parliament.

Section 4 - Remittances not to be taken into account in certain cases

Without prejudice to the generality of the provisions of section 3,--

(a) any remittance received under this Chapter shall not be taken into account for the

purpose of any proceeding under the Income-tax Act, 1961 (43 of 1961) and, in

particular, the recipient shall not be entitled to claim any set-off or relief in any

assessment, reassessment, appeal, reference or other proceeding under that Act or to

re-open any assessment or reassessment made under that Act on the ground that he has

received such remittance.

Explanation.--for the avoidance of doubt, it is hereby declared that the provisions of

the Income-tax Act, 1961 (43 of 1961) will apply to any income which accrues or

arises or is deemed to accrue or arise to the recipient from the amount of the

remittance;

(b) any remittance received under this Chapter shall not form part of the assets of any

assessee for the purposes of computing his net wealth under the Wealth-tax Act, 1957

REMITTANCES OF FOREIGN EXCHANGE AND INVESTMENT I...
<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=1407>

2 von 4 21.02.2012 15:37

(27 of 1957) in relation to any assessment year commencing before the 1st day of April,

1992.

Section 5 - Definitions

(1) In this Chapter, unless the context otherwise requires,--

(a) "Foreign Exchange Bonds" means the Bonds, issued by the State Bank of India

constituted under the State Bank of India Act, 1955 (23 of 1955) in accordance with such

scheme as the Reserve Bank of India may, by notification in the Official Gazette, specify

in this behalf, the investment wherein is made on or after the date of commencement of

this Act but before the specified date.

Explanation.--For the purposes of this clause, "specified date" means the 1st day of

December, 1991 or such other later date as the Central Government may, by

notification in the Official Gazette, specify in this behalf;

(b) "non-resident Indian" means an individual, being a citizen of India or a person of

Indian origin who is resident outside India.

Explanation 1.--A person shall be deemed to be of Indian origin if—

(i) he, or either of his parents or any of his grand parents, was a citizen of India

by virtue of the Constitution or the Citizenship Act, 1955 (57 of 1955)
; or

(ii) he at any time, held an Indian passport :

Provided that the nationals of Pakistan or Bangladesh shall not be
deemed to be of

Indian origin.

Explanation 2.--A spouse (not being a national of Pakistan or
Bangladesh), of a

person of Indian origin shall also be deemed to be of Indian origin ;

(c) "overseas corporate body" means any institution, association or
body, whether

incorporated or not, established under the laws of a country outside
India wherein any

non-resident Indian has any interest;

(d) all other words and expressions used in this Chapter but not
defined and defined in

the Foreign Exchange Regulation Act, 1973 (46 of 1973), shall have
the meanings

respectively assigned to them in that Act.

(2) The Central Government shall cause the scheme notified under
clause (a) of sub-section

(1) to be laid, as soon as may be after it is notified, before each House
of Parliament.

Section 6 - Immunities

(1) Notwithstanding anything contained in the Wealth-tax Act, 1957
(27 of 1957), the

Gift-tax Act, 1958 (18 of 1958), the Income-tax Act. 1961 (43 of
1961), the Foreign

Exchange Regulation Act, 1973 (46 of 1973) and the Foreign
Contribution (Regulation) Act,

1976 (49 of 1976),--

(a) no non-resident Indian or overseas corporate body who or which owns the Foreign

Exchange Bonds or any person resident in India to whom a gift of such Bonds has been

made by such non-resident Indian or overseas corporate body, shall be required to

disclose, for any purpose whatsoever, the nature and source of the investment in such

Bonds;

(b) no inquiry or investigation shall be commenced against any of the persons referred to

in clause (a) under any of the said Acts on the ground that such person owns such Bonds;

(c) the fact that any of the persons referred to in clause (a) owns such Bonds shall not be

REMITTANCES OF FOREIGN EXCHANGE AND INVESTMENT I...

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=1407>

3 von 4 21.02.2012 15:37

taken into account and shall be inadmissible as evidence in any proceedings relating to

any offence or the imposition of any penalty under any of the said Acts.

(2) Nothing in sub-section (1) shall apply to foreign exchange which is required to be

brought into India under any of the provisions of--

(i) the Foreign Exchange Regulation Act, 1973 (46 of 1973); or

(ii) the Income-tax Act, 1961 (43 of 1961), read with the Foreign Exchange Regulation

Act, 1973 (46 of 1973),

if the period within which such foreign exchange is to be brought into India has not expired

or where such period has been extended, in any manner, by the Central Government or the

Reserve Bank of India or any other authority, such extended period has not expired on the

date of commencement of this Act.

Section 7 - Foreign Exchange Bonds not to be taken into account In certain cases

Without prejudice to the generality of the provisions of section 6,--

(a) the provisions of the Income-tax Act, 1961 (43 of 1961), shall not apply to any

interest accruing in relation to the Foreign Exchange Bonds;

(b) the provisions of the Wealth-tax Act, 1957 (27 of 1957) shall not apply in relation to

the Foreign Exchange Bonds :

(c) the provisions of the Gift-tax Act, 1958 (18 of 1958) shall not apply where any

non-resident Indian becomes a resident in India and makes a gift of the Foreign

Exchange Bonds.

REMITTANCES OF FOREIGN EXCHANGE AND INVESTMENT I...

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=1407>

4 von 4 21.02.2012 15:37