INVEST IN INDIA

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Section I

India on the Global Radar

Economic Snapshot

India, a South Asian nation, is the seventh-largest country by area, the second-most populous country, and the most populous democracy in the world. India boasts of an immensely rich cultural heritage including numerous languages, traditions and people. The country holds its uniqueness in its diversity and hence has adapted itself to international changes with poise and comfort. While the economy has welcomed international companies to invest in it with open arms since liberalisation in 1990s, Indians have been prudent and pro-active in adopting global approach and skills.

India's economy has witnessed a significant growth in the recent past, growing by 7.3% in 2015 as against 6.9% in 2014. The size of the economy is estimated to be at INR 129.57 trillion (USD 2.01 trillion) for the year 2014 compared to INR 118.23 trillion (USD 1.84 trillion) in 2013. The International Monetary Fund (IMF) has forecasted that India will witness a GDP growth rate of 7.5% in 2016, due to improving investor confidence and policy reforms.

Domestic Market Transformation

The Government of India has taken significant initiatives to strengthen the economic credentials of the country to make it one of the strongest economies in the world.

- <u>Favourable Demographics</u> – India, where about 50% of the population is below 25 years of age, has one of the youngest populations in the world compared to the aging population of the USA, China, Japan and the UK.

- <u>Increasing Urbanisation</u> – By 2025, the urban population is estimated to be around 37% of the total population. Also, by then, the Indian consumer market is likely to largely be an urban affair with 62% of consumption in urban areas versus 38% in rural India.

- <u>Rising Middle Class</u> – The middle class which in 2005 accounted for 45% of the households is expected to rise to 68% by 2025.

- <u>Burgeoning Consumption</u> – Aggregate consumption of India is expected to grow four – fold in real terms from USD 420.7 billion in 2006 to USD 1.73 trillion by 2025.

India Eyed by the Globe?

India has been ranked third amongst the top five favourable investment destinations as per the UNCTAD's World Investment Prospects Survey 2013–15 after China and the United States. The country is attracting many global majors for strategic investments owing to the presence of vast range of industries, investment avenues and a supportive Government. Huge population, mostly comprising the youth, is a strong driver for demand and an ample source of talent. By 2025, the country is expected to become the world's fifth-largest consumer market. Urbanization and innovation, too, have had a say in the consumption patterns of the populace. Over the past 20 years, multinational companies have made considerable inroads into the Indian market.

India's conventional image has made a paradigm shift from being a source of inexpensive labour to a pool of high calibre human capital. The country has been successful on a number of fronts and leading multinationals are setting up in India, thereby acknowledging India's true potential. The 'Make in India' initiative which, is a new national programme of the Government of India designed to facilitate investment, foster innovation, enhance skill development, protect intellectual property and build best in class manufacturing infrastructure in the country is further expected to uncover the economy's real potential.

Industry Outlook

Industry	
Automobile and Auto Components	◆ Industry size is estimated to reach USD 115 billion by FY 2020-21. ◆ Expected to become the fourth largest automobiles producer globally by 2020 after China, US and Japan. ◆ Growth of global equipment manufacturers sourcing from India and the increased indigenisation by them is turning the country into a preferred designing and manufacturing hub. ◆ 100% Foreign Direct Investment (FDI) is allowed under the automatic route, subject to all the applicable regulations and laws.
Aviation	◆ Expected to become the third largest aviation market globally by 2020 after the US and China. ◆ Greenfield and brown field airports of Airports Authority of India (AAI) and 50 airports under the low cost model are to be developed all over the country. ◆ 49% FDI is permitted for scheduled air transport services and domestic scheduled passenger airlines under the automatic route. Non – Resident of India (NRI) investment is permitted up to 100% under the automatic route.
Defence Manufacturing	◆ India has the third largest armed forces in the world. ◆ India is one of the largest importers of conventional defence equipment, spends about 40% of its total defence budget on capital acquisitions and 60% of the requirements are met through imports. ◆ FDI in this sector is permitted up to 26% subject to prior Foreign Investment Promotion Board (FIPB) approval and compliance with security and licensing requirements and guidelines issued by the Ministry of Defence.
Infrastructure	◆ India has the second largest road network in the world at 4.7 million kilometres. This network transports more than 60%of the goods and 85% of India's total passenger traffic. The government, through a series of initiatives, is working on policies to attract investor interest as India requires a robust infrastructure. ◆ India's railway network is recognised as one of the largest under single management. The massive network is rapidly growing, given the rise in population and a growing potential economy. The Government has focused on investments by making investor-friendly policies and the FDI inflows into railway components from April 2000 to February 2015 was around USD 634 million. ◆ 95% of India's trading by volume and 70% by value is done through maritime transport. 100% FDI is allowed under the automatic route for port and harbour construction and maintenance projects. A 10-year tax holiday is given to enterprises that develop, maintain and operate inland waterways and ports.

	• India's power sector is one of the most diversified in the world. Electricity demand in the country has increased rapidly and is expected to rise further in the years to come.
Real Estate and Construction	• The Indian real estate market size is expected to touch USD 180 billion and the construction equipment industry's revenues are estimated to reach USD 22.7 billion by 2020. • According to Department of Industrial Policy and Promotion (DIPP), the construction development sector in India has received FDI equity inflows to the tune of USD 24 billion during the period April 2000 to December 2014. • 100% FDI is permitted in townships, housing, built-up infrastructure and construction-development projects under the automatic route.
Telecommunication	• The industry's overall gross revenues are expected to reach around USD50 billion by 2020. • India is currently the second-largest telecommunication market and has the third highest number of internet users in the world. • Increase in non-voice revenues and higher penetration in rural markets. • FDI up to 100% is permitted, up to 49% under automatic route and beyond 49% on a prior FIPB approval.
IT and BPM	• The industry revenues are expected to reach USD 300 billion by 2020. • India continues to be the topmost off shoring destination for IT companies followed by China and Malaysia. • Emerging geographies and verticals, non-linear growth due to platforms, products, automation, increasing adoption of technology and telecom by consumers and focused government initiatives – leading to increased technology adoption. • 100% FDI is permitted under the automatic route in data processing, software development, computer consultancy, software supply, business and management consultancy, market research, technical testing and analysis services.
Electronic Manufacturing	• India has the third largest pool of scientists and technicians in the world and the industry is expected to achieve a turnover of about USD 400 billion by 2020. • Significant local demand and rising manufacturing costs in alternate markets; 65% of the current demand for electronic products is met by imports. • 100% FDI allowed under the automatic route in the Electronics Systems Design and Manufacturing sector and FDI up to 49% is allowed under the government approval route in case of electronics items for defence.

Healthcare	◆ Healthcare has become one of India's largest sectors - both in terms of revenue and employment. ◆ The Indian healthcare industry is growing at a tremendous pace due to its strengthening coverage, services and increasing expenditure by public as well private players. ◆ The total industry size is estimated to reach USD 280 billion by 2020 at a CAGR of 22.9% during 2015-20. ◆ The hospital and diagnostic centres attracted FDI worth USD 2.8 billion between April 2000 and January 2015, according to data released by DIPP. ◆ The country has also become one of the leading destinations for high-end diagnostic services with tremendous capital investment for advanced diagnostic facilities.
Biotechnology	◆ Industry revenues are expected to reach USD 100 billion by 2025. ◆ India is amongst the top twelve biotech destinations in the world and ranks third in the Asia-Pacific region. ◆ The key drivers for growth are increasing investments, outsourcing activities, exports, government's focus on the sector and cost – effective manufacturing capabilities. ◆ 100% FDI is permitted through the automatic route for greenfield and through the government route for brownfield.
Pharmaceuticals	◆ Industry revenues are expected to expand at a CAGR of 12.1% during 2012-20 and reach USD 45 billion. ◆ Expected to rank amongst the top three pharmaceutical markets in terms of incremental growth by 2020. ◆ Pharma companies have increased spending to tap rural markets and develop better infrastructure. ◆ 100% FDI is permitted in existing pharmaceutical companies with prior FIPB approval and for the green field investments, 100% FDI is permitted under the automatic route.
Food Processing	◆ India's food processing sector ranks fifth in the world in exports, production and consumption. ◆ India is a global outsourcing hub, with large retailers sourcing owing to abundant raw materials, supply and cost advantages. ◆ 100% FDI is permitted for alcoholic beverages, with requirement of an industrial license and 24% is allowed under the automatic route for items reserved for the micro small and medium sector. ◆ In tea sector (including tea plantations), 100% FDI is permitted under the approval route and up to 100% is allowed under automatic route for coffee and rubber processing and warehousing.

Retail	◆ India is the world's fifth largest global destination in retail. ◆ The retail market is expected to nearly double to USD 1 trillion and the e-commerce market is estimated to expand to over USD 100 billion by 2020. ◆ Key growth drivers are retail developments in Tier-II and Tier-III cities, healthy economic growth, changing demographic profile, increasing disposable incomes and changing consumer preferences. ◆ FDI up to 51% in multi brand retail and up to 100% in single brand retail is allowed.
Media and Entertainment	◆ The Indian Media and Entertainment (M&E) industry is a sunrise sector for the economy and is making high growth strides. ◆ According to DIPP, the FDI inflows in the information and broadcasting (I&B) sector (including print media) in the period April 2000 – January 2015 stood at USD 3.8 billion.
Education	◆ India has the third largest higher education system in the world in terms of enrolments, after China and the US. There are over 21.5 million enrolments per year. ◆ The growth drivers of the education sector are constantly rising awareness, demographics advantage, technology oriented education and the human resource driven economy. ◆ 100% FDI is permitted for education sector under the automatic route.
Tourism and Hospitality	◆ India ranks 42nd in the United Nations World Tourism Organization rankings for foreign tourist arrivals and is the 16th most visited country in the world, with a share of 1.56% in the world's tourism receipts. ◆ The launch of several branding and marketing initiatives by the Government of India such as Incredible India! And Athiti Devo Bhava provides a focused impetus to growth. ◆ 100% FDI is allowed under the automatic route in tourism and hospitality, subject to applicable regulations and laws and 100% FDI is allowed in tourism construction projects, including the development of hotels, resorts and recreational facilities.

Section II

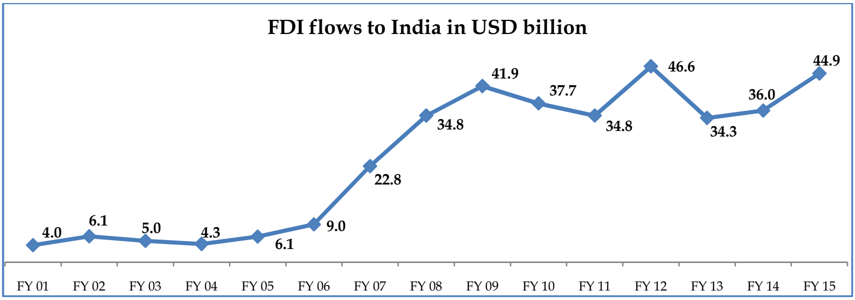
Foreign Investment in India

FOREIGN DIRECT INVESTMENT IN INDIA

Overview

Apart from being a critical driver of economic growth, foreign direct investment is a major financial resource for the economic development of India. The Indian government's favourable policy regime and robust business environment have ensured that foreign capital keeps flowing into the country.

According to Department of Industrial Policy and Promotion (DIPP), the total FDI inflows soared by 24.5% to USD 44.9 billion during FY2015, as compared to USD 36billion in FY2014. FDI into India through the Foreign Investment Promotion Board (FIPB) route shot up by 26% to USD 31.9 billion in the year FY2015 as against USD 25.3 billion in the previous year, indicating that government's effort to improve ease of doing business and relaxation in FDI norms is yielding results.



During FY 2015, India received the maximum FDI equity inflows from Mauritius at USD 9.03 billion, followed by Singapore (USD 6.74 billion), Netherlands (USD 3.43 billion), Japan (USD 2.08 billion) and the US (USD 1.82 billion). Healthy inflow of foreign investments into the country helped India's balance of payments (BoP) situation and stabilised the value of rupee. During 2014, foreign investment was witnessed in sectors such as services, telecommunications, computer software and hardware, construction development, power, trading, and automobile, among others. According to the data released by Grant Thornton India, the total merger and acquisitions (M&A) and private equity (PE) deals in the month of May 2015 were valued at USD 3.2 billion (115 deals), which is 21% higher in volume as compared to May 2014.

According to United Nations Conference on Trade and Development (UNCTAD) World Investment Report 2015, India acquired ninth slot in the top 10 countries attracting highest FDI in 2014 as compared to 15th position last year. The report also mentioned that the FDI inflows are likely to exhibit an upward trend in 2015 on account of economic recovery.

FDI Framework

Under the current regulatory framework in India, FDI is permitted by all categories (of investors) and in all sectors except the following:

- Activities and sectors not open to private sector investment e.g. Atomic energy and Railway Transport [except mass rapid transport systems (MRTSs)]
- Real estate (except construction development projects or farm house construction)

- Manufacturing of cigars, cheroots, cigarillos, cigarettes, tobacco / tobacco substitutes
- Agriculture (excluding floriculture, horticulture, seed development, animal husbandry, pisciculture, aquaculture and cultivation of vegetables, mushrooms, etc.)
- Plantations (excluding tea plantations)
- Lotteries, gambling and betting
- Chit funds, nidhi companies or trading in transferable development rights

Investments can be made in other sectors under the following:

- Approval route, i.e. by the government through the Foreign Investment Promotion Board (FIPB) under the Ministry of Finance or Department of Industrial Policy and Promotion (DIPP) under the Ministry of Commerce and Industry or both.
- Automatic route, i.e. no prior approvals from regulatory authorities but only post facto intimations to the Reserve Bank of India (RBI) through Authorized Bankers.

Approval Route

A prior approval from the FIPB or the DIPP is required in cases of FI where the project does not qualify for the automatic route. The following cases will fall under this category:

- Sectors which require FIPB approval for FDI or for FDI beyond a prescribed cap
- Issue of shares for consideration other than cash i.e. issue of shares against import of capital goods/machinery/equipment and pre-operative/pre-incorporation expenses subject to compliance with certain stated conditions[except for capitalization of an external commercial borrowing (ECB) due for repayment and interest on such an ECB, as well as technical knowhow fee or royalties due for payment]
- Investments by citizens and companies of Bangladesh or Pakistan
- Investments in warrants and partly paid shares
- Investment in an Indian entity engaged in downstream investment activities for holding purposes or which does not have any operations or any downstream investments. Also, an entity that fulfils the criteria prescribed under the core investment companies guidelines of RBI will have to comply with the norms.

The decision of the FIPB or DIPP is normally conveyed within four to six weeks from the date of submission of an application. A proposal for foreign investment is decided on a case-to-case basis on the case merits and according to the prescribed sectoral policy. Generally, preference is given to projects in high-priority industries and the infrastructure sector, those with export potential, large-scale employment opportunities, links with the agro sector, social relevance, or those relating to the infusion of capital and induction of technology.

Foreign investment proposals under the FIPB route involving a total foreign equity inflow of more than INR 12 billion must be placed before the Cabinet Committee of External Affairs (CCEA) for consideration. Where an entity already has a FIPB or CCEA approval for an activity / sectoral caps, additional foreign investment in such an entity does not require prior approval from the FIPB or the CCEA, where subsequent to the earlier approval:

- Either the activity or the sector, had been placed under the automatic route; or
- Sectoral caps had been removed or increased (provided that such additional investment along with the original investment is within the current sectoral caps)

Automatic Route

Generally, except in the cases mentioned above, all other cases of foreign investment fall under the automatic route and do not require prior approval of the FIPB or DIPP.

Computation of FDI

The Indian government had issued guidelines to calculate total FDI in an Indian company where sectoral caps apply. As per this policy, the total FDI in an Indian company will comprise the following:

Direct investment by a foreign investor

- Indirect Foreign Investments (IFIs) through an Indian company owned or controlled by non-residents. Here 'owned' means more than 50% shareholding and 'control' means right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.

- Further, for the computation of IFI, 'FI will include all types of investments, i.e., FDI, investment by FIIs (holding as on 31 March), NRIs, ADRs, GDRs, foreign currency convertible bonds (FCCBs), convertible preference shares and convertible currency debentures regardless of whether the said investments have been made under Schedule 1, 2, 3 or 6 of Foreign Exchange Management Act (FEMA) - Transfer or Issue of Security by Persons Resident Outside India Regulations.

Broadly, the principle emerging under this policy aspect is that in case an Indian company is owned and controlled beneficially by Resident Indian Citizens (RICs), any downstream investment made will be considered as domestic investment and not counted towards foreign investment caps.

Further, any downstream investments made by an Indian company owned or controlled by non-residents would be required to comply with sectoral caps and conditionalities. In this regard, RBI has issued circular incorporating the downstream investment policy guidelines issued by DIPP in 2009. Further, a statutory auditor would need to certify whether downstream investment is in compliance with the FDI Policy and FEMA provisions.

Foreign venture capital permitted to acquire securities under private arrangement

Foreign Venture Capital Investors (FVCIs) can invest in eligible securities (equity, equity linked instruments, debt, debt instruments, debentures of an IVCU or VCF, units of schemes or funds set up by a VCF) by private arrangement or purchase from a third party subject to compliance with certain conditions.

Qualified Foreign Investors

Qualified Foreign Investors (QFIs) are non- resident investors other than (Securities and Exchange Board of India (SEBI) - registered FIIs and SEBI - registered FVCIs who meet the KYC requirements of SEBI.

- QFIs from Financial Action Task Force (FATF) compliant jurisdictions and resident in a country that is a signatory to International Organization of Securities Commissions (IOSCO)'s MoU or a signatory of a bilateral MoU with SEBI have been permitted to invest in equity shares of listed Indian companies or equity shares of

Indian companies offered to the public in India through SEBI-registered depository participants (DPs) or SEBI-registered brokers within an individual cap of 5% and 10% in aggregate of the paid-up capital of listed companies or both.

- Further, QFIs can also purchase rupee denominated units of equity schemes of domestic mutual funds (MFs) on a repatriation basis and eligible corporate debt instruments, viz. listed non-convertible debentures (NCDs), listed bonds of Indian companies, listed units of MF debt schemes and 'to be listed' corporate bonds directly from the issuer or through a registered stockbroker on a recognized stock exchange in India.

- QFIs are also permitted to acquire non-convertible debentures or bonds issued by NBFCs categorized as infrastructure finance companies (IFCs).

Foreign Investment by Qualified Foreign Investors

FDI up to 100% is permitted with prior government approval in limited liability partnerships engaged in sectors or activities currently eligible for 100% FDI under the automatic route. Such sectors/activities should not have any sectoral or other FDI linked conditions. Some of the conditions, subject to which FDI in LLP would be permitted, are as follows:

- Only cash contribution is permissible for FDI in LLPs
- LLP cannot raise ECB
- LLPs with FDI are not allowed to make downstream investments
- FIIs and FVCIs cannot invest in LLPs

Investment through Share Acquisition

Non-resident investors can acquire shares of an existing Indian company subject to compliance with sectoral conditions. Stock acquisition is permitted after a resolution to this effect has been passed by the board of directors of the company whose shares are being acquired. The acquisition will need to comply with valuation guidelines prescribed by RBI or SEBI from time to time. Prior FIPB approval is required in all cases where either the control or ownership of the Indian company, engaged in a sector where FDI caps apply, is transferred to or acquired by a non-resident entity.

Acquisition by way of share swap is also permitted with prior FIPB approval and is subject to valuation guidelines. Prior approval of the RBI is no longer required for the following cases of share acquisitions:

- Acquisition of existing equity by residents from non-residents where the share price falls outside the prescribed valuation norms but complies with the pricing prescribed under SEBI regulations or guidelines

- Acquisition of equity by non-residents from residents under the following cases:
    - Where the requisite approval of the FIPB has been obtained
    - Where prescribed pricing guidelines are not met but comply with SEBI pricing guidelines
    - Where the investee company is in the financial services sector

Investment by Foreign Institutional Investors (FIIs)

- A registered FII may, through the SEBI, apply to the RBI for permission to purchase the shares and convertible debentures of an Indian company under the portfolio investment scheme.

- FIIs are permitted by the RBI to purchase the shares or convertible debentures of an Indian company through registered brokers on recognized stock exchanges in India. They are also permitted to purchase the shares or convertible debentures of an Indian company through private placement or arrangement.

- The total holding by each FII and SEBI approved sub-account of FII cannot exceed 10% of the total paid-up equity capital or 10% of the paid-up value of each series of convertible debentures issued by an Indian company.

- Further, the total holdings of all FIIs or sub-accounts of FIIs added together cannot exceed 24% of the paid-up equity capital or the paid-up value of each series of convertible debentures. The limit of 24% may be increased to the specified sectoral cap or statutory ceiling, as applicable, by the concerned Indian company by passing a board of directors' resolution, followed by the permission of the shareholders through a special resolution to that effect and immediate intimation to the RBI.

- FIIs can now invest in the primary issues of NCDs or bonds only if their listing is committed to be done within 15 days of such an investment. FIIs can also subscribe to unlisted bonds or NCDs in case the issuing company is an infrastructure company.

Valuation Guidelines

Issue of shares to non-residents or transfers from resident to non-residents is subject to valuation guidelines as set out below:

- In case of transfer of shares from resident to non-resident, the consideration cannot be less than the amount determined as per discounted cash flow method in case of unlisted shares. However, if shares are listed, then the consideration price cannot be less than the price at which preferential allotment of shares can be made under SEBI guidelines.

- In relation to a transfer of shares of an Indian company (listed or unlisted) from a non-resident to resident, the price cannot exceed the above mentioned price.

- Where non-residents (including NRIs) are making investments in an Indian company, by way of subscription to its Memorandum of Association, such investments may be made at face value subject to their eligibility to invest under the FDI scheme.

In relation to a transfer of shares of an Indian company (listed or unlisted) from a non-resident to resident, the price may not be more than the minimum price at which the transfer of shares can be made.

Section III

Investment Vehicles to India

OPERATING AS AN INDIAN OR FOREIGN COMPANY

Wholly Owned Subsidiary Company

A foreign company setting up a wholly owned subsidiary company in India is treated as an Indian resident and an Indian company and is applicable to all Indian regulations (including Income Tax, Foreign Exchange Management Act and the Companies Act). At least 2 members, in case of a private limited company, and 7 members, in case of a public limited company, are mandatory. Activities of such a company need to comply with the provisions of the FDI policy.

Joint Venture with an Indian Partner (Equity Participation)

Many foreign companies have begun operations in India by forming strategic alliances with Indian partners who are in the same area of activity or bring synergy to the foreign investor's plans for India. Sometimes joint ventures are necessitated due to restrictions on foreign ownership in certain sectors.

Limited Liability Partnership (LLP)

LLP is a new form of business structure in India. It combines the advantages of a company, such as being a separate legal entity having perpetual succession, with the benefits of organizational flexibility associated with a partnership. At least 2 partners are required to form an LLP and they have limited liability. An LLP, with less compliance levels is comparatively easier to manage than a company form of organization.

Further, an LLP is not subject to mandatory requirements applicable to a company with regard to provision of depreciation and transfer to reserves prior to distribution of profits (though Companies Act 2013 makes it voluntary for a company to transfer to reserves prior to distribution of profits, this would be applicable once it gets notified). The FDI policy for LLPs has been notified making this a possible viable entity form for Indian business operations of foreign investors.

Liaison Office

A Liaison Office (also known as Representative Office) can undertake only liaison activities, i.e. it can act as a channel of communication between Head Office abroad and parties in India. It is not allowed to undertake any business activity in India and cannot earn any income in India. Expenses of such offices are to be met entirely through inward remittances of foreign exchange from the Head Office outside India. The role of such offices is, therefore, limited to collecting information about possible market opportunities and providing information about the company and its products to the prospective Indian customers.

Additionally, one would need registration with Registrar of companies and reporting of details of Liaison office is required with Director General of Police under whose jurisdiction the LO is established.

Project Office

Foreign companies planning to execute specific projects in India can set up temporary project and site offices here for this purpose. The Reserve Bank has granted general permission to foreign companies to establish Project Offices in India, provided they have secured a contract from an Indian company to execute a project in India, and

- The project is funded directly by inward remittance from abroad; or
- The project is funded by a bilateral or multilateral International Financing Agency; or
- The project has been cleared by an appropriate authority; or
- A company or entity in India awarding the contract has been granted Term Loan by a Public Financial Institution or a bank in India for the project

However, if the above criteria are not met or if the parent entity is established in Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran , China, Hong Kong or Macau, such applications have to be forwarded to the Foreign Exchange Department, Reserve Bank of India, Central Office, Mumbai for approval.

Branch Office

Companies incorporated outside India and engaged in manufacturing or trading activities are allowed to set up Branch Offices in India with specific approval of the Reserve Bank of India.

Such Branch Offices are permitted to represent the parent / group companies and undertake the following activities in India:

- Export / Import of goods
- Rendering professional or consultancy services
- Carrying out research work, in areas in which the parent company is engaged
- Promoting technical or financial collaborations between Indian companies and parent or overseas group company
- Representing the parent company in India and acting as buying / selling agent in India
- Rendering services in information technology and development of software in India
- Rendering technical support to the products supplied by parent/group companies
- Foreign airline / shipping company

In general, manufacturing activity cannot be undertaken through a branch office. However, foreign companies can establish a branch office or unit for manufacturing in an SEZ subject to the fulfilment of certain conditions.

EXCHANGE CONTROL REGULATIONS

Foreign exchange transactions are regulated under the Foreign Exchange Management Act, 1999. Transactions that alter the assets or liabilities outside India of a person resident in India or, in India, of a person resident outside India, are classified as capital account transactions. All other transactions are considered current account transactions. The Indian rupee is fully convertible for current account transactions, subject to a negative list of transactions which are either prohibited or which require prior approval.

Current Account Transactions

Foreign nationals or Indian citizens who are not permanently residing in India and have been deputed by a foreign company to its Indian office, branch, subsidiary or JV are allowed to make recurring remittances abroad for family maintenance of up to 100% of their net salary. Also, up to 100% of the salary of a foreign national or Indian citizen deputed by a foreign company to its Indian office, branch, subsidiary or JV can be paid abroad by the foreign company, subject to the foreign national or Indian citizen paying the taxes in India. Approval from RBI is required for acquiring foreign currency for the following purposes:

- Business travel over USD 25,000 per person per visit
- Gift over USD 5,000 or donation over USD 5,000 per remitter or donor per annum
- Holiday travel over USD 10,000 per person per annum
- Foreign studies as per the estimate of the institution or USD 100,000 per academic year, whichever is higher
- Consultancy services procured from abroad of over USD 1,000,000 per project
- Reimbursement of pre-incorporation expenses over the higher of USD 100,000 and 5% of investment brought into India

Certain specified remittances are prohibited:

- Remittances out of lottery winnings
- Remittance of income from racing, riding, etc. or any other hobby
- Payment of commission on exports under the rupee state credit route except commission up to 10% of invoice value of exports of tea and tobacco
- Payment of commission on exports made towards equity investments in joint ventures or wholly owned subsidiaries abroad of Indian companies
- Remittance of dividend by any company to which the requirement of dividend balancing is applicable
- Remittance for the purchase of lottery tickets banned or prescribed magazines, football pools, sweepstakes, etc.
- Payment related to 'call back services' of telephones
- Remittances of interest income held in a non-resident special rupee (account) scheme

Capital Account Transactions

Capital account transactions can be undertaken only to the extent permitted. The RBI has prescribed a list of capital account transactions, which include the following:

- Investments overseas by residents
- Borrowing or lending in foreign exchange

- Export or import of currency
- Transfer or acquisition of immovable property in or outside India liberalized remittance scheme for resident individuals

Under the Liberalised Remittance Scheme, all resident individuals are allowed to freely remit up to USD 2,50,000 per financial year for any permissible current or capital account transaction or a combination of both subject to specified terms and conditions under the LRS Scheme in addition to specific limits provided under current account transaction rules. Acquisition of immovable property outside India (directly or indirectly) under LRS scheme would not be allowed. In addition to this, RBI has permitted eligible resident individuals to access the LRS window to acquire/set up overseas JV/WOS (which is an operating company) outside India for bonafide business activities by making remittance under the LRS within the prescribed limit.

With respect to overseas investments in a joint venture, the limit of financial commitment is 100% of net worth of the Indian entity as on the last audited balance sheet date. Investment beyond this cap requires prior permission from RBI. All other transactions otherwise not permissible under FEMA Act those in the nature of remittances for margins or margin calls to overseas exchanges or overseas counterparties are not allowed under the scheme.

Repatriation of capital

Foreign capital invested in India is generally repatriable, along with capital appreciation, if any, after the payment of taxes due, provided the investment was on a repatriation basis.

Royalties and technical know-how fees

Indian companies can make payment for trademark or technology royalties without any restrictions under the automatic route.

Dividends

Dividends are freely repatriable after the payment of dividend distribution tax by the Indian company declaring the dividend. RBI permission is not necessary for a dividend affecting a remittance, subject to specified compliance requirements.

Acquisition of immovable property in India

Generally, foreigners are not permitted to acquire immovable property except in cases of inheritance, acquisition on lease for period not exceeding 5 years and, where the property is required for the business of the Indian branch, office or subsidiary of the foreign entity. NRIs are permitted to acquire immovable properties (except agricultural land, plantation property and farmhouse.

Remittances by branch or project office

No prior approval is required for remitting profits earned by the Indian branches of foreign companies (other than banks) to their head offices outside India. Remittances of the winding up proceeds of a branch office of a foreign company in India are permitted subject to the authorized dealer’s approval. Remittances of winding-up proceeds of a project office of a foreign company in India are permitted under the automatic route subject to the fulfilment of the compliance requirements.

Section IV

Direct Taxes

DIRECT TAXATION IN INDIA

Income Tax

Corporate Tax Rates

The tax rate applicable for a Domestic Company is 30% plus surcharge and cess and for a Foreign Company it is 40% plus surcharge and cess.

Dividend Distribution Tax

Indian companies are liable to pay Dividend Distribution Tax (DDT) at the time of declaration, distribution, or payment, of dividend, whichever is earlier, (it is in addition to the income-tax payable). DDT is payable at 15% (plus 10% surcharge, 2% education cess, and 1% secondary and higher education cess).

Special economic zone (SEZ) developers and units in an SEZ are liable to pay DDT at the same rate with effect from 1st June 2011. A holding company does not have to pay DDT on dividends paid to its shareholders to the extent that it has received dividends from its Indian or foreign subsidiary company on which DDT has been paid by the respective subsidiary. However, the benefit will not be available if the holding company is itself a subsidiary of another company.

Tax on buyback of shares

Additional tax amount is payable in the case of buyback of shares by an unlisted company from its shareholders. The company is liable to pay a tax at 20% (plus 10% surcharge, 2% education cess and 1% secondary and higher secondary education cess) on the difference between consideration paid on buyback and the issue price of shares. The buyback consideration received would be tax-exempt in the hands of the receiver. No tax credit would be allowed in case of such taxes paid either to the company or to the shareholder.

Minimum Alternate Tax (MAT)

To bring zero tax companies under the tax net, MAT at 18.5% of the book profits is levied on companies whose tax payable under normal income tax provisions is less than 18.5% of adjusted book profits. MAT is also applicable to SEZ developers and units in a SEZ with effect from FY 2011-12. The current effective rates are as follows:

Company	Taxable income exceeds INR 10 million	Other cases*
Domestic company	18.5%	18.5%
Foreign company	18.5%	18.5%

Applicable surcharge and education cess will also be levied on the above tax rates.

Unadjusted MAT credit can be carried forward till the 10th year, following the year of credit.

Alternate minimum tax on all persons other than companies

MAT provisions were also made applicable to limited liability partnerships with effect from FY 2011-12 in the form of alternate minimum tax (AMT). AMT provisions have now been further extended to all other assesses with effect from FY 2012-13. AMT will be applicable at the rate of 18.5% on the adjusted total income (as per income-tax provisions) rather than the adjusted book profits as is the case for companies. AMT credit will be available to LLPs and other assesses for the period of 10 years.

Capital Gains

Particulars	Resident	Non - resident
Short-term capital assets-listed equity shares and units of equity-oriented funds which have been charged to securities transaction tax (STT)	15%	15%
Long-term capital assets-listed equity shares in a company or unit of an equity-oriented fund which have been charged to STT	Exempt	Exempt
Long-term capital assets-listed securities (other than (b))	10%	10%
Other long term capital assets	20%	20%
Long-term capital gains arising to a non-resident (not being a company) or a foreign company – from transfer of unlisted securities	N.A	10% (No indexation benefit)

Applicable surcharge and education cess will also be levied on the above tax rates.

Computation of total income: General

Income that accrues or arises or is deemed to accrue or arise or is received or deemed to be received in India is taxable in the hands of a non-resident taxpayer subject to the benefit of the Double Taxation Avoidance Agreement (DTAA) with the taxpayer's resident country.

- Taxable income is computed for a uniform accounting year, i.e., the fiscal year from 1 April to 31st March.
- The taxable income is called 'total income', computed after adding certain disallowances, such as loss on the sale of assets and the reduction of certain allowances or benefits from the profits.

Depreciation

Depreciation is allowed separately at the following rates for computing taxable income: In the case of a new asset, depreciation for the whole year is allowed only if the asset is put to use for 180 days or more during the fiscal year. Otherwise, depreciation is allowed at only half the prescribed rate.

Particulars	Rate
Factory building	10%
Furniture and fittings	10%
Plant and machinery (general)	15%
Computers (including software)	60%
Motorcars, other than those used in a business of running them on hire	15%
Intangible assets (know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of a similar nature)	25%
Windmill	15%
For certain priority items, such as energy-saving devices and pollution control equipment, depreciation is allowed at higher rates. Undertakings engaged in the business of generation or generation and distribution of power have the option of claiming tax depreciation at the above rates or on a straight line basis at rates prescribed in the Income-tax Rules, 1962.	rates vary from 1.95 to 33.40%

Investment Allowance

Investment allowance benefit is allowed for companies engaged in the business of manufacture of any article. The benefit of deduction is allowed for investment made in the 'new' plant and machinery acquired and installed during FY 2013-14 and FY 2014-15. The aggregate investment during these years should be more than INR 1 billion. A deduction of 15% of the value of the investment made is allowed. The assets have to be held for more than five years.

If the asset is sold before the period, the investment benefit claimed will be reversed in the year of sale. Investment in a new plant and machinery will not include assets such as plant or machinery used earlier in or outside India, any plant or machinery installed in any office premises or in residential accommodation (or guesthouse), any office appliances (including computers or computer software), vehicle, ship or aircraft.

Double Tax Avoidance Agreements (DTAA)

The DTAAs override the provisions of the Indian Income-tax Act to the extent that they are more beneficial to the assessee. India has signed DTAAs with 89 countries. For obtaining DTAA benefit, it is necessary for a non-resident assessee to furnish a certificate of it being a resident of that country, obtained by the assessee from the government of that country.

Royalty Payments

A royalty is a usage-based payment made by one party (the "licensee") to another (the "licensor") for the right to on-going use of an asset, sometimes an intellectual property (IP). But there were certain controversies with regard to meaning, characterization, scope and taxability of royalty:

- Whether consideration for use of computer software is royalty or not
- Whether the right, property or information has to be used directly by the payer or is to be located in India or control or possession of it has to be with the payer
- The meaning of the term process, etc.

To eliminate these controversies, the definition of royalty provided under the domestic tax laws has been amended and clarified retrospectively. It has been clarified that the consideration for use or right to use of computer software is 'royalty' and that transfer of all or any rights in respect of any right, property or information includes transfer of all or any right for use or right to use a computer software (including granting of a license) irrespective of the medium through which such a right is transferred.

It has also been clarified that royalty includes consideration for any right, property or information, whether or not the following conditions apply:

- The possession or control of such a right, property or information is with the payer
- Such a right, property or information is used directly by the payer
- The location of such a right, property or information is in India

Know-How Fee

The royalties or technical fees payable to non-residents with a permanent establishment in India are taxed on a net basis. In contrast, they are taxed on a gross basis in the case of non-residents without a permanent establishment in the country. The applicable rate is 25% for royalty and fee for technical services (plus surcharge and education cess as applicable). If the applicable DTAA provides for a rate lower than the above, the same would become applicable.

Dividend received from overseas group companies

From the FY 2011-12, dividends received by Indian companies from specified foreign companies (Indian company holds 26% or more in nominal value of the equity share capital) will be taxed at a concessional rate of 15%, this has been further extended to FY 2013-14. However, no expenditure will be deductible while computing this income.

Wealth Tax

Wealth tax is charged on both individuals as well as companies. It is charged at the rate of 1% of the amount by which the 'net wealth' exceeds INR 3 million as on 31st March every year (referred to as the valuation date). The term 'net wealth' broadly represents the excess value of certain assets which include guest houses and residences, motorcars, jewellery, bullion, utensils of gold and silver, yachts, boats, aircraft, urban land and cash, etc., over the debts concerned.

Gift Tax

A separate Gift Tax liability no longer exists in India. Any sum of money exceeding or immovable property whose stamp duty value exceeds or any immovable property whose fair market value exceeds INR 50,000 received without consideration by an individual from any person will be taxed as 'income from other sources'. This will not apply to any sum of money received - from a relative, on the occasion of the individual's marriage, under a will or by way of inheritance, in the death expectation of the donor.

Section V

Indirect Taxes

INDIRECT TAXATION IN INDIA

Customs Duty

Customs duty is levied by central government on goods imported into and exported from India, though the list of goods on which export duty is levied is limited. The rate of customs duty applicable to a product to be imported or exported depends on its classification under the Customs Tariff Act, 1975 (CTA). The customs tariff of India is aligned up to a six-digit level with the internationally recognized Harmonized Commodity Description and Coding System of tariff nomenclature (HSN) provided by the World Customs Organization.

India does not have one uniform element of customs duty, and the duty applicable to any product is composed of a number of components. The types of duties applicable are:

- **Basic Customs Duty (BCD)**is the basic component of customs duty levied at the effective rate notified under the First Schedule to the CTA and applied to the landed value of the goods (i.e. the CIF value of the goods plus landing charges at 1%). The peak rate of BCD is currently set at 10% for all goods other than agricultural and other specified products. However, the government has the power to exempt specific goods, wholly or in part, from the levy of custom duties. In addition, preferential or concessional rates of duty are available under various bilateral and multilateral trade agreements that India has entered into with other countries.
- **Countervailing Duty (CVD)** is equivalent to, and is charged in lieu of, the excise duty applicable on like goods manufactured in India. CVD is calculated on the landed value of goods and the applicable BCD. However, the CVD on specific consumer goods intended for retail sale is calculated on the basis of the maximum retail price (MRP) printed on their packs after allowing specified abatements. The general rate of excise duty is currently 12% and consequently so is the rate of CVD.
- **Education Cess (EC)** at 2% and **Secondary and Higher Education Cess (SHEC)** at 1% are also levied on the aggregate customs duties.
- **Additional Duty of Customs (ADC)** at 4% is charged in addition to the above on imports, subject to certain exceptions. ADC is calculated on the aggregate of the assessable value of imported goods, the total customs duties (i.e. BCD and CVD) and applicable EC and SHEC.

CENVAT (Excise Duty)

Central value added tax (CENVAT), is a tax levied by the central government on the manufacture or production of movable and marketable goods in India.

The rate of excise duty levied on goods depends on the classification under the excise tariff, which is primarily based on the HSN classification adopted so as to achieve conformity with the customs tariff. The standard rate of excise duty for non-petroleum products is 12%. In addition, EC at 2% and SHEC at 1% are applicable on aggregate excise duties.

The excise duty on most consumer goods intended for retail sale is chargeable on the basis of the MRP printed on the goods packaging. However, abatements are admissible at rates ranging from 15% to 55% of the MRP for charging excise duty. Goods other than those covered by an MRP-based assessment are generally chargeable to duty on the transaction value sold to an independent buyer. In addition, the central government has the power to fix tariff values for charging ad valorem duties on goods.

The excise duty operates as a pure value added tax (VAT), with full set-off of input tax credits in computing and discharging the tax liabilities on the output side. The input tax credit comprises excise duty on indigenously sourced inputs and capital goods, the CVD and ADC portion of customs duty on imported material and service tax on input services, with the exception of certain exclusion that have been provided under CENVAT credit rules.

Service Tax

The service tax was first introduced in India in the year 1994 with a relatively limited number of services under its ambit. Generally, it is the service provider who is liable to pay the service tax. However, for some specified services, such as transport of goods by road, sponsorship, import of services, etc. the obligation to pay service tax rests with the service receiver. In certain cases, this obligation has been divided between the receiver and the provider in a specified proportion. The existing rate of service tax is 14%. In addition, EC of 2% and SHEC of 1% of the service tax are levied on taxable services.

Service tax is a consumption-based tax. The peculiar nature of services makes it difficult sometimes to determine the origin and place of consumption of services or the time of completion and rendition of services. Introduction of Point of Taxation Rules, 2011, Place of Provision of Services Rules, 2012 along with the introduction of taxable or non-taxable territory under the negative list based service taxation regime has simplified the process of determination of time and place of rendition and completion of service.

In addition to the negative list of services, there are certain services such as education, infrastructure projects like development of roads and bridges, healthcare, sponsorship of sports events, etc. which are specifically made exempt from the levy of service tax. There is an abatement scheme for valuation of certain specific service such as transportation, financial leasing, renting, etc. and the rate of exemption varies from 10% to 70% of the taxable value. Export of services are completely tax neutral and benefits such as refund of input tax credit and rebate of duty payments are also available.

Sales Tax

The sale of movable goods in India is chargeable to tax at the Federal or State level. The Indian regulatory framework has granted power to the state legislatures to levy tax on goods sold within that state. On the other hand, all goods sold in the course of interstate trade are subject to the federal sales tax i.e. central sales tax (CST).

CST is levied at the rate applicable on such goods under the VAT law of the originating state. Where goods are bought and sold by registered dealers for trading or for use as inputs in the manufacture of other goods or specified activities (such as mining or telecommunication networks), the rate of CST would be 2%, provided an appropriate declaration form is issued by the purchasing dealer to the selling dealer. Inter-state procurement on which CST is charged in the originating state is not eligible for input tax credit in the destination state.

Value Added Tax

State-level sales tax was replaced by VAT with effect from 1st April, 2005. Under this regime, the VAT paid on goods purchased within the state is eligible for VAT credit. The input VAT credit can be utilized against the VAT or CST payable on the sale of goods. This ensures that the cascading effect of taxes is avoided and that only the value addition is taxed. Currently, there is no VAT on goods imported into India. Exports are zero rated. This means that while exports are not charged to VAT, the purchaser of inputs used in the manufacture of export goods or goods purchased for exports can claim a refund of the VAT charged on the goods.

With respect to the trade of goods in the state, varying tariff rates are assigned to different commodities. General tariff rates prevalent in the state VAT laws could vary from 1% to up to 20%. All those goods which are not covered under any of the tariff rates would be chargeable to the residual rate, which may vary from 12.5% to 15.5%. Turnover thresholds have been prescribed so as to keep small traders out of the ambit of VAT. Small traders can also opt to pay tax under composition scheme, at a lower rate, levied in lieu of VAT.

Octroi duty or entry tax

Entry tax is on entry of specified goods into the state from outside the state for use, consumption or sale therein. Entry tax continues to exist under the VAT regime, though in certain states it has been made taxable and can be set off against the output VAT liability. Entry tax is levied on purchase value, which is defined as the amount of the valuable consideration paid or payable by a person for the purchase of any goods. The value of the specified goods can be ascertained from the original invoice for purchase of such goods.

Octroi is a municipal tax levied at the time of the entry of specified goods into the limits of the municipal corporation. Thus, octroi can be levied if there is movement of goods from one city to another in the same state, in the event the cities fall under the jurisdiction of two different municipal corporations.

Goods and Services Tax (GST)

In 2006, the central government took a major step towards the transition to a national integrated GST. Implementation of the GST will be a historical reform in India as it will subsume CVD, excise duties, service tax, CST, State VAT and some other state levies.

At present, a dual-rate GST model is envisaged whereby the tax rate will be converged to one standardized rate of 16% on goods and services within three years of implementation. Under the proposed dual GST model, a central GST as well as a state GST will be levied on the taxable value of a transaction of supply of goods and services. Both the centre and the state will legislate, levy and administer the central GST and the State GST, respectively.

Once implemented, GST will create a single, unified Indian market and will diminish the multiple layers of indirect taxation that prevail in India at present. GST is also seen as a reform in administration of indirect taxation and will definitely be favourable for trade.

Stamp Duty

Stamp duty is levied at various rates on documents such as bills of exchange, promissory notes, insurance policies, contracts effecting transfer of shares, debentures and conveyances for transfer of immovable property.

Research and Development Cess

Research and redevelopment cess of 5% is levied on all payments made for the import of technology. The term ‘technology’ includes import of designs, drawings, publications and services of technical personnel.

Section VI

Industrial Infrastructure

Industrial Infrastructure Development Initiatives by Government of India

Special Economic Zones

A SEZ is a specifically delineated, duty-free area notified as such by the Ministry of Commerce and Industry under the Special Economic Zones Act, 2005 (SEZ Act). The zone is considered to be outside the customs territory of India for the purposes of carrying out authorised activities. A SEZ is deemed to be a port, land station and land customs station under the provision of the Customs Act, 1962.

The SEZ Act, 2005 and SEZ Rules, 2006, which came into force with effect from 10th February 2006, govern the development of SEZs. The SEZ Act provides the umbrella legal framework for all important legal and regulatory aspects of SEZ development as well as for units operating in these SEZs. An important salient feature of the SEZ Act is that it has an overriding effect over other laws. The scope of the SEZ Act includes the following:

- Establishment of SEZs and units
- Fiscal regime for developers and units
- Requirements, obligations and entitlements
- Single-window clearance mechanism
- Granting of license to industrial undertakings to be established in an SEZ
- Establishment of administrative authority by the Government of India
- Special courts and single enforcement agency to ensure speedy trials
- SEZs can be set up by private developers, central or State Governments, or jointly by any two or more of the above on contiguous, vacant land

The Department of Commerce amended the SEZ Rules and announced a series of measures in the annual supplement (2013-14) to Foreign Trade Policy 2009-14. Key changes proposed include reduction in minimum land area requirements for multi-product and sector-specific SEZs, doing away with minimum area requirements for IT/ITES SEZs, graded scale for minimum land area criteria, sector broad-banding, issues on vacancy of land and exit policy for SEZ units.

Fiscal benefits to the developer or co-developer

- 100% tax deduction for 10 years out of 15 years, beginning with the year in which the SEZ is notified by the Government
- Exemption from dividend distribution tax discontinued with effect from 1 June 2011
- Exemption from minimum alternate tax discontinued from FY 2011-12. Accordingly, the SEZ developer or co-developer will henceforth be required to pay MAT
- Exemption from customs duty on import of capital goods and raw material into the SEZ for authorized operations
- Exemption from excise duty on local procurement of capital goods and raw materials
- Exemption from CST on inter-state purchases subject to submission of statutory declaration Form I
- Exemption from payment of service tax on the input services wholly consumed in the SEZ unit for authorized operations and refund mechanism for service tax paid wholly or partially consumed outside the SEZ for authorised operations.

In addition, goods sold from Domestic Tariff Area (DTA) units to the SEZ unit will attain the status of physical exports. In light of this, the sale of goods to an SEZ unit will be regarded as exports and the DTA unit will be eligible for export benefits:

- Exemption from ADC in lieu of sales tax or VAT on goods supplied to an SEZ unit
- Exemption from VAT as per VAT legislation
- Exemption from payment of stamp duty as per State Government policy

Who should set up an SEZ unit

Export-oriented entrepreneurs, manufacturers and service providers have huge potential in Indian SEZs. Electronic hardware, software manufacturers and telecom equipment manufacturers/suppliers can also set up units in SEZs for supply to the domestic market.

FDI Policy and relevance to SEZ

100% FDI is permitted under the automatic route for SEZ development. For units in SEZs, the FDI policy of the Government of India will apply. Approval to units proposing to avail FDI is granted by the Board of Approvals, Ministry of Commerce and Industry in line with the FDI policy. No separate approval is required from FIPB.

No minimum export obligation

- There is no obligation on units to export goods or services from an SEZ unit
- SEZ units have to be positive net foreign exchange earners at the end of 5 years calculated cumulatively
- There is no limit on DTA sales provided full import duty is paid
- The supply of IT hardware, software and telecom equipment to domestic markets, and supply of goods and services to other SEZ units are considered export earnings

Fiscal benefits to an SEZ unit

- 15 year graded income-tax deduction on export profits beginning with the year in which the unit begins to manufacture, produce or provide services: 100% for the initial 5 years, 50% for the next five years and up to 50% for the remaining 5 years, equivalent to profits ploughed back for re-investment
- Tax deduction only for physical exports
- Exemption from MAT has been discontinued with effect from FY 2012. Accordingly, SEZ units will henceforth be required to pay MAT
- Indirect tax benefits are similar to those applicable to a SEZ developer /co-developer
- Exemption from payment of electricity duty
- Exemption from payment of stamp duty (as per State Government policy)

Liberal exchange control norms

- 100% export earnings maintainable in foreign exchange in special foreign currency account with minimal restrictions on business payments outside India
- Period for export realization is 12 months from the date of export
- Branches of foreign company can carry out manufacturing activities in SEZ

Free Trade and Warehousing Zone (FTWZ)

- FTWZ is a special category of the SEZ governed by the SEZ Act, 2005 and SEZ Rules, 2006, mainly for trading, warehousing and other related activities thereto
- To be used as 'international trading hubs'
- Deemed to be a foreign territory
- A key link in logistic and global supply chains, servicing both India and the globe
- Fiscal benefits such as customs duty deferment: Imported goods can be stored for five years without payment of customs duty, interest or penalty
- Administrative benefits - reduction in customs clearance time, transportation facility
- Support facilities - banking and information system for cargo tracking
- High quality infrastructure

How to set up an FTWZ

Trading Unit

A company can become a trading unit in an FTWZ for the purposes of trading and warehousing and other authorized operations. The company will be required to obtain requisite approval from the jurisdictional Development Commissioner/ Unit Approval Committee for setting up a unit in a FTWZ.

Service Unit

A company can avail the services of a third party which is a unit in an FTWZ for trading and warehousing and other authorized operations. Trading entities, importers and exporters, freight forwarders, shipping lines, manufacturers, etc. can set up units in a FTWZ. Units need to execute a legal undertaking for import and warehousing of goods inside the FTWZ.

Activities permitted within an FTWZ

The following activities are permitted in a FTWZ:

- Unit can carry FTWZ to DTA and DTA to FTWZ transactions
- Unit can hold goods on account of a foreign or a DTA supplier and buyer
- Warehousing can be undertaken on behalf of foreign or domestic clients
- Can carry out trading, with or without labelling
- Can carry out packaging and repacking without any processing
- Re-sale, re-invoice or re-export of goods
- Other value optimization services

Industrial Corridors

A major contributor to India's fast-paced growth has been the Indian government's increased emphasis on industrial infrastructure and connectivity across the country. With an aim to promote enhanced and integrated economic development in India, the government of India plans to develop several economic or industrial corridors.

The "economic or industrial corridor" concept has been significantly instrumental in effectively promoting economic integration of various regions across the world. The Industrial Corridors would comprise of a state of- the-art logistical gateways which include modern port facilities and airports capable of facilitating rapid entry and exit of cargo through the corridor along with efficient and effective transportation infrastructure network such as modern expressways, high speed railway transportation networks and freight corridors that connect major industrial agglomerations.

High quality energy infrastructure to ensure good and regular power supply to industrial areas situated along the Corridor as well as other support infrastructure like assured industrial water supply and Special Economic Zones and other industrial infrastructure alongside the route is critical for the success of an industrial corridor

Industrial Corridor is intended to facilitate development of a well-planned and efficient industrial base served by world-class connectivity infrastructure. This will also ensure increased private investments in manufacturing and industrial activity in India. Attracting more private companies, in particular, tier 2 and tier 3 manufacturing companies of existing manufacturing companies will be effective to strengthen global competitiveness of local manufacturers, which may result in regional development.

Other Tax Incentive Schemes

Tax incentives provided by allowing a 100% deduction on any capital expenditure (other than on land, goodwill and financial instruments) is available to the following businesses:

- Setting up and operating a cold chain facility on or after 1st April 2009
- Setting up and operating a warehousing facility for storage of agricultural produce on or after 1st April 2009
- Laying and operating a cross-country natural gas, crude, petroleum oil pipeline for distribution, including storage facilities being an integral part of such a network commencing operations on or after 1st April 2007
- Developing and building a housing project under a scheme for slum redevelopment or rehabilitation commencing operations on or after 1st April 2010
- Building and operating, anywhere in India, a hospital with at least 100 beds commencing operations on or after 1st April 2010
- Building and operating, anywhere in India, a two-star hotel or above category commencing operations on or after 1st April 2010
- Fertilizer production in a new plant or in newly installed capacity in an existing plant commencing operations on or after 1st April 2011
- Developing and building a housing project under a notified scheme of affordable housing framed by the central or a state government commencing operations on or after 1st April 2011
- Bee-keeping and production of honey and beeswax on or after 1st April 2012
- Setting up and operating warehouse for storage of sugar on or after 1st April 2012
- Setting up and operating an inland container depot or a container freight station notified or approved under the customs act 1962, on or after 1st April 2012

In case of certain specified businesses commencing operations on or after 1st April 2012 such as cold chain facility, warehousing for agricultural produce, hospital with at least 100 beds, a notified affordable housing project and production of fertilizer, the deduction is 150% of capital expenditure incurred on or after 1st April 2012.

Section VII

Regulatory Landscape

SETTING UP A LEGAL ENTITY IN INDIA

Setting up an Indian Company

Any company registered in India is required to comply with the provisions of the Companies Act 2013. Investors may select the most suitable option to their business and The initial step to be taken is setting up an entity. The flow of incorporation of an Indian company and subsequent compliances for setting up a private limited is as below.

Step	Process flow*	Time frame
1	Obtaining Director Identification Number (DIN) and Digital Signature Certificate (DSC) for Directors	10 days
2	Obtaining confirmation for Name of the new company	14 days
3	Filing of documents with Registrar of Companies ROC)	X
4	Payment of duties and fees	X
5	Obtaining Incorporation Certificate	X + 14 days
6	Opening bank account	14 days
7	Remittance of share capital by parents company	Y
8	Report to RBI on recipient of share capital within 30 days	Within 30 days from Y
9	Allotment of shares	Z
10	Report to RBI on the allotment of shares	Within 30 days from Z

Note: in case of automatic route*

<u>Basic documents required</u>

- Form INC-1 (name approval)
- Form INC-7 (incorporation)
- Form INC-22 (Corporate Secretary registration)
- Form DIR-12 (Director registration)
- Form FC-GPR (report of share allotment to RBI)
- Director's ID proof and resident proof
- Memorandum of Association & Article of Association of the new company
- Memorandum of Association & Article of Association of the parent companies

Setting up a Foreign Company

Setting up Liaison Office, Branch Office, and Project Office involves the following process.

Step	Process flow*	Time frame
1	Intimation to RBI	15 days
2	Filing Form FC-1 with RoC	7 days
3	Obtaining Certificate of Establishment of Place of Business	10 days

Note: in case of automatic route*

<u>Basic documents required</u>

- Form FC-1
- Memorandum of Association & Article of Association of HQ
- Financial statements for the past 3 years
- Certificate of Incorporation of HQ
- List of details of Directors

Setting up LLP

LLP is incorporated under the Limited Liability Partnership Act. The process is as follows.

Step	Process flow	Time frame
1	Name reservation	14 days
2	Application for incorporation	X
3	Filing LLP agreement	Within 30 days from X

Basic documents required

- eForm1 (name reservation)
- eForm 2 (incorporation)
- eForm 3 (LLP agreement)

INDUSTRIAL ENTREPRENEURS' MEMORANDUM AND INDUSTRIAL LICENSE – EBIZ PROJECT BY GOVERNMENT OF INDIA

To start a business in India and set up an industrial unit, investors need to obtain industrial license or file IEM (Industrial Entrepreneurs Memorandum). Through the eBiz initiative launched on 16 August, 2014, Process of applying for Industrial License (IL) and IEM has been made online and this service is now available to entrepreneurs on 24x7 basis at the eBiz website, without human interface.

Industrial License

Licensing is done under Industries (Development & Regulation) Act 1951. Post 1991 de-licensing, presently only five industries are under compulsory licensing:

- Electronic aerospace and defence equipment
- Industrial explosives including detonating fuses, safety fuses, gun powder, nitrocellulose and matches - Cigars and cigarettes of tobacco and manufactured tobacco substitutes (Fresh Licenses are not being granted for manufacture of this item on health grounds since 1999)
- Specified hazardous chemicals i.e. (i) hydrocyanic acid and its derivatives (ii) Phosgene and its derivatives and (iii) Isocyanates & disocyanates of hydrocarbon not elsewhere specified (example methyl Isocyanate)
- Distillation and brewing of alcoholic drinks
- In addition to above, a non-Micro, Small and Medium Enterprises (MSME) unit manufacturing items reserved for MSME needs an Industrial License

Basic documents required

- Form FC-IL
- Certificate of Incorporation
- Memorandum & Article of Association
- Board Resolution Certificate

Industrial Entrepreneurship Memorandum

All industrial undertakings exempt from the requirements of industrial licensing, including existing units undertaking substantial expansion, are required to file information in the prescribed form for Industrial Entrepreneurship Memorandum (IEM), i.e. "Form IEM" (Part 'A'), with the Secretariat of Industrial Assistance (SIA), Department of Industrial Policy and Promotion (DIPP), Government of India, and obtain an acknowledgement. All Industrial undertakings also need to file information in Part 'B' of the Memorandum at the time of commencement of commercial production.

Basic documents required

- Form IEM
- Certificate of Incorporation
- Memorandum & Article of Association
- Resolution from Board of Director

TAX COMPLIANCE

Once the entity has been established, tax related compliance needs to be completed to commence business. Below is the list of registrations required at the initial stage.

Corporate Registrations

Direct tax	Time frame
Permanent Account Number (PAN)	10 days
Tax Deduction Account Number (TAN)	10 days

Basic documents required

- Form 49A (PAN application)
- Form 49B (TAN application)

VAT / CST Registration

VAT / CST registration has to be obtained from the regulatory authority authorised within the state in which the entity will be operating its business. A time fame of minimum 15 days is estimated to complete the process and obtain the registration.

Basic documents required

- Form A
- Form E
- Form 5
- Certified copy of Certificate of establishment of place of business of the company
- Certified copy of PAN card of the company
- Certified copy of lease deed of the office space of the company
- Certified copy of list of directors of the company
- Certified copy of the address proofs of the directors of the company
- Certified copy of Board resolution authorizing the person to sign and file the CST & VAT registration application with its enclosures
- Certified copy of the address proof of authorized signatory
- Introduction letters from two existing dealers
- Four copies of passport directors' size photographs and the authorized signatory
- Self-addressed envelope with postal stamp affixed for INR 30
- Demand Draft for INR 500/-in your favour towards registration fee
- Excise Duty registration

Import Export Code Registration

IEC registration has to be obtained from the regulatory authority authorised within the state in which the entity will be operating its business. A time fame of minimum 15 days is estimated to complete the process and obtain the registration.

Basic documents required

- Form ANF 3A
- PAN copy
- Bank account details
- List of Directors with address, Father's name, Email address and Telephone No
- Bank draft INR 1000/- – Registration fees

- 2 passport size photograph of the applicant and directors to be attested by banker after affixing in the IE code application
- Bank certificate declaring that an account has been maintained with them
- Name of the Authorized Signatory, Designation, Residential Address, Telephone and E-mail Address
- Self-certified copy of Memorandum and Articles of Association
- Extract of the Board Resolution for the Authorized Signatory to sign the Application
- Lease deed / title deeds for the address for which registration need to be obtained

Service Tax Registration

IEC registration has to be obtained from the regulatory authority authorised within the state in which the entity will be operating its business. A time fame of minimum 10 days is estimated to complete the process and obtain the registration.

Basic documents required

- Form ST-1
- Certified Copy of PAN with PAN allotment letter
- MOA & AOA
- Certified copy of list of directors of the company with PAN and address proofs
- Certified copy of Board resolution authorizing a board member or employee to sign and file registration application under Service Tax law
- Certified copy of the address proof of the authorized signatory
- Rental agreement for proof of address
- Acknowledgment of on-line filing

Excise Duty Registration

Excise registration has to be obtained from the regulatory authority authorised within the state in which the entity will be operating its business. A time fame of minimum 30 days is estimated to complete the process and obtain the registration.

Basic documents required

- PAN of the applicant
- Address proof of factory
- Address proof of authorised signatory
- Board resolution in favour of authorised signatory
- Memorandum and Articles of Association
- List of directors
- Photograph of the person signing the application
- List of products to be manufactured/ traded
- Details of bank account
- Date of starting of business.
- Address proof of all directors
- Map of premises
- Estimated value of plant &machinery
- Customs registration
- Import export code

LICENSES AND APPROVALS TO OPERATE A MANUFACTURING UNIT

There are several licenses and approvals to be obtained from different regulatory authorities of the concerned state in which the manufacturing unit is proposed to be established. The company will have to undergo a tedious process of obtaining these approvals and comply with the prescribed formalities involved in obtaining them.

- Planning permission from Directorate of Town & Country Planning (DTCP)
- Fire service clearance
- Environmental clearance from State Pollution Control Board
- Water Supply from State Water Supply and Drainage Board
- Power supply from State Electricity Board
- Electrical safety certificate from Chief Electrical Inspector (CEI)
- Registration under Factories Act
- Registration under Boilers Act

Planning Permission

The Town and Country Planning Act 1971 under Section 2(b) of 49 require that anyone who wants to develop any land or building should take a planning permission before commencement of the development work. Directorate of Town and Country Planning approves on layout and building plan. In case of issue of planning permission is retained with Local Planning Authority, building license or any other license should be issued by local body only after planning permission is issued by Local Planning Authority.

<u>Basic documents required</u>

- Documents of site ownership
- Building Plan with a certificate from accredited Architect certifying that the building conforms to the building plan rules of the state
- Sketch for drawings
- Seismic Certificate and Stability Certificate from accredited architect
- If the ridge height of the project is 14.9 metres, then an undertaking from the architect (in stamp paper) that the height of the building will not exceed 14.9 metres

Fire Service Clearance

Investors are required to obtain Non - Objection Certificate (NOC) for getting planning permission and subsequently fire license from Fire and Rescue Service Department. Investors need to provide details of fire safety measures undertaken in the building.

Step	Process flow	Time frame
1	Application for a Fire License should be made to the Divisional Fire Officer, located in the Head Quarters of every district	As per prescribed format – On having all the prescribed documents
2	The Fire License will be issued by the Divisional Fire Officer to the application direct	Within 15 days from the date of presenting the application

<u>Basic documents required</u>

- One separate fire drawing of whole site without scale
- Separate colour code should be indicated to Hydrants, Sprinklers, Smoke detectors and extinguishers
- Mention the number of Hydrants, sprinkler heads, detectors and extinguishers

Environmental Clearance

The State Pollution Control Board has introduced an online application and tracking mechanism for all pollution control related approvals.

Consent to Establish

Investors need to apply for Consent to Establish from the State Pollution Control Board as per The Water (Prevention and Control of Pollution) Act, 1974 and The Air (Prevention and Control of Pollution) Act, 1981.

In case industries which fall under 39 categories as prescribed in EIA Notification 2006, industries have to obtain environmental clearance from MoEF (Ministry of Environment and Forest, Government of India) / SEIAA (State Environmental Impact Assessment Authority). Board will issue consent only for establishment to the projects which attracts EIA Notification 2006, only on receipt of environment clearance from MoEF/SEIAA and after satisfying the citing criteria and all other requirements. The list of 39 industries which require prior environmental clearance is listed below.

No.	Category of Industry
1	Mining of minerals
2	Slurry pipelines
3	Offshore and on shore oil and gas exploration, development & production
4	River valley projects
5	Thermal power plants
6	Nuclear power projects and processing of nuclear fuel
7	Coal washers
8	Mineral beneficiation
9	Metallurgical industries (ferrous & non-ferrous)
10	Cement plants
11	Petroleum refining industry
12	Coke oven plants
13	Asbestos milling and asbestos based products

14	Chlor-alkali industry
15	Soda ash industry
16	Leather/ skin / hide processing industry
17	Chemical fertilizers
18	Pesticides industry and pesticide specific intermediates (excluding formulations)
19	Petro-chemical complexes
20	Manmade fibres manufacturing
21	Petrochemical based processing
22	Synthetic organic chemicals industry
23	Distilleries
24	Integrated paint industry
25	Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp without bleaching
26	Sugar industry
27	Oil & gas transportation pipe line
28	Isolated storage & handling of hazardous chemicals
29	Air ports
30	All ship breaking yards including ship breaking units
31	Industrial estates/parks/complexes areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes
32	Common hazardous waste management, storage and disposal facilities (TSDFs)
33	Ports, harbours, break waters, dredging
34	Highways
35	Aerial ropeways
36	Common effluent plants (CETPs)
37	Common municipal solid waste management facilities (CMSWMF)
38	Building and construction projects
39	Township and area development projects

Note: As per Environment Impact Assessment (EIA Notification), 2006

Further, other regulations such as Hazardous Wastes (Management, Handling & Trans-boundary Movement) Rules 2008 and E-waste Management and handling rules 2011 may be applicable depending on industries.

Step	Process flow*	Time frame
1	Form with enclosures to be filed with District officer of the State Pollution Control Board	1 day
2	Processing of Application	1 week from the date of application
3	Inspection by the authorities of the state	Within 1 week from the processing
4	Application clearance post inspection	Within 1 week from inspection
5	Issue of Certificate	Within 10 days of application clearance

*Note: *in case the industry does not require environmental clearance*

Consent to Operate

Investors need to apply for Consent to Operate, 2 months in advance of the commissioning of the operation.

Step	Process flow	Time frame
1	Form along with enclosures to be filed with the District officer concerned, State Pollution Control Board	2 months in advance of
2	Processing of Application	1 week from the date of application
3	Inspection by the District Engineer	Within 1 week from the processing
4	Application clearance post inspection	Within 1 week from inspection
5	Issue of Consent	Within 10 days of application clearance

Basic documents required

- Form I (Air Act application form)
- Form II (Water Act application form)
- EIA Study report (for projects which require EIA Study as per Environment policy)

Obtaining Power Supply

Investors need to file application with the State Electricity Board to obtain HT (high tension voltage) connection and LT (Low tension voltage) connection.

Basic documents required

- Resolution of Board meeting for authentication to sign the EB application with the specimen signature attested by a Director whose name should be available in MoA
- Site plan with marking of metering point with security arrangement
- An undertaking that (i) the company agrees to provide the metering point as per Board norms (within 30 mtrs of main gate) and that (ii) the company agree to abide by the terms & conditions of power supply

Electrical Safety Certificate

Investors are required to obtain Electrical Safety Certificate from Chief Electrical Inspector (CEI) for new electrical Installations, depending on the voltage class and capacity of the proposed additions or alternations.

Basic documents required

- Schematic & sectional drawings signed by the Electrical Contractor
- Site plan
- Transformer Structure, Sub Station, Power House Layout, earthing arrangements
- Single Line Electrical Schematic Layouts for Transformer, generator, switch boards, etc.
- Physical layouts of factory showing location of motors, switchboards, etc.
- Name, address, telephone number of Chairman / Managing Director / Directors and Authorized signatory with a copy of the Memorandum and Articles of Association
- Fire fighting measures should also be shown in the electrical drawings

Step	Process flow	Time frame
1	Consent letter from the owner of the premises if the intending consumer is not the owner	1 day
2	Apply for domestic or commercial service connection in the prescribed form	1 day
3	A notice will be sent to the intending consumer to meet the divisional Engineer	Within 1 week of application
4	Engineer to agree on the position of the point of supply/ space for fixing the meter at a convenient place in the ground floor with easy accessibility for inspection	Within 3 days of notice
5	Advice Slip/notice/Letter will be issued indicating the prescribed charges payable	Within 3 days after the inspection is completed
6	After completion of the wiring, notice must be sent to the Engineer by the intending consumer	Within 1 week from the date of completion
7	Notice will be sent to the intending consumer to avail supply	Within 2 days of receiving the printed test report

Obtaining Sewer and Water Connections

Water and sewer connections are generally provided by the concerned corporations, municipalities, Town Panchayats and Village Panchayats of every State. Sewer and Water connection charges can be calculated by the applicant themselves based on the built up area and category of the building as per prescribed in the application form.

Step	Process flow	Time frame
1	Filled-up application with enclosures should be submitted with the respective local body offices	1 day
2	Sewer and Water connection charges can be calculated by the applicant themselves based on the built up area and category of the building	N.A
3	The official in charge in the will recommend to the bank by endorsing the applicant's filled up challan to accept the connection charges from the applicant whose application is found to be in order	Within 1 week on receipt of the application
4	Remittance of Connection Charges	Within 10 days of receiving the recommendation
5	Registration of Application	Within 1 week of remitting the connection charges
6	An acknowledgement slip recording the registration number, date, etc. will be issued to the applicant	Within 3 days
7	Sanctioning of application - On receipt of registered application the concerned area Engineer will sanction the service connection	Within 7 days from the date of registration
8	Effecting water and sewer connections	Service connection shall be effected within 30 days from the date of registration

Registration under Factories Act, 1948

Building plan and plant machinery layout needs to be complied as per Factories Act, 1948. Investor needs to apply for registration and grant of license to verify health, safety and welfare. License will be given after inspection by Directorate of Industrial Safety and Health.

Step	Process flow	Time frame
1	Form along with enclosures to be filed with Jurisdictional factory inspector	1 day
2	All such applications are scrutinized at the level of district Dy. Chief Inspector of Factories	Within 2 weeks of making application
3	Passing off the application to the factory Inspector for Inspection	Within 2 weeks of completion of scrutiny
4	Premises is inspected by the Inspector of Factories or by Dy. Chief Inspector of Factories	Chief Within 3 weeks or stipulated time by the inspecting authority
5	Grant of Factory License	Within 2 to 3 months

Note: The License is valid up to 31st December of the year in which it has been granted.

<u>Basic documents required</u>

- Signature of Occupier should be obtained in all the drawings
- A write up on labour welfare and labour safety measures
- Detailed information needs to be given if the project involves use of hazardous / inflammable chemicals
- Sufficient number of exits (at a travel distance of not more than 30 metre from the work spot must be provided)
- Plans of mezzanine floor office
- Plan of location of the machineries should be provided in 1:100 scale
- Installation details pertaining to compressor and utility pump and cooling tower
- E.O.T. Cranes should be provided with the safety provisions as prescribed in the State Factories Rules
- Canteen as per the standards prescribed in the State Factories Rules
- The detailed plan of the store shed and location of the same

Registration under Boilers Act, 1923

The State Directorate is the enforcing authority of the Boilers Act, 1923, for the safe operation of the boilers. Investors are required to provide full details of boilers as prescribed form for registration.

Section VIII

Labour Laws

LABOUR LAW REGULATIONS

Labour laws prevailing in India

There are various legislations under Labour Law in India. The list below is the illustrative list of Acts which may applicable for investors to set up a factory. Investors are required to register and comply the prescribed provisions of each of these regulations.

Name of the Act	Regulation
The Shops and Establishment Act	This provides for the opening and closing hours of shops and establishments and provision of weekly holiday with wages.
The Contract Labour (Regulation and Abolition) Act, 1970	This Act regulates the employment of contract labour and abolishes the system of contract labour in certain circumstances.
The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979	This Act regulates the employment of interstate migrant workers and to provide for regulation of their conditions of service.
The Industrial Employment (Standing Orders) Act, 1946	The Act requires employers of industrial establishments to define conditions of employment of 16 workers.
The Trade Unions Act, 1926	The Act provides for the registration of trade unions and lays down the law relating to registration of trade unions.
The Payment of Wages Act, 1936	The Act provides for fixing minimum rates of wages in certain employments.
The Payment of Gratuity Act, 1972	The Act provides for the payment of gratuity to the employees. Gratuity is paid to an employee on 17 superannuation / retirement or resignation, if he / she have put in a continuous service for a period of not less than five years.
The Payment of Bonus Act, 1965	The Act provides for the payment of bonus to persons employed, on the basis of profit or production or productivity.
The Equal Remuneration Act, 1976	The Act provides for the payment of equal remuneration to men and women workers and for the prevention of discrimination on the ground of sex against women in recruitment for employment and in payment of salary to women employees.
The Minimum Wages Act, 1948	The Minimum Wages Act, 1948 provides for fixing minimum rates of wages in certain employments appended as schedule to Act.
The Employees' Provident Fund and Miscellaneous Provisions Act, 1952	The Act provides for the institution of provident funds, pension fund and deposit linked insurance fund for employees in factories and other establishments.

The Employees' State Insurance Act, 1948	The Act provides for an integrated need based social insurance scheme that would protect the interest of the workers in contingencies such as sickness, maternity temporary or permanent physical disablement, death due to employment injury resulting in loss of wages or earning capacity. The Act also guarantees reasonably good medical care to workers and their immediate dependants.
The Workmen's Compensation Act, 1923	The Act provides for compensation to workers in the event of death or loss of earning capacity due to accidents in the course of their employment.
Industrial Disputes Act, 1947	The Act specifies the matters for an industrial tribunal.
Maternity Benefit Act, 1961	This Act regulated employment of women in certain establishment for a certain period before and after child birth and provides for maternity and their benefits.
The Child Labour (Prohibition & Regulation) Act, 1986	This Act prohibits employment of children below 14 years of age in hazardous occupations and processes and regulates the working conditions in other employment establishments.

Section IX

Visa Regulations

VISA REGULATIONS

Employment Visa

Eligibility

An Employment Visa is granted to

- an employee or paid intern of an Indian company
- persons travelling to India for volunteer work with a Non - Governmental Organization (NGO)

Spouse and dependent family members accompanying the applicant must apply for an Entry Visa (NOT Tourist Visa). Their visa duration will terminate according to the visa duration of the principal visa holder.

Eligibility Details

The following categories of foreign nationals are eligible for an Employment Visa:

- Foreign nationals coming to India as consultant on contract for whom the Indian company pays a fixed remuneration (may not be in the form of a monthly salary).
- Foreign artists engaged to conduct regular performances for the duration of the employment contract given by Hotels, Clubs or other organizations.
- Foreign nationals who are coming to India to take up employment as coaches of national/state level teams or reputed sports clubs.
- Foreign sportsmen who are given a contract for a specified period by the Indian Clubs/Organizations.
- Self - employed foreign nationals coming to India for providing engineering, medical, accounting, legal or such other highly skilled services in their capacity as independent consultants provided the provision of such services by foreign nationals is permitted under law.
- Foreign language teachers/interpreters.
- Foreign specialist chefs.
- Foreign engineers/technicians coming to India for installation and commissioning of equipment/machines/tools in terms of the contract for supply of such equipment/machines/tools.
- Foreign nationals deputed for providing technical support/services, transfer of knowhow for which the Indian company pays fees/royalty to the foreign company.
- Senior management personnel and/or specialists employed by foreign firms who are relocated to India to work on specific project/management assignment.
- Foreign nationals coming to India for execution of a project/contract [irrespective of the duration of the visit].
- Foreign nationals who are coming to India on short visits to a customer location to repair any plan or machinery as part of warranty or annual maintenance contracts.
- Foreign nationals coming to India for imparting training for the personnel of the Indian company.

Conditions

An Employment Visa is granted subject to fulfilment of the following conditions:

- The applicant should be a highly skilled and/or qualified professional being engaged or appointed by accompany or organization or industry or undertaking in India on contract or an employment basis at a senior level, skilled position such as technical expert, senior executive, or in a managerial position, etc.
- There should not be a qualified Indian available to do the job that the visa holder would be performing.
- Employment visa cannot be granted for routine, ordinary or secretarial/clerical jobs.
- Employment must either be in a company/firm/organization registered in India or in a foreign company/firm/organization engaged for execution of project in India.
- The employee's salary must be in excess of USD 25,000 per year. However, this condition does not apply to: (a) Ethnic cooks, (b) Language teachers (other than English language teachers) / translators and (c) Staff working for the concerned Embassy/High Commission in India.
- Foreign national must comply will all the prescribed legal requirements.
- The documents pertaining to the proposed employment will be thoroughly checked to decide the category of visa that may be issued to the foreigner.
- Name of the sponsoring employer/organization to be stipulated in the visa sticker.
- A foreign company/organization that does not yet have any Project office/subsidiary/joint venture/branch office in India cannot sponsor a foreign national/employee of a foreign company for an Employment Visa. However, if the Indian company/organization has awarded a contract for execution of a project to a foreign company that does not have any base in India; such foreign company can sponsor the employee for Employment Visa.
- The Indian organization/entity that sponsors an Employment Visa does not necessarily have to be the legal employer of the person.
- The Indian company engaging foreign nationals for executing projects/contracts would be responsible for the conduct of the foreign national during their stay in India and also for the departure of such foreign national upon expiry of visa.

Duration and Validity

The Embassy/Consulate may grant an employment visa, which is valid for a year, irrespective of the duration of the contract. Further extensions of up to 5 years may be obtained from MHA/FRRO in the concerned state in India.

The visa duration starts on the day of issuance, and not on the day of entry into India.

- A foreign technician may get an Employment visa for a period of five years or the duration of the bilateral agreement between India and the foreign government, whichever is less, with multiple entries.
- Skilled foreign personnel employed in the IT software / enabled sectors, the validity is up to 3 years or the term of assignment, whichever is less, with multiple entries.
- Others can be granted an Employment Visa with validity up to two years or the term of assignment, whichever is less, with multiple entries.

Foreigner Registration

Those with visa duration of 180 days or less do not require foreigner registration. Employment Visas valid for more than 180 days have an endorsement indicating that foreigner registration with the Foreigner Regional Registration Office (FRRO) is needed within 14 days of arrival. For those whom registration is needed, FRRO may issue Residential Permit for the validity of the visa period. In case of any change in the residential address, you must immediately report the change of address, in writing, to the FRRO.

Extension

The Employment Visa can be extended by State Governments / FRROs beyond the validity period, up to a total period of 5 years from the date of issue of the initial Employment Visa, on an annual basis, subject to good conduct, submit documents supporting continued employment, tax returns and no adverse security inputs about the foreigner.

Business Visa

Eligibility

A Business Visa is strictly given to those who would like to make a business related trip to India such as making sales or establishing contact on behalf of a company outside of India. An applicant going for employment in projects/contract in India needs to apply for an Employment Visa, and not a Business Visa. If the applicant does not meet the requirements of any other visa types, he/she should apply for an Entry Visa.

Spouse and dependent family members accompanying the applicant must apply for an Entry Visa (NOT Tourist Visa). Their visa duration would end according to the visa period of the principal visa holder. The Business Visa applicant must receive the visa prior to applying for accompanying spouse and dependent family members.

Eligibility Details

An India Business Visa is granted to the following types of foreign nationals:

- Foreign nationals visiting India to establish an industrial/business venture or to explore possibilities to set up industrial/business venture in India.
- Foreign nationals coming to India to purchase/sell industrial or commercial products or consumer durables.
- Foreign nationals coming to India for technical meetings/discussions, attending board meetings, general meetings for providing business services support.
- Foreign nationals coming to India for recruitment of manpower.
- Foreign nationals who are partners in business/functioning as directors in company.
- Foreign nationals coming to India for consultations regarding exhibitions, for participation in exhibitions, trade fairs, business fairs, etc.
- Foreign buyers who come to transact business with supplies/potential suppliers at a location in India, to evaluate or monitor quality, give specifications, place orders, negotiate further supplies etc., relating to goods or services procured from India.
- Foreign nationals coming to India for presales activity not amounting to actual execution of any contract or project.

- Foreign experts on a visit of short duration in connection with an on-going project with the objective of monitoring the progress of the work, conducting meetings with Indian customers and/or to provide some high level technical guidance.
- Foreign trainees of multinational companies/corporate houses coming for in-housetraining in the regional hubs of the concerned company located in India.
- Foreign students sponsored by AIESEC for internship on project based work
- Senior executives of firms, experts, tour conductors and travel agents, etc., visiting India in connection with work related to projects of national importance, including those undertaken by public sector undertakings, and conducting business tourist of foreigners or business relating to it, etc.

Conditions

Business Visa is granted subject to following conditions:

- The applicant is a person of assured financial standing and has expertise in the field of the intended business.
- The applicant is not visiting India for the business of money lending or petty trading, or for a full time employment in India involving payment of salary in India, etc.
- The applicant will have to comply with all the prescribed requirements.
- The grant of Business Visa is subject to any instructions issued by the Government of India on the basis of reciprocity with other foreign countries from time to time.
- A Business Visa must be issued from the country of origin, or from the country of domicile of the foreigner provided the period of permanent residence of the applicant in that particular country is more than two years.

Duration and Validity

A Business visa may be valid for one year or more with multiple entries. (U.S. citizens can get 5 years or 10 years multiple entry visas). However, the period of stay in India for each visit is limited to six months. A multiple entry Business visa valid for ten years may be available to foreign businessmen who have set up or intend to set up joint ventures in India. The visa duration starts on the day of issuance, and not on the day of entry into India.

Visa Extension

If the business visa is granted for a period less than five years, it can be extended up to a maximum period of five years subject to following:

- The gross sales/turnover from the business activities, for which the foreigner has been granted the visa, is not less than INR 1 crore per annum (to be archived within 2 years of setting up the business)
- The first extension of business visa shall be granted by the Ministry of Home Affairs.
- Further extensions, if required, may be granted by the State Governments/UT administrations/FRRS/FROs on a year to year basis subject to good conduct, production of necessary documents in support of continued business activity and no adverse inputs, security related or otherwise, about the foreigner.
- If the extension of the visa is denied, the foreigner shall leave India forthwith on expiry of the period of validity of the visa.

Information Source

www.investindia.gov.in
www.makeinindia.com
www.ibef.org
www.rbi.org.in
www.dipp.nic.in
www.fipb.gov.in
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Disclaimer

This information contained herein is of general nature and is not intended to address the circumstances of any individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. One should not act on such information without appropriate professional advice before taking up a thorough examination of the particular situation of the individual or entity.

About SAS Partners Corporate Advisors

SAS Partners Corporate Advisors is a multi- disciplinary organisation providing business, legal and financial advisory services to Indian and multinational corporates. We have developed strong expertise in associating with clients across industries and our services are customized to client requirements.

- Over a decade of market presence and are serving more than 200 businesses from diversified industries
- Versatile team comprising of finance, legal, engineering and business professionals
- Proven history of successfully associating with global majors
- Deep rooted entrepreneurial, professional and regulatory relations
- Institutional membership with Keiretsu Forum, a global investment community of accredited angel and venture capitalists and corporate / institutional investors
- Associations with various Bilateral organizations for facilitating Cross Border Investment & Trade - Member of Indo French, Indo German and Indo Japan Chamber of Commerce and Industry
- Associated as Consultant to Brussels Invest & Export, Ministry of Belgium for promoting outward Trade and Investment from India

Service Offerings

India Entry & Expansion	Strategy Consulting	Corporate Law Advisory	Transaction Advisory	Taxation & Compliance	Corporate Secretarial Support
Pre Entry Investment Advisory	Strategic Business Plans	Company Law	PE / VC Fund Raising	Direct and Indirect Taxes	Legal Entity Formation
Greenfield Setting Up	Customized Market Research	FDI / FEMA Advisory	Mergers, Acquisition Divestiture	International Tax /Transfer Pricing	Company Secretarial Support
Continuous Support Services	Corporate / Business Valuations	Capital Markets & Listing	IPO and Capital Markets	Expat Taxation	Licenses and Registration
	CFO Services	Intellectual Property Laws			Compliance and Governance

We are a trusted partner in need, growth and success, taking every step towards complementing entrepreneurs and businesses with focus on high quality, timely delivery, client satisfaction and continual improvement.