

FAQ:

India's Foreign Contribution Regulation Act (FCRA) 2010

The Foreign Contribution Regulation Act (FCRA) 2010 is a federal law enacted to regulate the acceptance and use of foreign contributions by certain individuals, associations, and companies. The act prohibits the acceptance and use of foreign contributions for any activities detrimental to the national interest, including matters connected with or incidental to such activities. The implementation of the law is regulated by the "Foreigner's Division" (FCRA Wing) of the Ministry of Home Affairs.

1 WHAT IS A FOREIGN CONTRIBUTION?

A foreign contribution is a donation, delivery, or transfer of any item, currency, or security (i.e., share, stock, or bond) made by a foreign source.

2 DO COMMERCIAL TRANSACTIONS FALL UNDER FCRA?

No. If an entity receives fees from or has its costs paid for goods or services that it provides in the ordinary course of business inside or outside of India, the amounts are not considered foreign contributions. Additionally, any contribution received from an agent or foreign source towards such fees or costs is excluded from the definition of foreign contribution.

3 DOES THE FCRA APPLY TO INDIVIDUALS?

Yes. If a person receives a foreign contribution for "a definite cultural, economic, educational, religious, or social program," the FCRA applies. However, personal remittances received by individuals from family members or overseas employers do not fall under the FCRA.

For example, if a U.S.-based individual sends \$1,000 to a friend residing in India to help teach mathematics to slum dwellers in Mumbai or buy school textbooks for children in rural areas, the transaction would be considered a foreign contribution and would require FCRA registration.

4 ARE DONATIONS FROM EXPAT INDIANS TREATED AS FOREIGN CONTRIBUTIONS?

If an expat has an Indian passport and has not taken the citizenship of another country, any donation from that person, even if received from a country other than India and in a currency other than Indian rupees, would not be considered a foreign contribution. On the other hand, an Indian expat who acquires the citizenship of another country is treated as a foreign source under the FCRA. Contributions from that person, even if received in India in Indian rupees from a bank account in India, would be considered a foreign contribution.



According to the FCRA, there are two ways to obtain permission to accept foreign contributions: registration and prior permission. Registration is granted for a period of five years; prior permission is granted for a specific contribution

Photo: Gerard McGovern

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WHAT IS THE PROCEDURE FOR RECEIVING A FOREIGN CONTRIBUTION?

According to the FCRA, there are two ways to obtain permission to accept foreign contributions: registration and prior permission.

Registration is granted for a period of five years; it allows an entity to receive foreign contributions throughout that time period. To be eligible for FCRA registration, the entity must be at least three years old and should have expended at least one million Indian rupees (approximately \$13,980) on programs and projects with funds raised in India from Indian sources.

Prior permission is granted to an entity to receive a specific sum of money from a specific foreign source. This option may be exercised by entities that are less than three years old or that otherwise fail to meet the conditions for FCRA registration.

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WHAT KEY RULES ARE SET FORTH BY THE FCRA?

The FCRA sets forth a number of important rules regarding the receipt of foreign contributions.

- The receipt of funds from a foreign source without registration or prior permission is an offense that may result in imposition of a fine.
- Once FCRA registration is completed or prior permission is granted, all foreign contributions must be channeled through a designated FCRA bank account.
- Recipients of funds from foreign sources must file annual returns with the Ministry of Home Affairs.
- Entities must post quarterly reports of all foreign funds received on their own websites or the website of the Ministry of Home Affairs.
- Funds from an entity's FCRA bank account may be transferred only to an entity with FCRA registration or prior permission.
- FCRA funds may not be invested in shares, stocks, mutual funds, or other speculative investments.
- Every office bearer, key functionary, and member of an entity registered under the FCRA must individually submit an affidavit (Proforma AA) to the Ministry of Home Affairs.



WHERE CAN I LEARN MORE ABOUT PHILANTHROPY LAW IN INDIA?

More information about the FCRA may be found in ICNL's India Philanthropy Law Report, which offers detailed information about national laws and regulations affecting philanthropy in India:

<https://www.icnl.org/post/report/india-philanthropy-law>