HelpAge India

REVERSE MORTGAGE LOAN

- Source National Housing Bank Website.

Reverse mortgage is a financial product that enables senior citizens (60+) who own a house to mortgage their property with a lender and convert part of the home equity into tax-free income without having to sell the house.

Instead of you making monthly payments to a lender, as with a regular loan, the lender makes payments to you. Multiple options are available for repayment of the loan in lump sum at the end of the loan term. Maximum period of loan is of twenty years. The loan is not required to be serviced as long as the borrower is alive and in occupation of the property. On the borrower's death, the loan is repaid through sale of property.

Qualifications for reverse mortgage eligibility:

- Should be a Senior Citizen of India above 60 Years of age.
- Married Couples will be eligible as joint borrowers provided one of them being above 60 years of age and other not below 55 years of age.

Benefits of a reverse mortgage:

It aims at partially meeting the financial needs of senior citizens without selling the property and enables recurring funds inflows to the senior citizens during their life time.
After the death of the senior citizen, the surviving spouse can continue to occupy the property till his/her demise.

Reverse Mortgage Loan - Salient Features

- Reverse Mortgage Loan (RML) enables a Senior Citizen i.e. above the age of 60 years to avail of periodical payments from a lender against the mortgage of his/her house while remaining the owner and occupying the house.
- The Senior Citizen borrower is not required to service the loan during his/her lifetime and therefore does not make monthly repayments of principal and interest to the lender.
- RMLs are extended by Primary Lending Institutions (PLIs) viz. Scheduled Banks and Housing Finance Companies (HFCs) registered with NHB.
- The loan amount is dependent on the value of house property as assessed by the lender, age of the borrower(s) and prevalent interest rate.
- The loan can be provided through monthly/quarterly/half-yearly/annual disbursements or a lump-sum or as a committed line of credit or as a combination of the three.
- The maximum period of the loan is 20 years. (The maximum period over which the payments can be made to the reverse mortgage borrower).
- The loan amount may be used by the Senior Citizen borrower for varied purposes including up-gradation/ renovation of residential property, medical exigencies, etc. However, use of RML for speculative, trading and business purposes is not permissible.
- Valuation of the residential property would be done at such frequency and intervals as decided by the reverse mortgage lender, which in any case shall be at least once every five years.
- The quantum of loan may undergo revisions based on such re-valuation of property at the discretion of the lender.

- The borrower(s) will continue to use the residential property as his/her/their primary residence till he/she/they is/are alive, or permanently move out of the property, or cease to use the property as permanent primary residence.
- The lender will have limited recourse i.e. only to the mortgaged property in respect of the RML extended to the borrower.
- All reverse mortgage loan products are expected to carry a clear and transparent 'no negative equity' or 'non-recourse' guarantee. That is, the Borrower(s) will never owe more than the net realizable value of their property, provided the terms and conditions of the loan have been met.
- On the borrower's death or on the borrower leaving the house property permanently, the loan is repaid along with accumulated interest, through sale of the house property.
- The borrower(s)/heir(s) can also repay the loan with accumulated interest and have the mortgage released without resorting to sale of the property.
- The borrower(s) or his/her heirs also have the option of prepaying the loan at any time during the loan tenor or later, without any prepayment levy.

Taxation Issues

During the Union Budget, 2007-08, the National Housing Bank (NHB) reverse mortgage scheme for senior citizens was introduced.

In the context of the aforesaid scheme, it was necessary to resolve the tax issues arising there-from. The first issue is whether mortgage of property for obtaining a loan under the reverse mortgage scheme is transfer within the meaning of the Income-tax Act thereby giving rise to capital gains. Section 2(47) of the Income-tax Act provides an inclusive definition of 'transfer'. Further, 'transfer' within the meaning of the Transfer of Properties Act includes some types of mortgage. Therefore, a mortgage of property, in certain cases, is a transfer within the meaning of section 2(47) of the Income-tax Act. Consequently, any gain arising upon mortgage of a property may give rise to capital gains under section 45 of the Income-tax Act. However, in the context of a reverse mortgage, the intention is to secure a stream of cash flow against the mortgage of a residential house and not to alienate the property.

A new clause (xvi) in section 47 of the Income-tax Act, 1961 has been inserted to provide that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be regarded as a transfer.

The second issue is whether the loan, either in lump sum or in instalment, received under a reverse mortgage scheme amounts to income. Receipt of such loan is in the nature of a capital receipt. Section 10 of the Income tax Act, 1961 has been amended to provide that any amount received by an individual as a loan, either in lump-sum or in installment, in a transaction of reverse mortgage referred to in clause (xvi) of Section 47 of the Income-tax act shall not be included in total income.

A borrower, under a reverse mortgage scheme, shall, however, be liable to income tax (in the nature of tax on capital gains) only at the point of alienation of the mortgaged property by the mortgagee for the purposes of recovering the loan.

OPERATIONAL GUIDELINES

1. Reverse Mortgage Loans: Reverse Mortgage Loans (RMLs) are to be extended by Primary Lending Institutions (PLIs) viz. Scheduled Banks and Housing Finance Companies (HFCs) registered with NHB or any other class of institutions as may be notified by Government of India.

2. Eligible Borrowers:

- Should be Senior Citizen of India above 60 years of age.
- Married couples will be eligible as joint borrowers for financial assistance. In such a case, the age criteria for the couple would be at the discretion of the PLI, subject to at least one of them being above 60 years of age and the other not below 55 years of age.
- Should be the owner of a self- acquired, self-occupied residential property (house or flat) located in India, with clear title indicating the prospective borrower's ownership of the property.
- The residential property should be free from any encumbrances.
- The residual life of the property should be at least 20 years.
- The prospective borrowers should use that residential property as permanent primary residence. Permanent primary residence refers to the self-acquired, self-occupied residential property where a person spends majority of his time. Factors that may be relevant in this regard include the address used for general correspondence, utility bills, bank statements, tax return, bank accounts and banking relations etc. However, all facts and circumstances may be considered for the purpose of determining that the residential property is the permanent primary residence of the borrower.

3. Determination of Eligible Amount of Loan:

- The amount of loan will depend on market value of residential property, as assessed by the PLI, age of borrower(s), and prevalent interest rate.
- The PLIs will have the discretion to determine the eligible quantum of loan reckoning the 'no negative equity guarantee' being provided by the PLI. The methodology adopted for determining the quantum of loan including the detailed tables of calculations, the rate of interest and assumptions (if any), shall be clearly disclosed to the borrower.
- The PLIs would ensure that the equity of the borrower in the residential property (Equity to Value Ratio - EVR) does not at any time during the tenor of the loan fall below 10%.
- The PLIs will need to re-value the property mortgaged to them at intervals that may be fixed by the PLI depending upon the location of the property, its physical state etc. Such revaluation may be done at least once every five years, the quantum of loan may undergo revisions based on such re-valuation of property at the discretion of the lender.

4. Nature of Payment:

- Any or a combination of the following:
- Periodic payments (monthly, quarterly, half-yearly, annual) to be decided mutually between the PLI and the borrower upfront Lump-sum payments in one or more tranches
- Committed Line of Credit, with an availability period agreed upon mutually, to be drawn down by the borrower

- The maximum monthly payments shall be capped at Rs.50,000/- or such other amount as may be notified by the Government of India.
- Lump-sum payments may be conditional and limited to medical exigencies.
- The maximum lump-sum payment shall be restricted to 50% of the total eligible amount of loan subject to a cap of Rs.15 lakh or such other amount as may be notified by the Government of India, to be used for medical treatment for self, spouse and dependants, if any. The balance loan amount would be eligible for periodic payments.
- The nature of payments will be decided in advance as part of the RML covenants. PLI at their discretion may consider providing for options to the borrower to change. All covenants/ conditions stipulated by the PLIs shall be disclosed to the borrower in advance.

5. Eligible End use of funds

- The loan amount can be used for the following purposes:
- Up gradation, renovation and extension of residential property.
- For uses associated with home improvement, maintenance/insurance of residential property
- Medical, emergency expenditure for maintenance of family
- For supplementing pension/other income
- Meeting any other genuine need
- Use of RML for speculative, trading and business purposes shall not be permitted

6. Period of Loan: The maximum loan disbursement tenure should not exceed 20 years.

7. Interest Rate:

The interest rate (including the periodic rest) to be charged on the RML to be extended to the borrower(s) may be fixed by PLI in the usual manner based on risk perception, the loan pricing policy etc. and specified to the prospective borrowers. Fixed and floating rate of interest may be offered by the PLIs subject to disclosure of the terms and conditions in a transparent manner, upfront to the borrower.

8. Security:

- The RML shall be secured by way of mortgage of residential property, in a suitable form, in favour of PLI.
- **Commercial property will not be eligible for RML.**

9. Valuation of Residential Property:

- The residential property should comply with the local residential land-use and building bye laws stipulated by local authorities, with duly approved lay-out and building plans.
- The PLI shall determine the Market Value of the residential property through their external approved valuer(s). In-house professional valuers may also be used subject to adequate disclosure of the methodology.
- The valuation of the residential property is required to be done at such frequency and intervals as decided by the PLI, which in any case shall be at least once every five years. The methodology of the revaluation process and the frequency/schedule of such revaluations shall be clearly specified to the borrowers upfront.

- PLIs are advised not to reckon expected future increase in property value in determining the amount of RML.

10. Taxation:

All payments under RML are exempt from income tax under Section 10(43) of the Income-tax Act, 1961.

11. Provision for Right to Rescission:

As a customer-friendly gesture and in keeping with international best practices, after the documents have been executed and loan transaction finalized, Senior Citizen borrowers may be given up to three business days to cancel the transaction, the "right of rescission". If the loan amount has been disbursed, the entire loan amount will need to be repaid by the Senior Citizen borrower within this three day period. However, interest for the period may be waived at the discretion of the PLI.

12. Loan Disbursement by Lender to Borrower:

- The PLI will pay all loan proceeds directly to the borrower, except in cases pertaining to, payments to contractor(s) for the repairs of borrower's property, or payment of property taxes or hazard insurance premiums from the borrower's account set aside for the purpose.
- Periodicity: The loan will be extended as regular monthly, quarterly, half-yearly or annual periodic cash advances or as a line of credit to be drawn down in time of need or in lumpsum.
- The PLI will have the discretion to decide the mode of payment of the loan including fixation of loan tenor, depending on the state and market value of the property, age of the borrower and other factors. The rationale behind the decision of mode of payment and fixation of the loan tenor shall be clearly disclosed to the borrowers.

13. Closing:

- The PLIs will provide in writing, a fair and complete package of reverse mortgage loan material and specimen documents, covering inter-alia, the benefits and obligations of the product.
- The closing costs would, inter-alia, include the customary and reasonable fees and charges that may be collected by the PLIs from the borrower. The cost for any item charged to the borrower shall not normally exceed the cost paid by the lender or charged to the lender by the provider of such service(s). Such items may include:
- Origination, Appraisal and Inspection Fees. The borrower may be charged pro-rata origination, appraisal and inspection fees by the PLI /appraiser
- Verification Charges of external firms
- Title Examination Fees
- Legal Charges/ Fees
- Stamp Duty and Registration Charges
- Property Survey and Valuation charges
- A detailed schedule of all such costs will clearly be specified and provided to the prospective borrowers upfront by the PLIs.

14. Settlement of Loan

- The loan shall become due and payable only when the last surviving borrower dies or would like to sell the home, or permanently moves out of the home for aged care to an institution or to relatives. Typically, a "permanent move" may generally mean that neither the borrower nor any other co-borrower has lived in the house continuously for one year or do not intend to live continuously. PLIs may obtain such documentary evidence as may be deemed appropriate for the purpose.
- Settlement of loan along with accumulated interest is to be met by the proceeds received out of Sale of Residential Property.
- The borrower(s) or his/her/their heirs/estate shall be provided with the first right to settle the loan along with accumulated interest, without sale of property.
- A reasonable amount of time, say up to 2 months may be provided when RML repayment is triggered, for house to be sold.
- The balance surplus (if any) remaining after settlement of the loan with accrued interest, shall be passed on to the legal heirs/estate/beneficiaries of the borrower.
- Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be regarded as a transfer. A borrower, under a reverse mortgage scheme, will be liable to income tax (in the nature of tax on capital gains) only at the point of alienation of the mortgaged property by the mortgagee for the purposes of recovering the loan.

15. Prepayment of Loan by Borrower(s)

- The borrower(s) will have option to prepay the loan at any time during the loan tenor.
- There will not be any prepayment levy/penalty/charge for such prepayments.

16. Loan Covenants:

- The borrower(s) will continue to use the residential property as his/her/their primary residence till he/she/they is/are alive, or permanently move out of the property, or cease to use the property as permanent primary residence.
- Non-Recourse Guarantee: The PLIs shall ensure that all reverse mortgage loan products carry a clear and transparent ‘no negative equity’ or ‘non-recourse’ guarantee. That is, the Borrower(s) will never owe more than the net realizable value of their property, provided the terms and conditions of the loan have been met.
- Loan Agreement: The PLIs shall enter into a detailed loan agreement setting out therein the salient features of the loan mortgage security and other terms and conditions, including disbursement and repayment of the loan, in addition to the usual provisions, which are ordinarily incorporated in a mortgage loan document.
- The loan agreement may also include a provision that the borrower shall not make any testamentary disposition of the property to be mortgaged and even if it does so, it would be subject to the mortgage created in favour of the lending institution. In such a case, the borrower shall make a testamentary disposition of the mortgaged property in favour of any of his/her relatives, subject to the discharge of the mortgage debt by such legatee and a statement that the heirs shall not be entitled to challenge the validity of the mortgage as also the right of the mortgagee to enforce the mortgage in the event of death

of the borrower unless the legal representative is willing to undertake the responsibility for discharging in full the amount of loan and accrued interest thereof.

- In addition, the PLI may also consider, at its discretion, obtaining a Registered Will from the borrower stating, inter-alia, that he/she has availed of RML from the PLI on security by way of mortgage of the residential property in favour of the PLI, meaning thereby that in the event of death of the borrower (and co-borrower, if any), the mortgagee is entitled to enforce the mortgage and recover the loan from the sale proceeds on enforcement of security of the mortgage. The surplus, if any, has to be returned to the heirs of the deceased borrower(s).
- The PLIs may consider,at its discretion,taking an undertaking from the prospective borrower that the "Registered Will" given to the PLI is the last "Will", prepared by him/her at the time of availment of RML facility as per which the property will vest in his/her spouse/beneficiary name after his/her demise. The borrower will also undertake not to make any other 'Will' during the currency of the loan which shall have any adverse impact on the rights created by the borrower in the PLIs favour by way of creation of mortgage on the immovable property mentioned under the loan documentation for covering loan to be allowed to his/her spouse and interest thereon, even after the borrower's death.
- The PLI will ensure that the borrower(s) has insured the property against fire, earthquake, and other calamities.
- The PLI will ensure that borrower(s) pay all taxes, electricity charges, water charges and statutory payments.
- The PLIs will ensure that borrower(s) are maintaining the residential property in good and saleable condition.
- The PLI may reserve the option to pay for insurance premium, taxes or repairs by reducing the homeowner loan advances and using the difference to meet the obligations/expenditures.
- The PLI reserves the right to inspect the residential property/premises or arrange to have the residential property/premises inspected by its representatives any time before the loan is repaid and borrower(s) shall render his/her/their cooperation in respect of such inspections.

17. Title Indemnity/Insurance

The PLI shall obtain legal opinion for ensuring clarity on the title of the residential property.

18. Foreclosure:

- The loan shall be liable for foreclosure due to occurrence of the following events of default.
- If the borrower has not stayed in the property for a continuous period of one year
- If the borrower(s) fail(s) to pay property taxes or maintain and repair the residential property or fail(s) to keep the home insured, the PLI reserves the right to insist on repayment of loan by bringing the residential property to sale and utilizing the sale proceeds to meet the outstanding balance of principal and interest.
- If borrower(s) declare himself/herself/themselves bankrupt.
- If the residential property so mortgaged to the PLI is donated or abandoned by the borrower(s).
- If the borrower(s) effect changes in the residential property that affect the security of the loan for the lender. For example: renting out part or all of the house; adding a new owner to the house's title; changing the house's zoning classification; or creating further encumbrance on the property either by way taking out new debt against the residential property or alienating the interest by way of a gift or will.
- Due to perpetration of fraud or misrepresentation by the borrower(s).

- If the government under statutory provisions, seeks to acquiring the residential property for public use.
- If the government condemns the residential property (for example, for health or safety reasons).

19. Option for PLI to Adjust Payments:

- The PLI shall have the option to revise the periodic/lump-sum amount at such frequency or intervals based on revaluation of property, which in any case shall be at least once every five years.
- Borrower shall be provided with an option to accept such revised terms and conditions for furtherance of the loan.
- If the Borrower does not accept the revised terms, no further payments will be effected by the Lender. Interest at the rate agreed before the review will continue to accrue on the outstanding amount of the loan. The accumulated principal and interest shall become due and payable as mentioned in clauses (14) and (18).

20. Counseling and Information to Borrowers:

- The PLIs will observe and maintain high standards of conduct in dealing with the Senior Citizens and their families and treat them with special care.
- The PLIs shall clearly and accurately disclose the terms of the RML without any ambiguity.
- The PLIs should clearly explain to the prospective borrowers the terms and conditions of RML, the methodology followed for valuation of the residential property, the method of determination of eligible quantum of loan, the frequency of re-valuation and review of terms and all related aspects of the RML.
- The PLIs may suggest to the Senior Citizens to nominate their 'personal representatives' usually a close relative who the PLI can contact in the event of any potentialities.
- The PLIs may counsel the prospective borrowers about the possible impacts to the borrowers due to adverse movements in interest rates and property price fluctuations.
- The PLIs shall clearly specify all the costs to the Borrower(s) that are associated with the transaction.
- The PLIs shall in no way assert or imply to the borrower(s) that the borrower(s) is/are obligated to purchase any other product or service offered by the PLI or any other associated institution in order to obtain a reverse mortgage loan.
- Take reasonable steps to check out the background and procedures of third parties before accepting referrals of business from them, and refuse to accept referrals from those that are found unacceptable. Members shall disclose to clients any third party with a financial interest in the reverse mortgage transaction.
- Overall, the PLIs shall treat the Senior Citizen borrower fairly.

How is an RML different from other Mortgage Loans?

	Conventional Mortgage (housing loan)	**Loan against Residential Property (Home Equity loan)**	**Reverse Mortgage Loan**
Purpose of loan	To purchase/ upgrade a house	To get cash from a residential asset for a variety of personal purposes	To get cash from a residential asset for a variety of purposes including home

			improvement, repairs and personal purposes
Eligible borrowers	Creditworthy borrowers	Creditworthy borrowers who have clear title to a house property	Senior Citizens who have clear title to a house where they reside permanently
At time of beginning of loan	Borrower has no equity in the house	Borrower has substantial equity in the house	Borrower has substantial equity
During the loan tenure, the borrower…	• Makes monthly repayments to the lender • Loan balance goes down • Borrower's equity grows	• Makes monthly repayments to the lender • Loan balance goes down • Borrower's equity grows	• Receives payments from the lender • Loan balance rises • Equity declines
At end of loan, the borrower…	Owes nothing to the lender Has substantial equity	• Owes nothing to the lender • Has substantial equity	• Owes substantial amount to lender • Has much less, little, or no equity
Modes of repayment	Monthly (during loan period)	Monthly (during loan period)	• Sale proceeds of house property used to settle the loan dues, on borrower's demise or giving up home • Bullet repayment of principal and accumulated interest • Borrower/heirs have option to prepay or settle loan dues without sale of property
No Negative Equity Guarantee	Not available	Not available	RMLs typically carry 'no negative equity guarantee' i.e. if the sale of the residential property does not cover the outstanding loan, the borrowers or the estate will not be asked to make up for the shortfall, if any, subject to fulfillment of the agreed terms and conditions.

What are the advantages of an RML?

- *Income Supplement:* Enables house-owning Senior Citizens having inadequate income to meet their financial needs for renovation/repairs to house, medical & other personal purposes.
- *Retaining ownership:* The borrower continues to retain ownership of the house.

- *Social Security:* In the absence of social security for Senior Citizens, RML serves as a partial substitute.
- *No Repayments:* A borrower does not have to repay a RML during his or her lifetime or till such time he or she continues to stay in the house.
- *Freedom and Flexibility:* Amount availed under a RML may be utilized for any purpose other than investing in shares, real estate, trading etc.