

LEGAL HANDBOOK FOR  
**Non-Resident Nepalis**



The logo for Pioneer Law Associates features the word "PIONEER" in a bold, black, sans-serif font. The letter "O" is replaced by a square graphic divided diagonally from the top-left to the bottom-right. The upper-left triangle of the square is dark teal, and the lower-right triangle is light blue. Below "PIONEER", the words "LAW ASSOCIATES" are written in a smaller, black, sans-serif font.

# PIONEER

## LAW ASSOCIATES

*Pioneer Law Associates ("**Pioneer Law**") was founded in 1982 by four lawyers recognized for professional specialization in their respective practice areas, with a vision to create an institutional set up to provide expert legal services in the areas of commercial, civil and criminal laws. Since the concept of institutional legal practice with specialization in multiple practice areas was a new one at that time, Pioneer Law pioneered a new trend and hence the name "**Pioneer**". Since then, Pioneer Law has evolved as a full-service law firm and is recognized as a leading commercial law firm in Nepal. Pioneer Law continues to be a pioneer full-service law firm with highly regarded specialization in commercial laws.*

*We also strongly believe in knowledge sharing and disseminating our knowledge to the legal fraternity and stakeholders, through academic presentations and publications. We hope that the Legal Handbook for Non-Resident Nepalīs will be helpful in providing a brief background to the current law and practice in this area.*

*March, 2022.*

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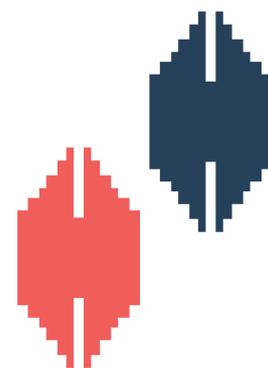
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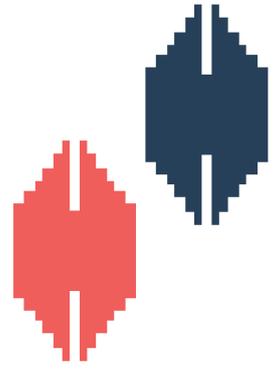
# Contents

<b>CH.</b>	<b>TITLE</b>	<b>PAGES</b>
	Abbreviations.....	6
<b>1.</b>	Introduction .....	7
<b>2.</b>	Obtaining NRN Status .....	8
<b>3.</b>	Visa.....	10
<b>4.</b>	Property .....	11
<b>5.</b>	Citizenship.....	14
<b>6.</b>	Foreign Investment Into Nepal .....	15
<b>7.</b>	Investment outside Nepal .....	19
<b>8.</b>	Charitable Contributions in Nepal .....	20
<b>9.</b>	Employment .....	22
<b>10.</b>	Marriage.....	24
<b>11.</b>	Taxation .....	26
<b>12.</b>	Repatriation.....	32
<b>13.</b>	Divorce .....	34
<b>14.</b>	Forfeiture of NRN ID card .....	37
<b>15.</b>	Reform.....	38



# Abbreviations

<b>BFI</b>	Banks and Financial Institutions
<b>DOIM</b>	Department of Immigration
<b>DOI</b>	Department of Industries
<b>DOL</b>	Department of Labor
<b>DTAA</b>	Double Taxation Avoidance Agreement
<b>FCNO</b>	Foreign Citizen of Nepalese Origin
<b>FITTA 2019</b>	Foreign Investment and Transfer of Technology Act, 2075 (2019)
<b>FPI</b>	Foreign Portfolio Investment
<b>GON</b>	Government of Nepal
<b>IBN</b>	Investment Board of Nepal
<b>IEA</b>	Industrial Enterprises Act, 2076 (2020)
<b>INGO</b>	International Non-Governmental Organization
<b>IRD</b>	Inland Revenue Department
<b>ITA</b>	Income Tax Act
<b>MOFA</b>	Ministry of Foreign Affairs
<b>MOHA</b>	Ministry of Home Affairs
<b>NCRA</b>	Nepalese Citizen Residing Abroad
<b>NFP</b>	Not for Profit
<b>NGO</b>	Non-Governmental Organization
<b>NPR</b>	Nepalese Rupees
<b>NRB</b>	Nepal Rastra Bank
<b>NRN</b>	Non-Resident Nepali
<b>NRN Act</b>	Non-Resident Nepali Act, 2064(2008)
<b>OCR</b>	Office of Company Registrar
<b>PAN</b>	Personal Account Number
<b>SAARC</b>	South Asian Association of Regional Cooperation
<b>TDS</b>	Tax Deducted at Source
<b>UNCITRAL</b>	United Nations Commission on International Trade Law
<b>USD</b>	United States Dollar
<b>VAT</b>	Value Added Tax
<b>VDC</b>	Village Development Committee



## Chapter 1

# Introduction

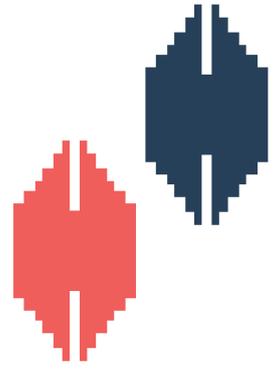
It is with great pleasure that Pioneer Law presents its Legal Handbook for Non-Resident Nepalis. This Handbook has been prepared with the idea of knowledge sharing with our esteemed colleagues and the public at large. At the outset, it must be understood that the present Handbook does not amount to legal advice and has been prepared only as an academic attempt towards preparing a comprehensive compendium of the various aspects of the legal issues relating to an NRNs life.

### So, who is an NRN?

The NRN Act defines an NRN to include:

- a. Any person whose father, mother, grandfather or grandmother was a citizen of Nepal at any time and has subsequently acquired the citizenship of any other foreign country other than a member country of the South Asian Association of Regional Co-operation (“SAARC”), or
- b. Any person who is residing in any foreign country for at least 2 (two) years and is involved in any profession, occupation, business and employment except in SAARC region. The definition of NRN also excludes any person who is serving in a diplomatic mission or consulate situated in a foreign country under the assignment of the government of Nepal or who is studying in an academic institution situated in a foreign country.

The present Handbook looks at the issues faced by Foreign Citizens of Nepalese Origin and Nepali Citizens Residing Abroad and the legal regime surrounding the same.



## Chapter 2

# Obtaining NRN Status

## 2.1 Introduction

Non-Resident Nepali status is a medium through which one can establish him/herself as a NRN in Nepal and abroad. Obtaining an NRN status is essential in order to pursue various benefits, facilities and concessions accorded to NRNs under Nepalese Law.

Any NRN can obtain the status of NRN i.e. recognition as NRN through Chief of Mission<sup>1</sup>, if abroad, or the Ministry of Foreign Affairs (“MOFA”), if in Nepal. In order to obtain the status of NRN, one needs to record themselves before the concerned authority and receive the NRN identification card.

## 2.2 Procedure

The process of registration is as follows:

- i. An application in the prescribed format should be submitted before the Chief of Mission, if abroad, or before the Secretary of the MOFA, if in Nepal.
- ii. If the application is made in Nepal, NPR. 1500/- (Nepalese Rupees One Thousand and Five Hundred), or if the application is made in abroad, then USD 20/- (United States Dollar Twenty) should be submitted as a fee for registration. This may be subject to change depending on policy considerations.
- iii. After having one’s name recorded as an NRN, the NRN can apply for an NRN Identity Card. The Chief of Mission or Secretary of the MOFA will issue the Identity Card after collecting the prescribed fees.

## 2.3 Timeline

It generally takes 7-10 working days to record the said details and obtain the NRN Identity card, after all the required documents have been furnished to the concerned authority.

## 2.4 Validity

In case of Foreign Citizen of Nepalese Origin, the NRN Identity Card is valid for maximum 10 (ten) years and in case of Nepali Citizen Residing Abroad, the NRN identity card is valid for 2 (two) years. However, the period can be extended if the Nepali Citizen Residing Abroad is permitted to reside abroad for more than 2 (two) years by the concerned foreign state.

<sup>1</sup> “Mission” means the Nepali embassies situated in foreign countries and this word also refers the permanent mission of Nepal for the United Nations or the Consulate General of Nepal situated in foreign land.

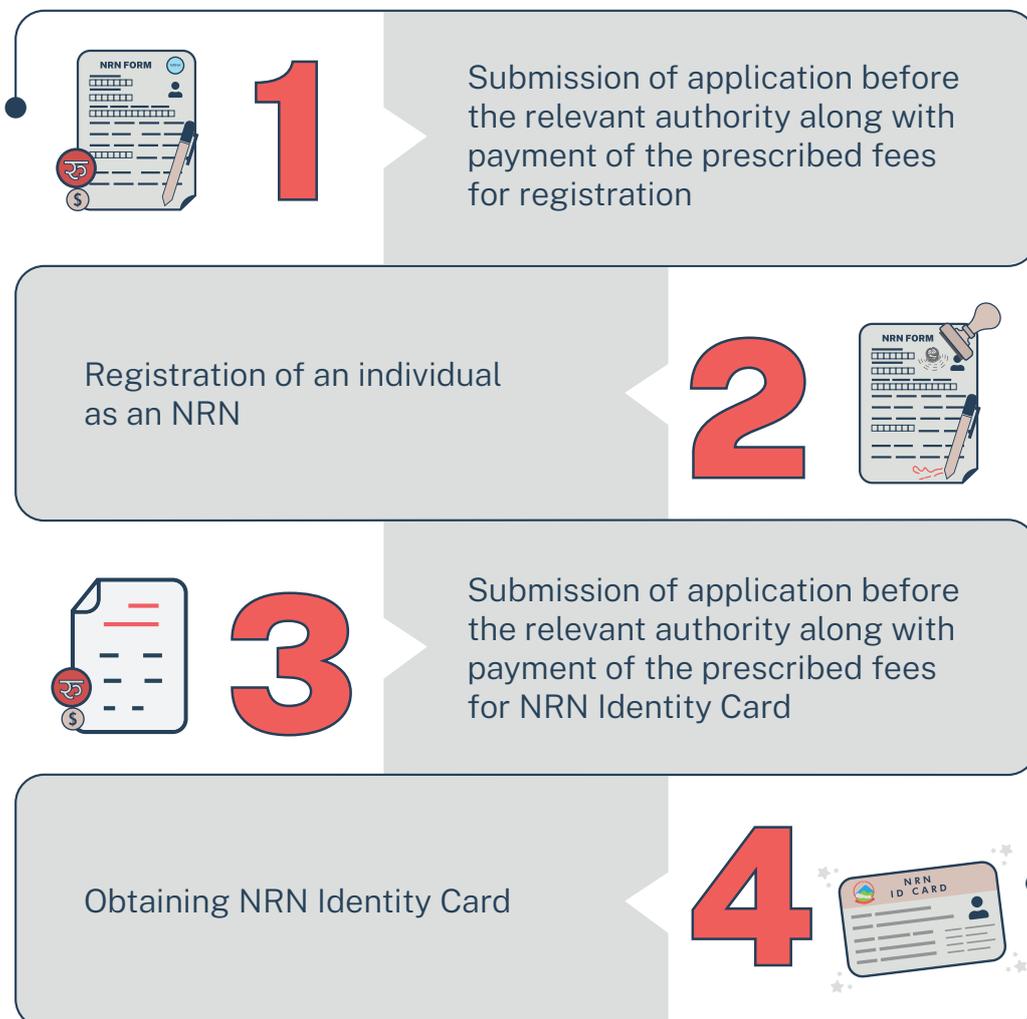
## 2.5 Renewal

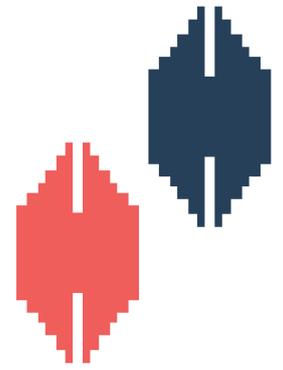
For the renewal of the NRN Identity Card, an application is to be submitted to the Chief of Mission or Secretary of the MOFA in the prescribed format prior to the expiry of the validity of the concerned Identity Card. The Chief of Mission or Secretary of the MOFA renews the Identity Card after collecting the prescribed fees.

## 2.6 Changes to be Recorded

The NRN should inform the Chief of Mission, if abroad, or the MOFA, if in Nepal regarding any change(s) in the details/information within 3 (three) months. The same shall be updated in the record maintained in relation thereto.

## 2.7 Procedural Flowchart





## Chapter 3

# Visa

### 3.1 Visa Requirement

NRN Identity Card should only be considered as a basis for visa and not as a substitute for a visa. NRNs who are Foreign Citizen of Nepalese Origin are to obtain visa from the Department of Immigration (“DOIM”). Special provisions exist for Foreign Citizen of Nepalese Origins holding NRN Card and her/his immediate family residing with him/her.

### 3.2 Available Visa Options

Generally, Foreign Citizen of Nepalese Origins are issued two different types of visas. At first, they are issued a Tourist Visa on their arrival and then they are issued NRN Visa after they make an application for extension of visa before the DOIM.

#### 3.2.1. Tourist Visa

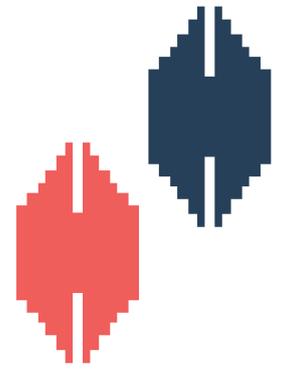
At first, Foreign Citizen of Nepalese Origins are issued a Tourist Visa. The Tourist Visa is issued for a certain number of days, as is predetermined by the DOIM. NRN can make an application for the extension or change of tourist visa into an NRN Visa, as discussed in *paragraph 3.2.2 below*.

#### 3.2.2. NRN Visa:

NRN visa is issued for free until NRN Card remains valid. NRN Visa is issued for a maximum of 10 (ten) year. The application for NRN visa can be submitted at (a) DOIM (Non-Tourist Visa Section) or (b) Department of Industries (“DOI”) (only applicable if NRN is making an investment in Nepal).

### 3.3 Documents required for NRN Visa processing

An online visa application has to be submitted at the website of DOIM. The NRN Card issued by Ministry of Foreign Affairs (“MOFA”) or its missions based abroad (Original and Photocopy) are pre-requisites for visa approval, along with a valid passport and latest Nepalese visa.



## Chapter 4

# Property

### 4.1 Introduction

The prevailing laws have recognized the rights of NRNs relating to property. Property in these terms is classified as property from inheritance and/or partition, and the general methods of acquiring property namely, purchase, mortgage, gift, etc.

### 4.2 Acquisition of Land

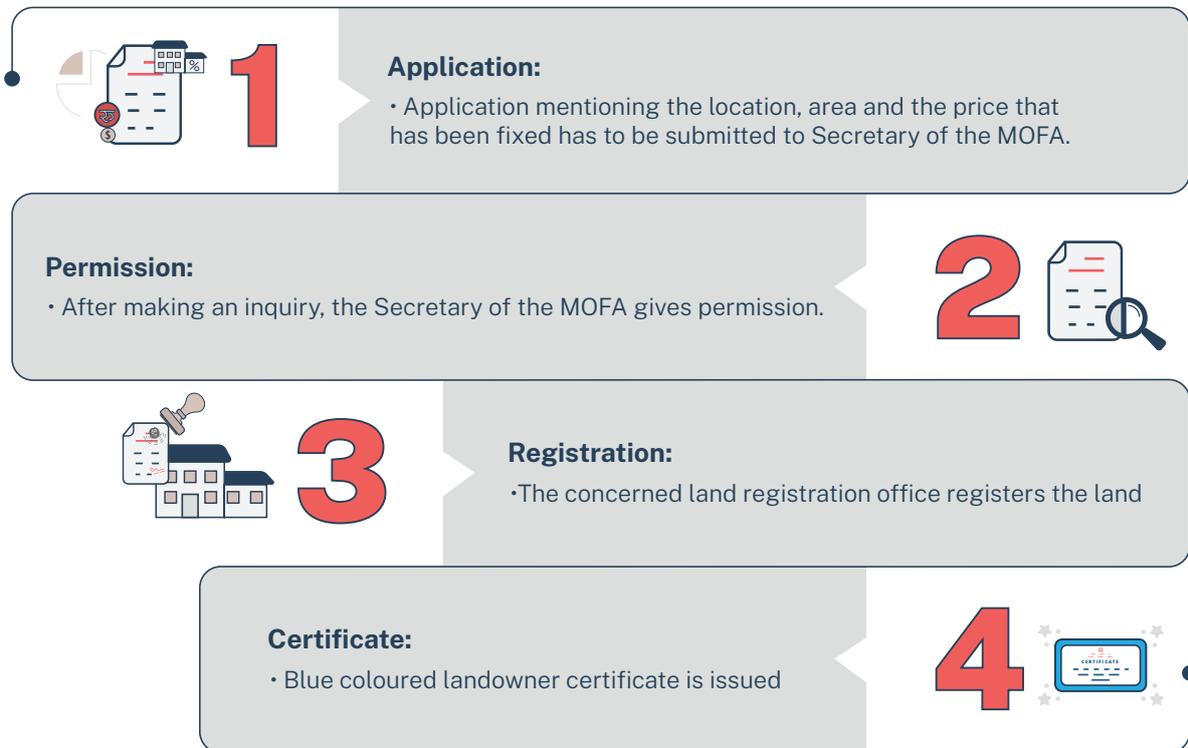
#### 4.2.1. By virtue of purchase

Foreign Citizen of Nepalese Origins can purchase immovable property for residing within Nepal for himself/herself or his/her family. Further, the law has prescribed the following land ceiling parameters:

S. No.	Place of land	Area
1.	Kathmandu Valley	2 (Two) Ropani
2.	Municipalities of the Terai district	8 (Eight) Katha
3.	Other municipalities except in Kathmandu Valley and Terai district	4 (Four) Ropani
4.	Village Development Committees of the Terai district	1 (One) Bigha
5.	Other than the places mentioned above	10 (Ten) Ropani

However, the above given land ceiling does not apply to those Foreign Citizen of Nepalese Origin who had acquired land while being Nepali citizen.

## 4.2.2. Procedure for purchasing land



## 4.2.3. By virtue of inheritance

In general, foreigners would require approval of the Government of Nepal in order to inherit ancestral immovable property. However, Foreign Citizen of Nepalese Origins can inherit the ancestral property from both Nepalese and Foreign Citizen of Nepalese Origin without obtaining such approval. Furthermore, a Foreign Citizen of Nepalese Origin is required to have an NRN ID Card to inherit the immovable property devolved to him/her.

## 4.2.4. By virtue of investment

Like any other foreign investor, FITTA 2019 permits NRNs to make investment in Nepal. The detailed analysis in relation to this has been discussed in Chapter 6.

## 4.2.5. By virtue of mortgage

NRN holding NRN Citizenship are permitted to hold any kind of movable and immovable property as mortgage. Mortgage can be of the following types:

- i. **Mortgage with possession (*Bhogbandhaki*)**  
In mortgage with possession, the creditor is entitled to possess and enjoy the property mortgaged with immediate effect at the time of lending or after a certain period. However, interest, charge or fee cannot be taken. Except as otherwise provided in the deed of mortgage, no property may be possessed and enjoyed for a period exceeding 10 (ten) years.

- ii. Mortgage without possession (*Drishtibandhaki*)  
In mortgage without possession, the creditor is entitled to possess the property only in the event of the debtor's default on repayment of the loan within the set deadline. The mortgaged property should be possessed or enjoyed within 2 (two) years of the expiration of the date for repayment of loan by the debtor. Interest, charge or fee may be taken unless the creditor has acquired possession in the mortgaged property. The period of a mortgage without possession in a property cannot exceed 5 (five) years and after the expiry such period, the property may be possessed for a period not exceeding 10 (ten) years.

## 4.3 Property Transfer by NRNs

### 4.3.1. By selling

NRNs can transfer their property by way of sale. In order to do so, in relation to immovable properties, a deed of sale/transfer of ownership must be duly executed and filed with the concerned Land Revenue Office. In cases of transfer of movable property, a deed might not be required for execution. However, a deed is required to be executed for transfer of other movable property such as shares, equity instruments, etc.

### 4.3.2. By donation and gift

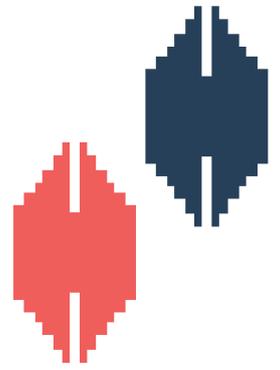
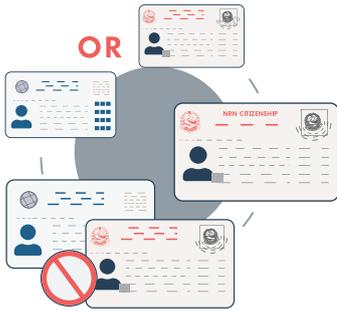
NRNs can transfer their property by way of donation or gift. Donation is when a person grants a property free of cost, to another person for any religious, social, public or community purpose, without the intention of making a profit from the said transfer of ownership. Similarly, if a person grants a property free of cost to another person for family love or affection such an act is deemed to be a gift. Donation or gift can be affected in a way that it is effective immediately or after a certain period such as the death of its maker. In case of donation or gift of an immovable property or cash of more than NPR 100,000/- (Nepalese Rupees One Hundred Thousand), a deed should be mandatorily executed and registered with the relevant Land Revenue Office.

## 4.4 Opening of the Bank Account in Convertible Foreign Currency

NRNs with the NRN Identity Card can open and operate an account for the amount earned by him/her in convertible foreign currency, in any commercial Bank or Financial Institution which is licensed to accept such amount by the NRB. The said identity card should be duly updated/renewed to operate such bank account.

## 4.5 Conclusion

The property rights of NRNs are exclusively protected in Nepal. NRNs are entitled to inherit, purchase and take mortgage of immovable property without obtaining approval of Government of Nepal. In a nutshell, the law of Nepal seems to segregate the property rights of FCNOs and foreigners, and provides special rights to FCNOs in relation to property.



## Chapter 5

# Citizenship

A Nepali citizen may acquire the citizenship of another country, however, this leads to deemed renunciation of his/her Nepali citizenship. Nepal has not adopted the concept of dual nationality, however, the law creates for an exception relating to Non-Residential Citizenship of Nepal for Foreign Citizens of Nepalese Origin, which is called the NRN Citizenship. A person holding NRN Citizenship is allowed to enjoy social, economic, and cultural rights in Nepal. However, an NRN Citizenship holder does not enjoy any political rights in Nepal.

## 5.1 Renunciation of Nepali Citizenship

Under Nepalese law, it is deemed that Nepalese citizenship is renounced in the event of acquisition of the citizenship of any foreign country. As such, once someone acquires a foreign citizenship, then his/her Nepali citizenship is deemed to have been renounced. The law also provides for certain procedures for the renunciation of the Nepalese citizenship, as is discussed below.

### 5.1.1. Process of Renunciation of Nepalese Citizenship

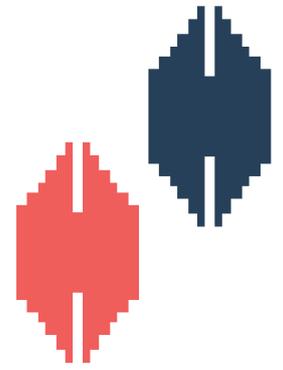
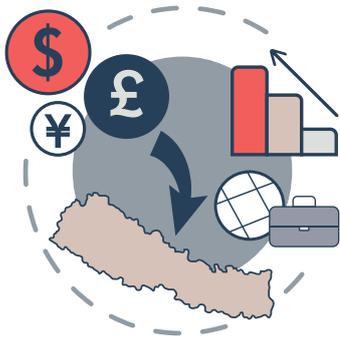
An applicant who has acquired foreign citizenship is to make an application before the concerned government authority for the renunciation of Nepalese citizenship. The Government has prescribed the standard format for the said application. The date of renunciation shall be from the date of registration of the said application.

Apart from the voluntary renunciation of the citizenship, there are various instances where Nepalese citizenship is terminated which includes, the act of acquiring Nepalese citizenship in a fraudulent manner and/or acquisition of Nepalese citizenship on submission of false documents and declaration.

## 5.2 Re-acquisition of Nepalese Citizenship

NRNs who have renounced Nepalese citizenship can re-obtain their Nepali citizenship upon fulfilling certain formalities as prescribed by the law. The fundamental condition for the re-acquisition of Nepalese citizenship is that the NRN having obtained foreign citizenship should have renounced their foreign citizenship. For this, the application can be made to the Ministry or the concerned Chief District Officer that had previously issued the certificate of citizenship to such person. The citizenship so acquired shall have the same details as mentioned in the previous certificate of the citizenship.

With the emergence of opportunities and in order to have a better way of living, people may choose to take the citizenship of a foreign land. However, before acquiring such foreign citizenship, one should be aware of the consequences of the change in their rights and privileges under the laws of Nepal.



## Chapter 6

# Foreign Investment Into Nepal

Prior to the enactment of Foreign Investment and Transfer of Technology Act, 2075 (2019) (“FITTA 2019”) foreign investment by NRN was not classified as “Foreign Investment” and as such the pre-requisites for foreign investment in Nepal, such as investment approval, minimum threshold etc. were not mandatory for NRN foreign investors.

However, after the enactment of FITTA 2019 there has been a paradigm shift in relation to foreign investments by NRNs. NRNs bringing in foreign investment have been included in the definition “Foreign Investor” that too without taking into account that some NRNs can also be Nepali citizens, and that the Constitution of Nepal grants NRNs equal status as Nepali citizens in relation to economic, social, and cultural rights.

An NRN individual is permitted to make foreign investment either by himself/herself, or through a foreign company in which s/he owns more than 50 (fifty) percent shares. An NRN can make foreign investment in Nepal using convertible foreign currency at par with any other foreign investor within the regime of the FITTA 2019. This has been explained below:

## 6.1 Definition of Foreign Investment and Foreign Investors under Nepali Laws

The general definition of foreign investment provided by FITTA 2019 also recognizes the foreign investments made by NRNs. The definition of foreign investment under the FITTA 2019 includes the following:

- a. share investment in foreign currency
- b. re-investment of dividends derived from foreign currency or shares
- c. lease financing
- d. investment in venture capital fund
- e. investment made in listed securities through secondary securities market
- f. investment made by purchasing shares or assets of a Nepali Company
- g. technology transfer etc.

Further, the NRN Act defines ‘investment’ to include:

- a. investment made by an NRN in any industry or business in order to earn profit.
- b. transfer of technology related rights of a foreign origin
- c. providing services as foreign technical consultant or management service by concluding an agreement between the industry/business and the NRN.

## 6.2 Sectors not Open to FDI Investment

In relation to the permissibility of investment, 2 (two) things are to be considered by NRNs, namely:

- a. The proposed investment must not be listed in the Negative List under FITTA 2019.
- b. The proposed investment must be classified as an “Industry” under Industrial Enterprises Act, 2076 (2020) (“IEA”).

An NRN looking to make foreign investment in Nepal must have fulfilled the criteria as laid down in point (a) and (b) above. Also, the GON has specified a minimum investment amount of NPR 50 million (5 Crore)(Nepalese Rupees Fifty Million).

## 6.3 Sector-Specific Cap on Foreign Investment

Most sectors like manufacturing, hotel, energy, construction and so on are open for 100% investment. However, at present, the following sectors have an investment ceiling.

SN	Sectors	Maximum NRN ownership (in %)
1	Telecommunication	80
2	Aviation	Domestic Airlines: 49
		International Airlines: 80
		Flying School: 95
		Repair and Maintenance Institutions: 95
3	Consultancy Services	51
4	Insurance	80
5	Energy	Unlimited
6	Banks and Financial Institutions	Minimum 20% to Maximum 85%

## 6.4 Investment Vehicles

NRNs looking to inject foreign capital in Nepal can choose to make their investment through the limited liability company models, which are the most practiced business vehicles in Nepal for commercial business investments including foreign investment.

Limited Liability Companies, or simply known as 'company' or 'companies' in Nepal, are widely popular for investment in business due to their 'limited liability' feature which ensures that the liability of a shareholder is only limited to the extent of the amount of face value of the shares held by the investor.

There are two types of limited liability companies in Nepal i.e., Public Limited Company and Private Limited Company. As of now, the concept of limited liability partnership has not been introduced in Nepal. Other 2 (two) forms of enterprises, such as, private firm and partnership, are also in operation in Nepal. However, the law does not envision foreign investment in such private or partnership firms.

## 6.5 Route for Investment

Basically, there are 2 (two) ways through which NRNs can inject foreign investment in Nepal. One, by incorporating a limited liability company and two, by acquiring the shares of an existing limited liability company.

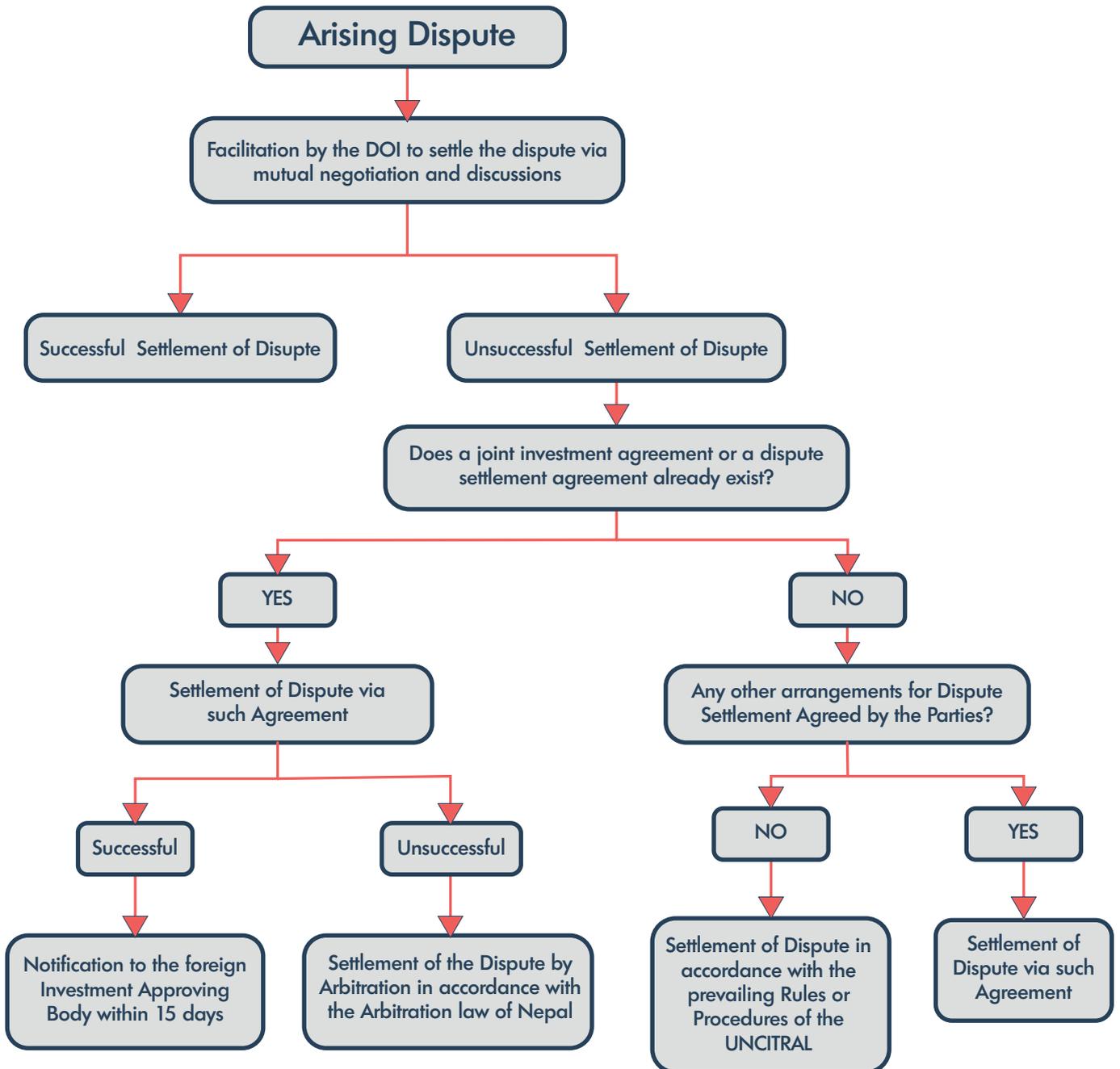
### 6.5.1. Process Map for Foreign Investment

The general procedure through which an NRN can make foreign investment in Nepal is given as follows:

- STEP 1:** Registration/Recording as NRN
- STEP 2:** Acquiring ID Card as NRN
- STEP 3:** Acquiring approval from DOI/IBN for foreign investment (this will depend on the nature of the industry and the volume of the proposed investment).
- STEP 4:** Incorporation of local industry, or, acquisition of shares of an existing company.
- STEP 5:** Bank account, PAN, local body registration, industry registration (along with sector specific permissions), and industrial & environmental clearances.
- STEP 6:** Acquiring certificate of investment from the concerned bank.
- STEP 7:** Nepal Rastra Bank recording
- STEP 8:** Informing Ministry of Foreign Affairs of the investment made in the prescribed format.
- STEP 9:** Recruitment of employees, and compliance with labor laws.

## 6.6 Investment Dispute Settlement

The dispute settlement mechanism in relation to investment may be priorly determined through an agreement. The FITTA 2019 provides that if a dispute in relation to an investment where a Nepali investor and NRN (undertaking foreign investment) have jointly invested arises, then the dispute settlement mechanism can be pursued as per such investment agreement. The procedure of dispute settlement mechanism between a Nepali Investor and an NRN, in relation to foreign investment, under FITTA 2019 is outlined as follows:





## Chapter 7

# Investment Outside Nepal

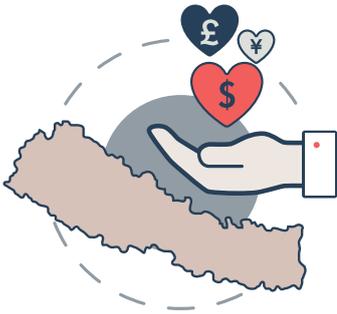
## 7.1 By Foreign Citizens of Nepalese Origin

Foreign Citizens of Nepalese Origin may repatriate only the principal amount they have invested in Nepal and the profits made therefrom. Further, a Foreign Citizen of Nepalese Origin with an NRN Citizenship may receive an immovable property by way of succession or partition. A Foreign Citizen of Nepalese Origin without an NRN Citizenship would need the permission of the Government of Nepal before transfer of title in case of succession or partition of an immovable asset. There exist a lot of on-ground issues because of the complexities of the law in this regard.

## 7.2 By Nepali Citizen Residing Abroad

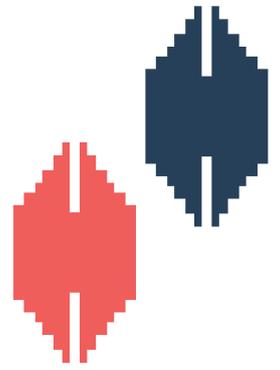
Investment outside Nepal is not permitted for any Nepalese citizen in terms of the Act Restricting Investment Abroad, 2021 (1964). Further, the said Act prohibits Nepalis from opening and maintain a bank account in foreign countries. It is also important to note that the NRB does not permit for the remittance of the income held in Nepal to foreign countries for investment purposes. However, this law has not provided an effective mechanism for monitoring the investments made by Nepali Citizens Residing Abroad in foreign countries. Furthermore, while the said Act states that Nepalese citizens are not permitted to maintain a bank account in foreign countries the NRN Act, Rules and other circulars permit Nepalese citizens to transfer money to bank accounts in Nepal, after fulfilling banking compliance requirements, which pre-supposes the existence of foreign bank accounts. The NRN Act and instruments made thereunder as more recent and as such hold more legal value.

For Nepali Citizens Residing Abroad, the answer to the question, whether or not they are permitted to invest in the foreign country of their residence or other third countries using the income generated in said country or any other foreign country, is dependent upon the legal regime of that particular foreign country. The applicable Nepalese law is not enforceable in the country of investment and the Nepalese authorities cannot exercise extra-territorial jurisdiction in such cases. Hence, there is a lacuna in law in this regard.



## Chapter 8

# Charitable Contributions in Nepal



NRNs can make charitable contributions to any not-for-profit (“NFP”) entity in Nepal through donations. The donations can be made in the form of money, non-cash items, kind, etc.

### 8.1 Contributions and Various Types of Entities

NRNs can set up an NFP entity in Nepal and/or make charitable contributions in such an entity. The various types of not-for profit entities viable for NRNs in Nepal and their parameters are provided below:

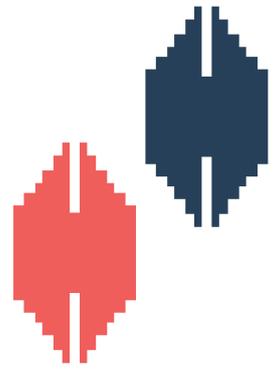
Parameters	Profit not Distributing Company	Public Trust	Non-Governmental Organization	International Non-Governmental Organization
<b>Purpose</b>	Such Companies are for the purpose of developing and promoting any profession or occupation or to protect the collective rights and interests of the persons engaged in any specific profession or occupation or to carry on any enterprise for the attainment of any scientific, academic, social, benevolent or public utility or welfare objective on the condition of not distributing dividends.	The purpose of a Public Trust is generally defined to include public welfare, public interest, development, etc.	NGOs are permitted to work in certain areas/geographical locations as provided in their constitution.	Generally, the scope of activities and area of implementation of such activities are governed through the Project Agreement entered with Social Welfare Council (“SWC”).
<b>Directors/ Memberships</b>	Foreign Citizen of Nepalese Origin cannot become a founding member of such a Company.	Both Foreign Citizen of Nepalese Origin and Nepalese Citizen Residing Abroad can incorporate a Public Trust.	Foreign Citizen of Nepalese Origin cannot become a founding member of an NGO.	Foreign Citizen of Nepalese Origin can hold the country director position. The other positions are subject to the agreement with SWC.
	Nepalese Citizen Residing Abroad can become directors/ members of such a Company.		Nepalese Citizen Residing Abroad can become directors/ members of an NGO.	Nepalese Citizen Residing Abroad can hold positions in INGO as per the Project Agreement.

<b>Holding of Foreign Currency</b>	Such a Company is allowed to open bank accounts in convertible currency in case the company has transactions in foreign currency upon approval from SWC.	The Trust is allowed to open bank accounts in convertible currency in case it has transaction in foreign currency upon approval from SWC.	NGOs are allowed to open bank accounts in convertible currency in case they have transactions in foreign currency upon approval from SWC.	INGOs are allowed to open bank accounts in convertible currency in case they have transactions in foreign currency upon approval from SWC.
<b>Receiving and Transfer of Funds</b>	Such a Company can receive grants or donations from NRNs. SWC approval would be required in relation to foreign funds.	Public Trusts can receive Trust Funds/Assets and donations from NRNs. SWC approval would be required in relation to foreign assistance.	NGOs can receive grants and donations from NRNs. SWC approval would be required in relation to foreign assistance.	The foreign non-government organization can receive grants or donations from outside Nepal from NRNs with the approval of the SWC.

## 8.2 Tax Benefits

The above entities are entitled to tax exemption on amounts received from NRNs in the form of gifts, donations and contributions directly related to the objects of such entities without any consideration or expectation of consideration. Further, such entities should have obtained tax exemption certificates. However, any other income earned or generated by the tax-exempt entities, apart from grant and donations are subject to tax and such entities are also required to pay tax for such other income.

With reference to NRNs who make charitable contribution to tax exempt entities - they are able to deduct NPR 1,00,000/- or 5 % of the total taxable income before deductions and computation limits, whichever is lesser. However, this tax deduction is available only if one is required to pay taxes in Nepal. Reference to Chapter -11 may also be made in this regard.



## Chapter 9

# Employment

NRNs are permitted to pursue employment in Nepal and be involved in income generating activities. However, their employment status is subject to their citizenship status, visa status and work permit status. A multi-layered approval regime may be triggered for a Foreign Citizen of Nepalese Origin if they wish to enter into an employment relationship in Nepal.

### 9.1 Status of Prospective Employee

The employment engagement of an NRN in Nepal depends on their citizenship status. Any NRN who falls under the definition of Foreign Citizen of Nepalese Origin can be employed in Nepal if he/she has obtained (a) non-tourist visa and (b) a work permit from the Department of Labor (“DOL”).

However, the above requirement of non-tourist visa and work permit is not applicable for a NRN who is a Nepali Citizen Residing Abroad.

### 9.2 Procedure for Obtaining Work Permit

The procedure for obtaining work permit is as follows:

- a. An application must be submitted at the Department of Industries (“DOI”) to obtain the recommendation for work permit.
- b. Once the recommendation for work-permit is issued by DOI, such recommendation is required to be submitted at Ministry of Home Affairs (“MOHA”) in order to obtain the work approval.
- c. Upon receiving the work approval, one needs to apply to the DOL for the work permit.



## 9.3 Duration of Work Permit:

The duration of the work permit shall not exceed the duration of work approval provided by the MOHA. The work permit may be issued for 5 (five) years for outstandingly qualified technical Foreign Citizen of Nepalese Origin and in case of other Foreign Citizen of Nepalese Origin, it may be issued for 3 (three) years.

However, under exceptional circumstances, the DOL may extend the duration of work permit for 2 (two) additional years upon obtaining approval from the MOHA. The extension is only provided to Foreign Citizens of Nepalese Origin who have made outstanding contributions in the field of education, science and technology, non-profit sectors in Nepal.

## 9.4 Basic Standard of Employment

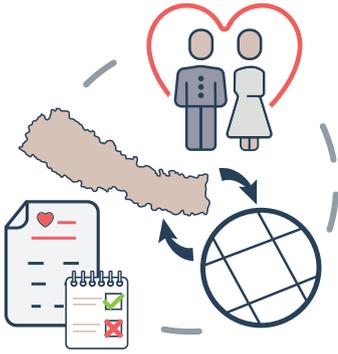
The standards of employment prescribed in the Labor Act 2074 (2017) while hiring an employee shall also be applicable while hiring an NRN. The basic standards have been outlined below:

- a. An NRN who falls under the definition of Foreign Citizen of Nepalese Origin may be hired under a fixed-term or a work-based employment. However, a NRN who is a Nepali Citizen Residing Abroad can be hired under regular employment, casual employment, part-time employment, fixed-term employment and work-based employment.
- b. An employment agreement should be executed between the hiring entity and the NRN outlining job descriptions, entitlements and benefits, and other terms and conditions of employment.
- c. The NRN is entitled to a minimum remuneration as prescribed by the Government of Nepal, festival allowances, medical and accidental issuances, amongst others.
- d. The NRN may be enlisted in the Social Security Fund and shall be eligible to receive various benefits relating thereto.
- e. The employment of an NRN can only be terminated on the grounds expressly prescribed under the Labor Act 2074 (2017).
- f. A Foreign Citizens of Nepalese Origin can repatriate his/her remuneration along with the proceeds from Social Security Fund in any convertible foreign currency to his/her country.

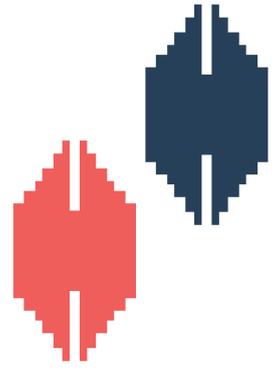
## 9.5 Practical Issues

As per the NRN Act, a Foreign Citizen of Nepalese Origin is to be treated at par with a Nepalese Citizen when it comes to running an industry or business. However, there exist some clashes with the Labor Act 2074 (2017). This equal treatment is also envisaged in the Constitution of Nepal.

Further, a Nepali Citizen Residing Abroad may lose his/her NRN Status by virtue of not being eligible to renew his/her NRN ID Card if s/he resides in Nepal for employment for a certain period of time.



## Chapter 10 Marriage



Marriage in Nepal is considered to have been concluded in the event a man and a woman accept each other as husband and wife through a traditional practice, formal way, or other acts as per the prevailing laws. However, the law has envisaged that a marriage must be registered with the relevant authority and be made public. The marriage in Nepal can be concluded irrespective of the nationality of the man and the woman subject to the formalities provided under the law of Nepal.

The following chart may be helpful in relation to better understanding marriage in relation to NRNs. For the sake of clarity, the term “FCNO” means Foreign Citizen of Nepalese Origin, and the term “NCRA” means Nepali Citizen Residing Aboard.

SN.	Parties to the Marriage	Place of Registration of Marriage	Applicable Provisions of the National (Civil) Code Act, 2017 (2074)
1.	FCNO and NCRA	Foreign Country	Section 699
		Nepal	Section 700
2.	FCNO and Nepali Citizen	Foreign Country	Section 699
		Nepal	Section 700
3.	FCNO and Foreigner	Foreign Country	N/A
		Nepal	Section 700
4.	NCRA and Nepali Citizen	Foreign Country	Section 699
		Nepal	Part-3, Chapter-1
5.	NCRA and Foreigner	Foreign Country	Section 699
		Nepal	Section 700
6.	FCNO and FCNO	Foreign Country	N/A
		Nepal	Section 700
7.	NCRA and NCRA	Foreign Country	Section 699
		Nepal	Part -3, Chapter-1

## **10.1 Competency and Qualification for Concluding a Marriage as per Nepalese Law:**

### **10.1.1. Competency required for concluding a Marriage:**

For a marriage to be legally valid, all of the following conditions should be met:

- a. man and woman should accept each other as husband and wife,
- b. man and woman should not be relatives (however, if the practice in their ethnic community or clan allows, then this condition is not applicable),
- c. there should not be a pre-existing matrimonial relationship of the concerned man or woman with another man or woman,
- d. both man and woman should have attained 20 years of age.

### **10.1.2. Marriages Considered Voidable:**

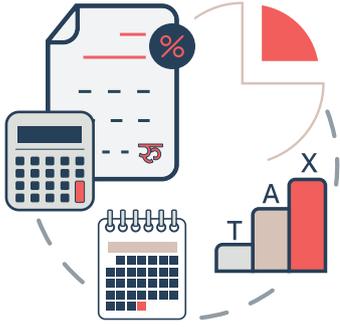
A partner may void a marriage and claim compensation if the other partner withheld information in relation to:

- a. Having Human Immunodeficiency Virus (HIV) or Hepatitis 'B' or other similar diseases.
- b. Being impotent, not having reproductive capacity, or not having sexual organ.
- c. Being deaf or dumb or fully blind suffering from leprosy.
- d. Being of unsound of mind.
- e. Being already married.
- f. Being pregnant.
- g. Being convicted of a criminal offense involving moral turpitude by a court and sentenced for the same.

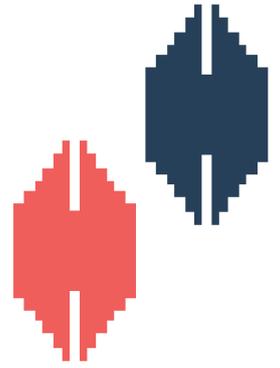
### **10.1.3. Marriages Considered as Void Marriage:**

There are two situations wherein a marriage is considered void from start. They are:

- i. marriage concluded without the consent of the man or the woman,
- ii. marriage concluded between relatives, amounting to incest (with the exception of being allowed by custom).

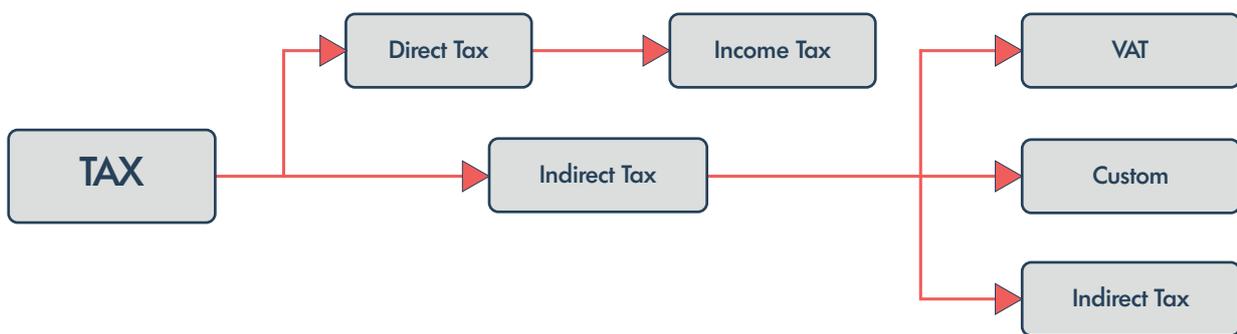


# Chapter 11 Taxation



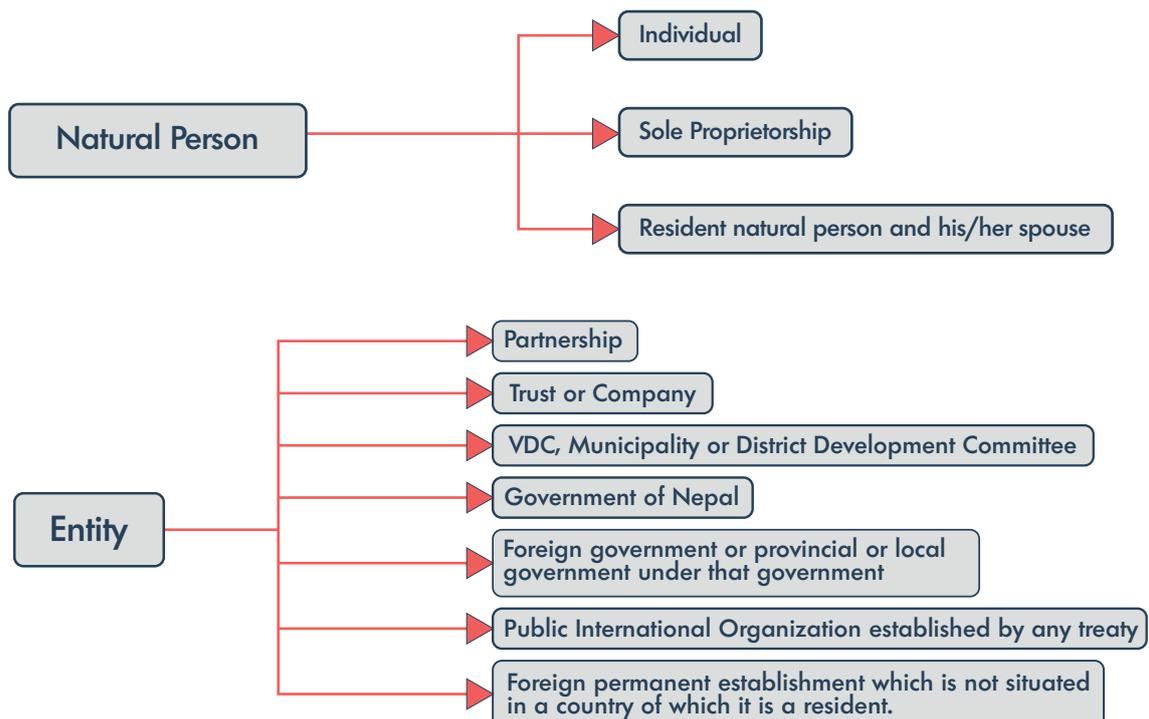
## 11.1 Types of Tax

In Nepal, income tax falls under the scope of direct tax, whereas VAT, Customs Duty and Excise Duty falls under the scope of indirect tax (as illustrated below).



## 11.2 Income Tax Applicability to NRNs

The Income Tax Act, 2058 (2002) ("ITA") has imposed tax based on (i) natural person or entity and (ii) resident person or non-resident person. The same provisions of law are applicable to both Foreign Citizens of Nepalese Origin as well as Nepali Citizens Residing Abroad.



It is a general principle that any person other than the resident person is a non-resident person. In case of NRN individuals and entities, the above residency test is done as well. The resident person needs to declare their income earned from all around the world and pay tax on the same. The non-resident person needs to declare their income earned in Nepal and pay tax on the same.

## 11.3 Applicable Tax Rate

### 11.3.1. Tax Rate for NRN Individual

i. **Resident**

The tax rate for a resident is categorized into individual and married. The tax slabs, at present, for individuals and married couples are as given below.

Individual	Married
First NRs. 400,000 at 1%	First NRs. 450,000 at 1%
Next NRs. 100,000 at 10%	Next NRs. 100,000 at 10%
Next NRs. 200,000 at 20%	Next NRs. 200,000 at 20%
Next NRs. 1,300,000 at 30%	Next NRs. 1,250,000 at 30%
Final remaining balance at 36%	Final remaining balance at 36%

Also, the final withholding tax is imposed on the payment made to the residents as per the law.

ii. **Non-Resident**

An NRN individual who is considered non-resident for the purpose of ITA, is taxed at 25% on the taxable income in an income year. Income Tax Act subjects the following payments to the NRN to withholding of tax:

- Payment for employment
- Payment for investment return and service charge
- Payment of casual gain
- Payment of contraction or contract

## 11.3.2. Tax Rate for Entity

At present, the corporate tax rate is 25%. However, the tax rate depends upon the nature of entity.

Industries	Normal Rate (at present)
<b>1. General corporate tax</b>	25%
<b>2. Concessional corporate tax</b>	
Income earned from operation of manufacturing activities (excluding Tobacco and Alcohol products)	20%
Income earned from agriculture, forestry and mining industries	20%
<b>3. High- Rate Corporate Tax</b>	
Income earned from Banks or financial institutions or General insurance business	30%
Income earned from manufacturing Tobacco and Alcohol	30%

## 11.4 Income Tax Concessions

The ITA has provided tax incentives based on - (a) nature of industry, (b) number of employees, (c) location of industry, and (d) nature of industries, some of which are illustrated in the table below:

Industries	Concession Rate (%) (at present)
<b>Industries in Special Economic Zone</b>	
Industry established in a 'Special Economic Zone' in mountain areas or hill areas by the Government of Nepal	100 % exemption up to 10 years from the date of operation of business and 50% rebate in subsequent years
<b>Energy Projects</b>	
Entity having license to generate, transmit or distribute electricity shall be provided concession if the commercial operation of electricity generation, transmission or distribution commences before 2080 BS Chaitra End (April 12, 2024) (Provisions shall be applicable for electricity generated from solar, wind or organic material)	100% exemption up to 10 years and 50% rebate in subsequent 5 years after the commercial operation date

<b>Other concessions</b>	
Income from companies listed in the capital markets and relating to –a) manufacturing; service industry; and hydropower generation, distribution and transmission industry, and entities mentioned in Section 11 (3) (c) of ITA	15 % on Applicable Rate/ Normal Rate
Royalty from export of intellectual assets by a person	25% on Normal Rate
Income from sale of intellectual assets by a person through transfer	50% on Normal Rate
Income generated IT Industry related to software development, data processing, cybercafé, digital mapping that are established in geological, zoological, biotech related park and information technology park as prescribed by GON through Nepal Gazette	50% on Normal Rate
<b>IT Industry and Special Industry, that provides direct employment to, during the income year:</b>	
≥100 Nepali citizens	10% on the income derived
≥300 Nepali citizens	20% on the income derived
≥500 Nepali citizens	25% on the income derived
≥1000 Nepali citizens	30% on the income derived
Export Income Sourced in Nepal <b>Note:</b> <i>Income of manufacturing industry earned from exporting manufactured goods is entitled to 35% further concession in addition to this concession</i>	20% rebate on applicable taxes
<b>Income derived by person engaged in</b>	
Operation of tram, trolleybus	40%
Construction & operation of ropeway, cable car, or overhead bridge	40%
Construction or operation of road, bridge, tunnel, railway, airport	50%
Industries listed in securities exchange: Manufacturing Industry, Tourism Service Industry, IT Industries under Section 11(3Ga), Hydro electricity generation/distribution/ transmission industry	Concession of 15% on the income derived
Fruit based brewery manufacturing brandy, cider and wine in very underdeveloped area and undeveloped area, gets	Concession of 40% and 25% respectively on the income derived for 0-10th years of operation
BOOT Income derived by an entity from the following: -Construction, operation and transfer to GON of public infrastructures -Construction of powerhouse, generation and transmission of electricity	20% concession on the income derived

*Note: Applicable Rate means the rate applicable to the special industry after concession under Section 11 (2)(b) of ITA and Normal Rate means the tax rate applicable to industry other than special industries.*

## 11.5 Income Tax Returns

The taxpayer has to submit the tax return of the income year within 3 (three) months of the end such income year. The taxpayer can request the IRD for extension of the time limit to submit the tax return. The IRD may extend the time limit for a period not exceeding 3 (three) months at one time or several times to submit the income return pursuant. The IRD can amend the tax return for as many times it deems appropriate as per the law.

## 11.6 Withholding Taxes/ TDS Applicable to Foreign Investors

Foreign investors are required to pay TDS at certain rates in Nepal, depending on the nature of income they have derived from their investments. This includes:

Income Head	Rate of TDS (at present)
Dividends	5%
Royalties under technology transfer	15%
Service Fees	15%

## 11.7 Withholding of Capital Gains Tax on Sale of Shares

At present sale of shares owned by a foreign investor in a Nepalese entity is subject to capital gains tax of 25% of their profit, irrespective of whether such sale is made to a foreign or a local person. The Nepalese entity has the obligation to withhold and pay the capital gains tax on behalf of the foreign investor. The taxable amount arising out of the transaction is collected on a withholding basis on the entire transaction.

## 11.8 Local Taxes/Rental Tax

Local business taxes are levied by the concerned local authority for carrying out business activities in the jurisdiction of the municipalities. The rate of local business tax is determined by the nature of the industries. Rental tax is paid to the concerned authority on rental income. It is calculated on the basis of the rental amount. For the purpose of Local Tax, the entity must obtain local business registration from the concerned local authority. Local business tax is to be paid at the concerned local authority every year. The rate of local tax is different for different locations and depends on the nature of the business.

## 11.9 Double Taxation Avoidance

Double taxation is the levying of tax by two or more jurisdictions on the same income. To avoid this issue of double taxation, governments sign an agreement with each other known as Double Taxation Avoidance Agreement (“DTAA”) to ensure that tax is not paid twice on the same income. The primary idea behind DTAA agreements is to boost economic growth and minimize the opportunity for tax evasion for taxpayers.

The ITA provides relief against double taxation. At present, Nepal has entered into DTAA with 11 countries namely - India, Bangladesh, Thailand, Sri Lanka, Mauritius, Austria, Pakistan, China, South Korea, Norway, and Qatar.

Nepal provides relief against international double taxation to residents by granting foreign tax credits. To obtain this relief, the total income of such person is taxed under the rates applicable in Nepal. The taxes so calculated are allowed to be reduced by the taxes already paid in other countries, if the said foreign country has signed a DTAA with Nepal. However, such reduction is limited to the average rate of tax payable in Nepal by a concerned taxpayer.

## 11.10 VAT

Value Added Tax (“VAT”) is regulated by VAT Act 2052 (1996) and VAT Rules 2053 (1997) in Nepal. The VAT is applied on the following transactions:



At present, VAT is levied at the flat rate of 13%, however, VAT is not levied on the goods and services listed in Schedule-1 of the VAT Act and zero rate is applied on the transaction of goods and services listed in Schedule-2 of the VAT Act.

## 11.11 VAT Registration Requirements

The entities (natural person, firm, company, association institution, partnership institution, co-operative, joint venture, trust and fund (this includes NRNs as well)) dealing in the following must be compulsorily registered under VAT:

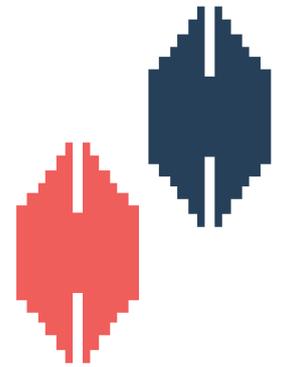
- i. Involved in the business of brick production, wine shop, rafting, tourist vehicle, slate, alcohol, software, crusher, stone, trekking, paragliding, and sand mine,
- ii. Involved in the business of hardware, sanitary, furniture, automobiles, motor parts, marble, electronics, educational consultancy, health club, massage therapy, beauty parlour, catering service, party palace, parking service, dry cleaners using machinery, restaurant with bar, ice cream industry, colour lab, boutique, tailoring with shirting suiting materials in the metropolitan city, sub metropolitan city, the municipality area, or areas prescribed by the IRD,
- iii. In case the annual turnover of person doing transaction of goods exceeds NPR 5 Million (Nepalese Rupees Five Million),
- iv. In case the annual turnover of person doing transaction of both goods and services exceeds NPR 2 Million (Nepalese Rupees Two Million),
- v. In case the annual turnover of person doing transaction of services exceeds NPR 2 Million (Nepalese Rupees Two Million).

Certain specified goods are outside the scope or exempt from VAT. Exports of both goods and services are taxed at 0%. To avoid double taxation, a credit is given for VAT paid on goods and services used for the purpose of making any taxable supply (Input VAT). A credit is also given for VAT paid in respect of certain exempt supplies, e.g., exports. The principal mechanism for collecting tax requires the taxable supplier to charge VAT on the goods or services supplied (Output VAT) to take credit for VAT paid on business expenditure (Input VAT), and to pay the net tax over to the authorities.



## Chapter 12

# Repatriation



Repatriation in the current chapter is to be understood in the context of foreign investment. As per the current legal regime, repatriation is permitted for both types of NRNs - Nepalese Citizens Residing Abroad ("NCRA") as well as Foreign Citizens of Nepalese Origin ("FCNO") if – a) such investment is made after obtaining prior approval from DOI/IBN, b) notification has been duly provided to NRB, and c) investment has been recorded at the NRB. Before enactment of FITTA 2019, the matter in relation to repatriation of investment was exclusively dealt with by the NRN Act 2064 (2008) and NRN Regulation 2066 (2009).

NRNs can repatriate the amount generated through one or more of the following activities:

- Earnings made through dividend or through the sale of invested shares.
- Investment in loan which has been received via reimbursement of principal loan amount and through the interest.
- Technology Transfer fees, license fees and royalties earned through transfer of technology

## 12.1 Exit from Investment

An investor can exit from a company it has invested in via- (a) sale of shares, (b) redemption of preference shares, or (c) liquidation of the company.



Relevant laws have made certain limitations as to the time period for share transfer. For example, in a listed company, except for public shares, other categories of shares such as promoter shares cannot be transferred for up to 3 (three) years from the date of allotment of public shares.

Similarly, joint venture agreements concluded by investors may also impose restrictions to investors from exiting the company within a certain time. For example, usually an investor of Hydropower Company may have limitation to transfer shares until the Detailed Feasibility Study of the project is completed.

## 12.2 Tax Payment

No repatriation is allowed without tax payment.

## 12.3 Regulatory Approvals

Recommendation from DOI/IBN and approval from NRB is required. For repatriation of investment there is a need to show approval for investment that was taken from DOI/IBN and the recording at the NRB in relation to the same. In the event that a share purchase agreement changed the structure of the shareholding, there is a need to show approval from DOI/IBN and NRB as well as the NRB recording. Repatriation approval is allowed in the name of the foreign investor who made the investment and only to the country of origin from where such investment was injected. However, if the NRN decides to repatriate his/her investment in a different foreign currency, another approval from NRB will be needed. [Regulatory approvals may also be required by sectoral regulatory authorities.

## 12.4 Restrictions on Repatriation

There is a lock-in period of 1 (one) year for foreign investors including NRNs. NRNs cannot repatriate their investment (i.e. sale of shares) before completing 1 (one) year from the date of investment. This does not apply to repatriation of dividends, and salaries. In case, the investment is made in promoter shares (i.e. shares purchased except by way of Initial Public Offering), a lock-in period of 3 (three) years is applicable from the date of Initial Public Offering.

## 12.5 Fixed Cap on Royalty Repatriation

FITTA Regulation has prescribed the ceiling on repatriation of royalty for: (a) all kinds of technology transfer agreements, and (b) technology transfer agreement entered for usage of trademarks only. Please note that the percentages given below are as per the contemporary law, and that the same may be subject to change with time.

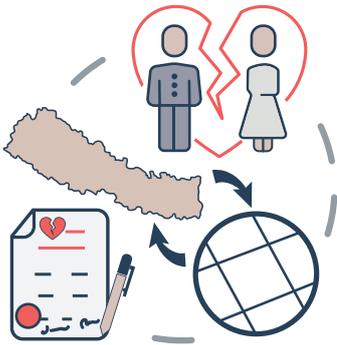
### a. For all kinds of technology transfer agreements

S.N.	Royalty based on	In case of quantity sold inside Nepal	In case of quantity exported
1.	Lump sum or in total sales revenue	Up to 5% of total sales revenue excluding taxes	Up to 10% of total sales revenue excluding taxes
2.	Net profit	Up to 15% of net profit	Up to 20% of net profit

### b. For usage of trademark

S.N.	In case of quantity sold inside Nepal	In case of quantity exported
1.	For alcoholic and tobacco related industry, up to 2% of total selling price without tax	For alcoholic and tobacco related industry, up to 5% of total selling price without tax
2.	For other industries, up to 3% of total selling price without tax	For other industries, up to 6% of total selling price without tax

However, in case technology transfer is entered for the preparation of commencement of operation of an industry, the limitation as to repatriation of royalty or other fees shall be as agreed in the agreement.



## Chapter 13

# Divorce

Divorce is the formal end to marriage. Thus, when a divorce is affected, the marital relationship between the husband and wife comes to an end. In the context of Nepal, divorce can generally be affected at any time if both the husband and wife desire so. However, there are certain grounds available for divorce without mutual consent.

Nepalese law does not have separate legal provisions for divorce relating to NRNs. However, the National Civil (Code) Act, 2074 (2017) is relevant in this regard.

### 13.1 Applicable Laws

The following table will be of help in relation to understanding the applicable laws for divorce relating to NRNs:

Sr. No.	Parties to the Marriage	Place of Marriage Registration	Applicable Provisions of the National Civil (Code) Act 2074 (2017) for Divorce (if applicable)	Place of Court of First Instance	Comments (if any)
1	Foreign Citizen of Nepalese Origin (FCNO) and Foreigner	Nepal	Sec. 692 and 701.  Sec. 96 may become applicable if triggered in terms of Sec. 701.	As provided under Sec. 701, Civil Code.	Reference may also be made to Sec. 19 of the Civil Procedural Code 2074 (2017) (hereinafter referred to as "Civil Procedure Code").
		Abroad			
		Foreign Embassy in Nepal			
2	FCNO and Nepali	Nepal			
		Abroad			
		Nepalese Embassy			
		Foreign Embassy in Nepal			
3	FCNO and Nepali Citizens Residing Abroad (NCRA)	Nepal			
		Abroad			
		Nepalese Embassy			
		Foreign Embassy in Nepal			
4	FCNO and FCNO	Nepal			
		Abroad			
		Foreign Embassy in Nepal			
5	NCRA and Foreigner	Nepal			
		Abroad			
		Nepalese Embassy			
		Foreign Embassy in Nepal			

6	NCRA and Nepali	Nepal	96	In terms of Sec. 19 of the Civil Procedural Code.	-
		Abroad (Applicable if allowed by the laws of the concerned country)	692 and 701w	As provided under Sec. 701, Civil Code.	Reference may also be made to Sec. 19 of the Civil Procedural Code
		Nepalese Embassy	96, 692, and 701		
7	NCRA and NCRA	Nepal	96	In terms of Sec. 19 of the Civil Procedural Code.	-
		Abroad (Applicable if allowed by the laws of the concerned country)	692 and 701	As provided under Sec. 701, Civil Code.	Reference may also be made to Sec. 19 of the Civil Procedural Code
		Nepalese Embassy	96, 692, and 701		

Further, a divorce obtained abroad by NCRA or Nepalis from NCRA, Nepalis, FCNOs, or Foreigners is enforceable in Nepal.

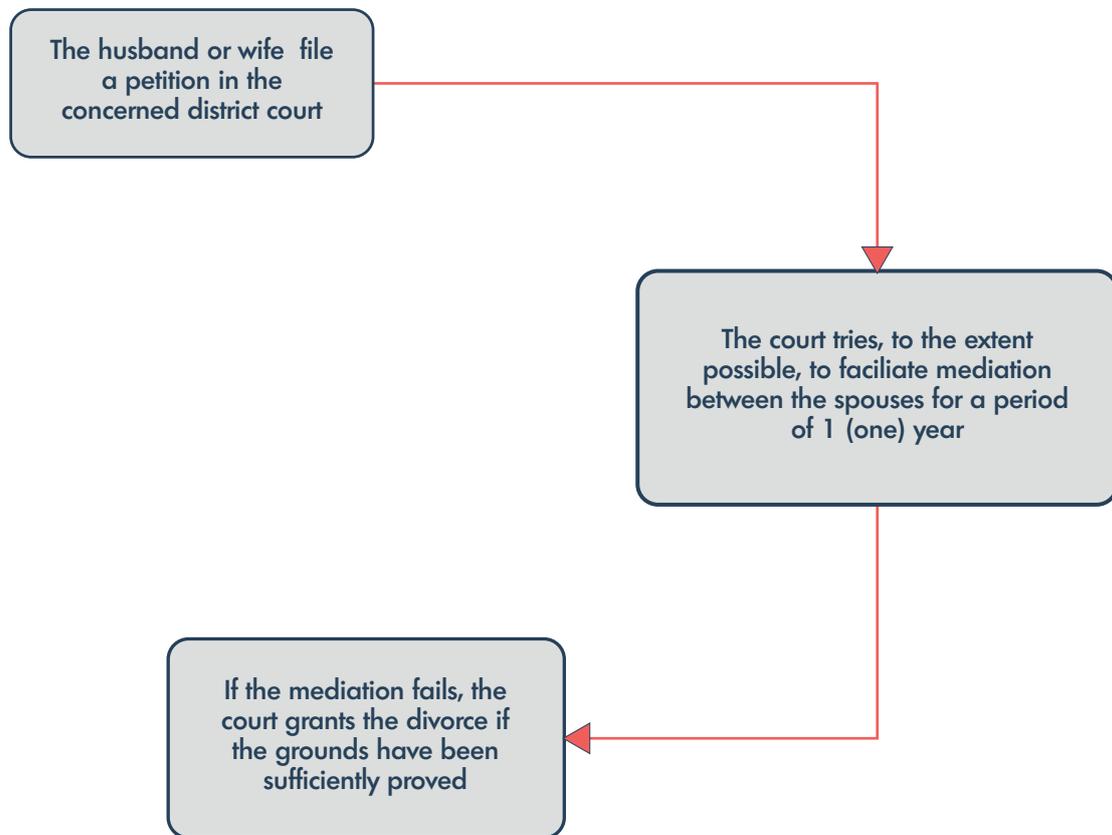
## 13.2 Divorce in Nepal

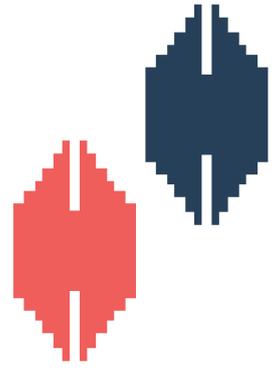
### 13.2.1. Grounds for Divorce in Nepal

Divorce in Nepal can be obtained on the following circumstances:

S.N.	Grounds for divorce for the wife	Grounds for divorce for the husband
1.	Mutual consent of husband and wife.	
2.	If the spouse has been living separately from the other spouse for 3 (three) or more consecutive years without consent.	
3.	If the spouse has deprived the other spouse of maintenance costs or expels the other spouse from the house.	
4.	If a spouse commits an act or conspiracy which is likely to cause grievous hurt or other severe physical or mental pain to the other spouse.	
5.	If the spouse is proved to have made sexual intercourse with another person.	
6.	If the husband concludes another marriage	-
7.	If the husband is proved to have raped the wife	-

### 13.2.2. Procedure for Divorce in Nepal





## Chapter 14

# Forfeiture of NRN ID Card

There are 2 (two) ways pursuant to which an NRN ID Card may be forfeited: (a) if a Nepali Citizen Residing Abroad acquires the citizenship of a foreign country, (b) if the validity period of the NRN ID Card expires.

### **a. Acquiring citizenship of a foreign country**

A Nepali Citizen Residing Abroad had obtained an NRN ID Card by virtue of him/her residing in a foreign country for at least 2 (two) years, and thereafter, s/he acquires the citizenship of the said foreign country, then his/her sub-characterization as an NRN would change, and consequently the previous NRN ID Card would no longer serve as an authentic document.

Hence, the individual would then have to re-apply for NRN status under the sub-category of Foreign Citizen of Nepalese Origin. In this manner, s/he can re-register themselves as NRN and re-gain the NRN ID Card.

### **b. Expiry of NRN ID Card**

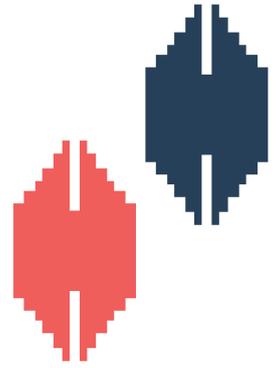
With reference to Foreign Citizen of Nepalese Origin as well as Nepali Citizen Residing Abroad, if the validity period of an NRN identity card expires, then the concerned NRN would no longer be able to claim the privileges associated with it. In this case, the NRN would have to re-apply to the relevant authority for renewal of the NRN ID Card along with the prescribed application and fees.

An NRN may also want to voluntarily renunciate its NRN status owing to various reasons such as pursuing better career opportunities in Nepal or long-term settlement in Nepal



## Chapter 15

# Reform



The issues relating to NRNs are constantly emerging with the growth of global economy and international trade. NRNs around the globe intend to create their presence in Nepal in terms of investment, employment, etc. The existence of the prevailing NRN Act and Regulation has clarified certain matters, however, there are certain overlaps and lacunas in the law that need to be addressed either through legislative intervention, policy reform, or judicial interpretation. Some of these matters are:

### 15.1 NRN Citizenship

The Constitution of Nepal has envisaged that Foreign Citizens of Nepali Origin shall be entitled to non-residential citizenship of Nepal that would give them economic, social, and cultural rights equal to that of Nepalis. However, there exists an estoppel against dual citizenship. As such, there is a need for clarity in relation to NRN Citizenship being an exception to the dual citizenship ban, and also in terms of the process of acquiring documentation relating to proof of NRN Citizenship.

### 15.2 Employment

The prevailing labor law deals with employment of foreign citizens and provides for work permit as a fundamental pre-requisite. However, NRN Act specifically provides that Foreign Citizens of Nepali Origin making investment in Nepal are entitled to run any industry or business as good as a citizen of Nepal. This overlap has created several on-ground issues that must be resolved.

### 15.3 Divorce

Under the laws of Nepal, the wife is entitled to claim property from her husband. However, in situations where the wife is a Nepali Citizens of Residing Abroad, but the husband is a foreigner or a Foreign Citizen of Nepali Origin, it is unclear as to how the alimony, maintenance costs and partition of property is to be claimed from her husband as the property may be situated in foreign land. Further, another issue that comes up is in relation to the wife being a Foreign Citizen of Nepali Origin or a Foreigner and the manner in which she can take her share from Nepal to her foreign country.

## 15.4 Investment Inside Nepal and Repatriation

15.4.1 Both the NRN Act and FITTA 2019 envisage investment by NRNs in Nepal and repatriation. There is an urgent need to harmonize these two very essential laws.

15.4.2 The automatic route of foreign investment in terms of Sec. 42 of FITTA 2019 should be activated such that unnecessary investment delays can be avoided.

15.4.3 NRNs should be allowed to bring foreign investment in the industries listed in the Schedule of the FITTA 2019, as a) The NRN definition includes Nepali Citizens Residing Abroad, and b) Foreign Citizens of Nepali origin have the same economic rights as Nepali citizens in terms of Article 14 of the Constitution of Nepal, 2072 (2015).

15.4.4 The minimum foreign investment threshold in terms of Sec. 3(3) of the FITTA 2019 should be done away with for NRNs for the same reasons as given above at 15.4.3.

## 15.5 Property

Nepali Citizens of Residing Abroad, and Foreign Citizens of Nepali Origin with NRN Citizenship are entitled to hold immovable property by way of inheritance or partition, however, there is no system in place for them to utilize the proceeds of these assets such that they may be enjoyed in their foreign country. This creates a situation wherein the concerned individual is estopped from making full use of his/her property (including rent earned). This issue is exaggerated by the fact that the law is still silent on the manner in which proof of NRN Citizenship is to be obtained/furnished.

## 15.6 Other recommendations

15.6.1 It is important to conduct period seminars/capacity building sessions for the officers who are engaged in public services relating to NRN Laws. A lack of awareness causes unnecessary delays and overlap.

15.6.2 It is recommended to establish a help desk for NRNs looking to avail various public services in Nepal.

15.6.3 It is also important to digitize government processes in order to increase access.



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