KrayMan™

Demystifying Complexities

Doing Business in India

A guide to India's business, tax and regulatory environment

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www.krayman.com

Contents

India at a glance

The Geography

Area	3.2 million square kilometres, 7th largest country of the world
Population	1.37 billion, representing 17.71% of total world population
Languages	English, Hindi & other regional and foreign languages
GDP Growth Rate	6.5%

Strengths

- *7th largest country of the world*
- *Growing economy*
- *Huge market / demand*
- *Supportive government policies*
- *Young working population*
- *Rich natural resources*

About India

India is one of the oldest civilizations in the world, with a population of over 1.37 billion. It is the 7th largest country in terms of area. Rich cultural heritage, geographical diversity and numerous traditions make India unique among all the South Asian countries.

India is not only the world's largest democracy, but also a secular country where different religions like Hinduism, Islam, Christianity, Sikhism, Jainism, Buddhism etc. flourish simultaneously.

Literacy rate here is around 74.04%. There are 21 official languages in this country apart from Hindi and English. It has over 134 airports and one of the largest rail networks in the world. India has coastline of around 7,517 km.

A peace loving nation, where advanced farming, unique handicrafts and modern industries go hand in hand. India's natural resources include coal, iron ore, manganese, mica, limestone etc.

India has business relations with other countries since ancient times. Recent liberalization has further aided foreign investment in the country.

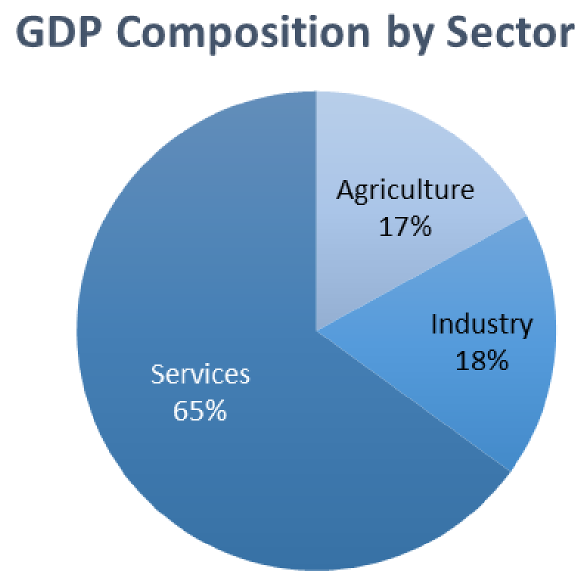
Huge working population, supportive government policies and availability of a variety of resources prove to be a perfect blend for setting up of business in India

Foreign investment in India

Foreign investments are a very vital part of any country's economy. Government of India has always shown keen interest in liberalizing the Foreign Direct Investment (FDI) Policy of the country and other investment regulations, with an intent to promote foreign investment in India, through a transparent and hassle free regulatory system. Over the past few years, the Indian Government's liberalized approach and robust business opportunities have strengthened the faith of foreign investors in India. Global brands have lined up to invest in India as the Government opened more sectors to foreign investment.

World Bank report on ease of doing business

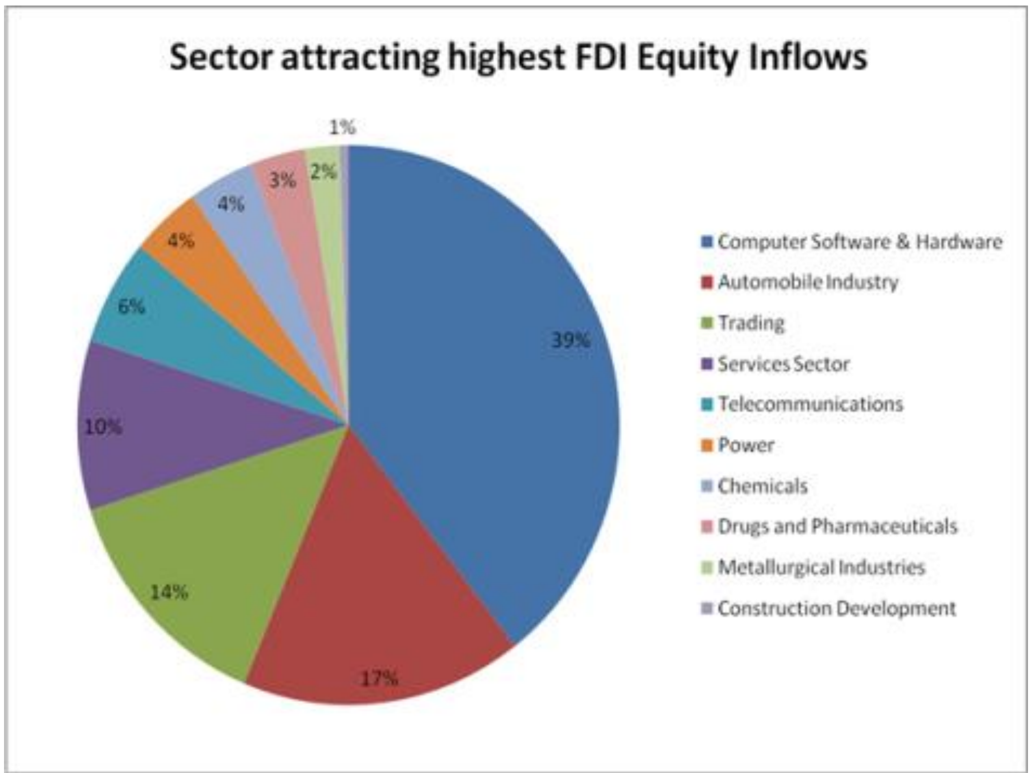
- India is at 63rd position among 190 countries, which is up by 14 positions since last year.
- Growth rate of Indian economy for the financial year 2018-19 was 8.2%, and expected to be 7.2% in the financial year 2019-20
- Working age population (20-35 years age group) in India is expected to increase to over 64% by the year 2021
- India is among leading exporters to countries like US, Germany, Japan, UAE, China, Thailand, Indonesia and European Union
- India is also tapping newer markets in Africa and Latin America.



India a growing economy

The Industrial Policy of India was opened up in 1991 to promote foreign investment in the country. Since then, the Government has been continuously liberalizing the regulatory and industrial policy framework of the country in a bid to make it investor friendly.

India, with its vast range of industries and ample availability of skilled as well as unskilled manpower, has been successfully attracting foreign investment for past few years. Top investing countries in India include Japan, Mauritius, Singapore, UK, Netherlands, USA, Cyprus, Germany, France and Switzerland. Major sectors attracting highest FDI are Services Sector, Construction Development, Telecommunications, Computer Software and Hardware, Drugs and Pharmaceuticals, Automobile.



India, being one of the fastest growing economies in the world which has also sustained the downturn of 2008-09, offers huge potential and promising business opportunities for global investment community.

Liberalized policies, simplified regulatory norms and adoption of ‘best practices’ in production of goods and services have been the key factors in attracting foreign investment in the country.


Foreign Direct Investment (FDI)
Policy In India

FDI policy in India

What is FDI Policy?

It is a policy framework on foreign investment in the country, set out by the Government of India. The framework is embodied in a consolidated circular, which is updated annually or as and when required to keep pace with the regulatory changes.

Setting up operations in India or investing in India by foreign investors requires conformity with India's foreign exchange regulations, which mainly comprises of the FDI policy, the Foreign Exchange Management Act and the Industrial Policy.

Routes for FDI in India

An entity may receive FDI via two routes:-

Government approval route

FDI in activities which are not covered under the automatic route require prior approval of the Government. Currently there are 9 sectors which require prior approval from the Government.

Automatic route

FDI is allowed under the automatic route without prior approval of the Government or the Reserve Bank of India (RBI) in most activities/sectors.

FDI policy in India

Various Sectors

- Prohibited Sectors
- Sectors under Automatic Route with Thresholds
- Sectors under Government Approval Route
- Sectors with Partial Automatic Route and Partial Government Route

Prohibited sectors (where FDI is not allowed):

- Atomic Energy
- Lottery business
- Gambling and betting
- Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
- Chit funds
- Nidhi company, etc.
- Real Estate

Sectors under automatic route, i.e. where prior approval from the Government of India is not required.

FDI, up to 100%, is permitted in most sectors in India under the ‘automatic route’. In few sectors, under the automatic route, foreign investment cannot exceed the specified limits. E.g. 100% FDI is allowed under automatic route in certain agricultural and mining activities including diamond, gold, silver and precious ores but excluding titanium bearing minerals and its ores

Sectors under Government approval route, i.e. where FDI is allowed only with the prior approval of the Central Government.

FDI is allowed in Print Media, and Broadcasting Content services only under approval route.

Sectors partly under automatic route and partly under Government route.

In certain sectors a foreign investor can invest upto a certain percentage under the automatic route. Government approval is required for any investment beyond the specified percentage. For example, in Defence sector, 49% FDI is allowed under automatic route and beyond that it is allowed under approval route.

Recent measures to liberalize FDI policy

1. Keeping in line with the commitment to boost investment environment in India, the Government has brought major FDI related Reforms / Liberalisation touching across 13 Sectors of the Economy.

2. The objective of these reforms is to further simplify process and limits of foreign investments in the country and to put more FDI proposals on automatic route instead of Government route where time and energy of the investors goes.

3. The changes introduced in the policy include increase in sectoral caps, bringing more activities under automatic route and easing of restrictions on foreign investment. Further, new sectors have also been opened to foreign investment.

4. For sectors under approval route, the Government has come up with Foreign Investment Facilitation Portal (‘FIFP’) [replacing the earlier Foreign investment Promotion Board (‘FIPB’)], which is a new and simpler online single point interface for the investors to facilitate FDI.

Sector wise FDI limits

Sector wise FDI limits

Sector	FDI Limit	Entry Route & Remarks
Agriculture & Animal Husbandry • Floriculture, Horticulture, Apiculture and Cultivation of Vegetables & Mushrooms under controlled conditions • Development and Production of seeds and planting material • Animal Husbandry(including breeding of dogs), Pisciculture, Aquaculture • Services related to agro and allied sectors	100%	Automatic
Plantation Sector • Tea sector including tea plantations • Coffee plantations • Rubber plantations • Cardamom plantations • Palm oil tree plantations • Olive oil tree plantations	100%	Automatic
Mining • Mining and Exploration of metal and non-metal ores including diamond, gold, silver and precious ores but excluding titanium bearing minerals and its ores	100%	Automatic
Mining (Coal & Lignite)	100%	Automatic
Mining • Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities	100%	Government
Petroleum & Natural Gas • Exploration activities of oil and natural gas fields, infrastructure related to marketing of petroleum products and natural gas, marketing of natural gas and petroleum products etc.	100%	Automatic

Sector wise FDI limits

Sector	FDI Limit	Entry Route & Remarks
Petroleum & Natural Gas • Petroleum refining by the Public Sector Undertakings (PSU), without any disinvestment or dilution of domestic equity in the existing PSUs.	49%	Automatic
Defence Manufacturing • Defence Industry • Manufacturing of small arms and ammunition	100%	Automatic up to 49% Above 49% under Government route in cases resulting in access to modern technology in the country
Broadcasting • Teleports(setting up of up-linking HUBs/Teleports) • Direct to Home (DTH) • Cable Networks (Multi System operators (MSOs) operating at National or State or District level and undertaking upgradation of networks towards digitalization and addressability • Mobile TV • Head end-in-the Sky Broadcasting Service(HITS)	100%	Automatic
Broadcasting • Cable Networks (Other MSOs not undertaking up gradation of networks towards digitalization and addressability) and Local Cable Operators (LCOs)	100%	Automatic
Broadcasting Content Services • Terrestrial Broadcasting FM(FM Radio) • Up-linking of ‘News & Current Affairs’ TV Channels	49%	Government
Up-linking of Non-‘News & Current Affairs’ TV Channels/ Down-linking of TV Channels	100%	Automatic
Print Media • Publishing of newspaper and periodicals dealing with news and current affairs • Publication of Indian editions of foreign magazines dealing with news and current affairs	26%	Government

Sector wise FDI limits

Sector	FDI Limit	Entry Route & Remarks
Publishing/printing of scientific and technical magazines/specialty journals/ periodicals, subject to compliance with the legal framework as applicable and guidelines issued in this regard from time to time by Ministry of Information and Broadcasting.	100%	Government
Publication of facsimile edition of foreign newspapers	100%	Government
Civil Aviation – Airports • Green Field Projects & Existing Projects	100%	Automatic
Civil Aviation – Air Transport Services • Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline • Regional Air Transport Service	100%	Automatic up to 49% Above 49% under Government route 100% Automatic for NRIs
Civil Aviation • Non-Scheduled Air Transport Service • Helicopter services/seaplane services requiring DGCA approval • Ground Handling Services subject to sectoral regulations and security clearance • Maintenance and Repair organizations; flying training institutes; and technical training institutions	100%	Automatic
Construction Development: Townships, Housing, Built-up Infrastructure	100%	Automatic
Industrial Parks	100%	Automatic
Satellites- establishment and operation, subject to the sectoral guidelines of Department of Space/ISRO	100%	Government
Private Security Agencies	74%	Automatic up to 49% Above 49% & up to 74% under Government route
Telecom Services	100%	Automatic up to 49% Above 49% under Government route

Sector wise FDI limits

Sector	FDI Limit	Entry Route & Remarks
Cash & Carry Wholesale Trading	100%	Automatic
E-commerce activities (includes 'marketplace' based model but excludes 'inventory' based of e-commerce)	100%	Automatic
Single Brand retail trading • Local sourcing norms will be relaxed up to three years and a relaxed sourcing regime for another five years for entities undertaking Single Brand Retail Trading of products having 'state-of-art' and 'cutting edge' technology.	100%	Automatic
Multi Brand Retail Trading	51%	Government
Duty Free Shops	100%	Automatic
Railway Infrastructure Construction, operation and maintenance of the following: • Suburban corridor projects through PPP • High speed train projects • Dedicated freight lines • Rolling stock including train sets, and locomotives/coaches manufacturing and maintenance facilities • Railway Electrification • Signaling systems • Freight terminals • Passenger terminals • Infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivity's to main railway line • Mass Rapid Transport Systems.	100%	Automatic
Asset Reconstruction Companies	100%	Automatic
Banking- Private Sector	74%	Automatic up to 49% Above 49% & up to 74% under Government route
Banking- Public Sector	20%	Government

Sector wise FDI limits

Sector	FDI Limit	Entry Route & Remarks
Credit Information Companies (CIC)	100%	Automatic
Infrastructure Company in the Securities Market	49%	Automatic
Insurance • Insurance Company • Insurance Brokers • Third Party Administrators • Surveyors and Loss Assessors • Other Insurance Intermediaries	49%	Automatic
Pension Sector	49%	Automatic
Power Exchanges	49%	Automatic
White Label ATM Operations	100%	Automatic
Non-Banking Finance Companies (NBFC)	100%	Automatic
Pharmaceuticals(Green Field)	100%	Automatic
Pharmaceuticals(Brown Field)	100%	Automatic up to 74% Above 74% under Government route
Food products manufactured or produced in India • Trading, including through e-commerce, in respect of food products manufactured / produced in India.	100%	Government

Prohibited Sectors

FDI is prohibited in the following sectors:

- Lottery Business including Government/private lottery, online lotteries, etc.
- Gambling and Betting including casinos etc.
- Chit funds
- Nidhi company
- Trading in Transferable Development Rights (TDRs)
- Real Estate Business or Construction of Farm Houses (Real estate business does not include development of townships, construction of residential /commercial premises, roads or bridges)
- Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
- Activities/sectors not open to private sector investment e.g. Atomic Energy and Railway operations (other than permitted activities).

Make in India

- 'Make in India' is a major Government initiative to facilitate foreign investment, foster innovation and enhance skills of Young India.

- The initiative is devised to transform India into a global design and manufacturing hub.

- Launched in September 2014, in a short span of time, it has been proved to be a transparent and user friendly system that has helped to lure foreign investment in India and build best in class manufacturing infrastructure.

- Government has also set up special management team, like 'Japan Plus' & Korea Plus' to facilitate and fast track investment proposals from Japan and South Korea respectively.

References

http://www.investindia.gov.in/

http://www.ibef.org/

Sector Analysis Report

Automobile

Introduction

India has risen to become world’s 4th largest vehicle market, holding a strong position specially in the international heavy vehicles arena. The industry accounts for 7.5% of the country's Gross Domestic Product (GDP) and has generated employment for 19 million people . The Two Wheelers segment with 81% market share is the leader of the Indian Automobile market owing to a growing middle class and a young population. 4.3% is the industry’s share in India’s total exports.

Current Scenario Vis-à-vis foreign Investment

- In order to keep up with the growing demand, several auto makers have been investing heavily in various segments of the industry in India.
- The sector attracted $22.4 billion FDI during April 2000 - June 2019; accounting for 5.1% of the total FDI inflows.
- The industry currently manufactures 25 million vehicles, of which 3.5 million vehicles are exported.
- India is the largest tractor manufacturer, 2nd-largest bus manufacturer and 3rd largest heavy trucks manufacturer globally.

Investment Opportunities

- Low cost Electric vehicles – The Government envisions to have 100% electrical mobility by 2030.
- India accounts for 40% of global engineering and R&D spend.
- Replacement market share in sub-segments such as clutches is likely to grow due to rising traffic density.
- The entry of global players is expected to intensify competition in sub-segments such as gears and clutches.
- Manufacturers are expected to benefit from the growing demand for sheet metal parts, body & chassis, fan belts, pressure die castings, hydraulic pneumatic instruments in the two-wheeler segment.

Reason to Invest

- An emerging global hub for sourcing auto components despite temporary slowdown
- Geographically closer to key automotive markets like the ASEAN, Japan, Korea and Europe.
- 6th Largest vehicles manufacturer in the world that produced 23.9 million vehicles in FY 2016.
- Favorable trade policy with no restrictions on Export-Import
- Establishment of automotive training institutes and auto design centers, special auto parks and virtual SEZs for auto components
- Positive impact of GST in reducing overall cost structure of Indian automobile industry.

Road Ahead:

- Vehicle penetration to reach 72 vehicles per 1000 persons by 2025
- $ 74 billion Automobile industry is expected to reach $ 300 billion by 2026 at CAGR of 15%
- By 2026, India is expected to be the 3rd largest automotive market by volume in the world
- Global car majors have been ramping up investments in India to cater to growing domestic demand. These manufacturers plan to leverage India's competitive advantage to set up export-oriented production hubs.

FDI Policy

100% FDI allowed under automatic route

Infrastructure

Introduction

Infrastructure sector is a key driver for the Indian economy. Infrastructure sector includes construction-development, power, bridges, dams, roads, water supply, sanitation and urban infrastructure development. Construction-development covers residential, office, retail, hotels and leisure parks. The sector is highly responsible for propelling India's overall development and enjoys intense focus from Government for initiating policies that would ensure time-bound creation of world class infrastructure in the country.

Current Scenario Vis-à-vis foreign Investment

- FDI inflows during April 2000 to June 2019:
  - ✓ In construction-development - $ 25.1 billion
  - ✓ In construction-infrastructure - $ 15.3 billion
- The sector has been the 2^{nd} largest FDI recipient for India in 2017
- Logistics sector is growing at CAGR of 10.5% annually and is expected to reach $ 215 billion by 2020.

Investment Opportunities

- Technologies and solutions for smart sustainable cities and integrated townships.
- Technologies for the promotion of low cost and affordable housing.
- Green building solutions.
- Sustainable and environmentally friendly building materials.
- Training and skill development of construction sector workers.
- Smart cities.
- Urban water supply, urban sewerage and sewage treatment.

Reason to Invest

- Despite temporary slowdown, construction sector in India will remain buoyant due to increased demand from real estate and infrastructure projects.
- Construction activities contribute more than 8% of India's GDP.
- USD 650 Billion will be required for urban infrastructure over the next 20 years
- Government aims to provide clean and sustainable environment. Focus would be on investment in green materials. 100 smart cities are to be developed by 2020.

Road Ahead:

By 2025, construction market in India is expected to become 3^{rd} largest globally. Construction output is expected to grow average @ 7.1% each year. By 2020, construction equipment industry's revenue is estimated to reach $ 5 billion. In terms of value, the sector is expected to record a CAGR of 15.7% to reach $ 738 billion by 2022.

India will be required to spend $ 455 billion on infrastructure development over 2015-20, with 70% of funds needed for power, roads and urban infrastructure segments. Expected cement capacity addition of 80-100 MT per annum over next 5 years.

FDI Policy

100% FDI under automatic route allowed in construction-development, built-in infrastructure, townships, housing & industrial parks

Information Technology

Introduction

India is the leading sourcing destination across the world, accounting for 55% market share of the $ 185-190 billion global services sourcing business in 2017-18. Indian IT & ITeS companies have set up over 1,000 global delivery centers in about 80 countries across the world. India has become the digital capabilities hub of the world with 75% of global digital talent present in the country. India's IT & ITeS industry grew to $ 181 billion in 2018-19. Exports from the industry increased to $ 137 billion in FY19 while domestic revenues (including hardware) advanced to $ 44 billion. India is the 2nd fastest digitizing economy amongst 17 leading economies of the world.

Current Scenario Vis-à-vis foreign Investment

- Computer software and hardware sector in India attracted cumulative FDI inflows worth $ 37.23 billion between April 2000 - March 2019, ranking 2nd in terms of FDI inflow
- PE investments stood at $ 2,400 million in Q4 2018. Venture Capital (VC) investment stood at $ 53 million during Q4 2018.
- Export revenue from digital segment forms 20% of industry's total export revenue.

Investment Opportunities

- Setting up of IT services, Business Process Management (BPM), software product companies, shared service centers.
- Fast-growing sectors within the BPM domain – knowledge services, data analytics, legal services, Business Process as a Service (BPaaS), cloud-based services.
- IT services and fast-growing sectors within it such as solutions and services around Social, Mobile, Analytics, Cloud (SMAC), Information Systems (IS) outsourcing, IT consulting, software testing.
- Internet of Things (IOT), Artificial intelligence (AI)

Reason to Invest

- India's highly qualified talent pool of technical graduates is 1 of the largest in the world. The country has a low-cost advantage by being 3-4 times inexpensive than US.
- India's IT industry contributed 7.7% to the country's GDP and is expected to contribute 10% of India's GDP by 2025.
- Rapidly growing urban infrastructure has fostered several IT centers in the country.
- Tax holidays to the IT sector for Software Technology Parks of India (STPI) and Special Economic Zones (SEZs)

Road Ahead:

The industry is expected to grow to $ 350 billion by 2025. BPM is expected to account for $ 50-55 billion out of the total revenue.

The cloud market in India is expected to grow three-fold to $ 7.1 billion by 2022 with the help of growing adoption of Big Data, analytics, artificial intelligence and IOT

Government has identified IT as 1 of the 12 champion service sectors for which an action plan is being developed. It is setting up a $ 745.82 million fund for realizing true potential of these champion service sectors

FDI Policy

100% FDI allowed under automatic route

E-Commerce

Introduction

India is a shopper's paradise now, albeit, online. The unrivalled population in India armed with smart gadgets is spoilt for a choice. Aided by declining broadband subscription prices and launch of 4G services, consumers have become the driving force of e-Commerce in the country. From buying groceries to furniture, movie tickets, trains tickets to booking cabs – e-Commerce has empowered the consumers. As per reports, India will see more people come online than any other country in the next 15 years. With digital device and social media, online sellers are getting unprecedented opportunity for growth and have thus become continuously more attractive for investors.

Current Scenario Vis-à-vis foreign Investment

- E-commerce industry in India witnessed 21 private equity and venture capital deals worth $ 2.1 billion in 2017 and 40 deals worth $ 1,129 million in the first half of 2018.
- To increase participation of foreign players, Government has hiked limit of FDI in E-commerce marketplace model upto 100% (in B2B models).
- Currently, there are more than 1 million transactions per day in e-commerce retailing.

Investment Opportunities

- Consumer Internet companies, Technology enabling innovations like IOT, digital payments, hyper-local logistics, analytics driven customer engagement and digital advertisements
- Online sales of most products and services across almost all consumer segments.

Reason to Invest

- Around 75% of Indian internet users are in the age group of 15 to 34 years. This category shops more than the remaining population. Peer pressure, rising aspirations with career growth, fashion and trends encourage this segment to shop more than any other category and India, therefore, clearly enjoys a demographic dividend that favors the growth of e-Commerce.
- In coming years, as internet presence increases in rural areas, rural India will yield more e-Commerce business.

Road Ahead:

Through its Digital India campaign, Government of India is aiming to create a trillion-dollar online economy by 2025.

Indian e-commerce industry has been on an upward growth trajectory and is expected to surpass the US to become 2nd largest e-commerce market globally by 2034.

E-commerce market is expected to reach $ 200 billion by 2027 from $ 38 billion in 2017. India's e-commerce market has the potential to grow more than 4 folds by 2022

Technology enabled innovations like digital payments, hyper-local logistics, analytics driven customer engagement and digital advertisements will likely support the growth in the sector.

Heavy investment by Government in rolling out the fiber network for 5G will help boost ecommerce in India

FDI Policy

100% FDI under automatic route is allowed in Business to Business (B2B) 'Marketplace' model

Food Processing

Introduction

India's food ecosystem offers huge opportunities for investments with stimulating growth in the food retail sector, favourable economic policies and attractive fiscal incentives. India is globally the largest producer of milk, spices, cashew nuts, and 2nd largest producer of food grains, fruits, and vegetables. The industry engages approximately 1.85 million people. Major industries constituting the Food processing industry are grains, sugar, edible oils, beverages and dairy products. Key sub-segments are dairy, fruits & vegetables, poultry & meat processing, fisheries, food retail etc.

Current Scenario Vis-à-vis foreign Investment

- Food processing sector in India has received $ 9.4 billion worth of FDI inflows during April 2000- June 2019.
- $ 3.28 billion worth of FDI inflows during April 2014- March 2019.
- The sector contributes 2.2% share in total FDI inflows and has the potential to attract as much as $ 33 billion of investment over the next 10 years.

Investment Opportunities

- Food preservation by fermentation: wine, beer, vinegar, yeast preparation, alcoholic beverages.
- Beverages: fruit-based, cereal-based. Fish, seafood and fish processing: processing and freezing units. Food preservation and packaging: metal cans aseptic packs.
- Consumer food: Frozen, processed, packaged food, aerated soft drinks and packaged drinking water.
- This niche has investment potential in food processing infrastructure, the government's main focus is on supply chain related infrastructure like cold storage, abattoirs and food parks.

Reason to Invest

- Food & Grocery market in India is the 6th largest globally. Food & Grocery retail market constitutes 65% of total retail market in India.
- Government through the Ministry of Food Processing Industries (MoFPI) is taking necessary steps to boost investments in food processing industry, has sanctioned 42 Mega Food Parks (MFPs) to be set up in the country.
- Strategic geographic location and proximity to food-importing nations makes India favorable for the export of processed foods.

Road Ahead:

By 2020, Indian Food and Retail market is projected to touch $ 828 billion, Indian Dairy industry is expected to double to $ 140 billion. By 2030, Indian annual household consumption to treble, making India 5th largest consumer.

Rising youth population, increased desire for branded food as well as increased spending power is likely to increase India's overall food consumption.

Consumption in India is driven towards packaged and ready-to-eat foods.

FDI Policy

100% FDI is permitted under automatic route in food processing industries.

100% FDI is allowed through approval route for trading, including through e-commerce in respect of food products manufactured / produced in India.

Retail

Introduction

The Indian retail industry has emerged as one of the most dynamic and fast-paced industries due to the entry of several new players. It accounts for over 10% of the country's GDP and 8% of employment. India is the world's 5th largest global destination in the retail space. Total consumption expenditure is expected to reach nearly $ 3,600 billion by 2020 from $ 1,824 billion in 2017. Government of India has introduced reforms to attract FDI in retail industry. GST regime introduced in 2017 as a single unified tax system is another enabler in this direction.

Current Scenario Vis-à-vis foreign Investment

- Retail trading sector has received FDI equity inflows of $ 1.66 billion during April 2000–March 2019.
- With the rising need for consumer goods in different sectors including consumer electronics and home appliances, many companies have invested in the Indian retail space.
- India's retail sector investments doubled to reach $ 180.18 million in 2018.

Investment Opportunities

- Organized Retail, Ecommerce, Fast Moving Consumer Goods (FMCG), especially in tier-2 and tier-3 cities, Brick & Mortar
- Supply chain infrastructure - India is emerging as one of the important sourcing base for a wide variety of goods for international retail companies.

Reason to Invest

- Relaxed sourcing and FDI rules for supermarkets.
- Collective schemes of financial houses and banks with retailers, enabling consumers to buy durable products with easy credit.
- Tremendous opportunity in ecommerce and organized retail sector (including retail space)
- Increasing use of digital modes of payments by consumers, especially rising young population
- India will become favorable market for fashion retailers on the back of a large young adult consumer base, increasing disposable incomes and relaxed FDI norms.

Road Ahead:

E-commerce is creating the biggest revolution in the retail industry and the trend will continue. Retailers should leverage the digital retail channels (e-commerce), enabling them to spend less money on real estate while reaching out to more customers in tier-2 and tier-3 cities.

By 2021 traditional retail will hold a major share of 75%, organised retail share will reach 18% and e-commerce retail share will reach 7% of the total retail market. The organized retail sector is not very developed offering huge scope for growth and development.

Long-term outlook for the industry is positive, supported by rising incomes, favorable demographics, entry of foreign players, and increasing urbanization

FDI Policy

100% FDI is permitted under automatic route in Single Brand Retail Trading (SBRT).

Upto 51% FDI is allowed through approval route in Multi Brand Retail Trading (MBRT).

Defence

Introduction

India enjoys a strategic location with reference to continental Asia and the Indian Ocean Region. The Indian peninsular landmass covers an area of 3.3 million square km and its population of over 1.3 billion people encompasses a vast range of ethnic, religious, cultural and linguistic diversities. India's geographical area, strategic location, trade links and its exclusive economic zone (EEZ) connect, its security environment directly with its extensive neighborhood are some factors which involve concomitant security concerns, responsibilities and challenges in an increasingly global environment. The country's defence services include three Armed Forces (i.e., the Army, the Navy and the Air Force), and other Departments, Defence Research and Development Organisation (DRDO) and Defence Ordnance Factories.

Current Scenario Vis-à-vis foreign Investment

- The sector received FDI of $ 2.18 million during 2018-19. In 2014-15, 2015-16, and 2017-18, the sector attracted FDI worth $ 0.08 million, $ 0.10 million and $ 0.01 million respectively.
- Total budget sanctioned for Indian military for 2018-19 is $ 62.8 billion, accounting for 12.1% of the total Union Government expenditure for 2018-19.

Investment Opportunities

- Defence products manufacturing.
- Supply chain sourcing opportunity.
- Defence offsets.
- IT, high-tech engineering, R&D
- India can leverage its IT infrastructure and manufacturing potential to be one of the key global sourcing destinations for defence systems and equipment.

Reason to Invest

- India has 2nd largest armed forces and 5th largest defence budget in the world.
- India plans to spend $ 130 billion on military modernization in the next 5 years. Achieving self- reliance in defence production is a key target for the Government of India.
- Government has opened up Defence sector for private sector participation to provide impetus to indigenous manufacturing. Opening up of the industry also paves the way for foreign original equipment manufacturers to enter into strategic partnerships with Indian companies.
- The country's extensive modernization plans, an increased focus on homeland security and India's growing attractiveness as a defence sourcing hub.

Road Ahead:

A Defence export strategy has been formulated to faciliate defence Public Sector Enterprises and private defence players in exploring business opportunities abroad. Domestically produced defence platforms, equipment, and spares worth $ 317 million were exported to over 28 countries in 2015-16.

Opportunities worth more than $ 130 billion are coming up in next 7-8 years in terms of modernization of armed forces. About $ 15.4 million has been allocated to set up Technology Development Fund.

FDI, if channeled properly, could prove to be a catalyst for stimulating India's overall technological and manufacturing capability.

FDI Policy

100% FDI is allowed in defence industry (49% under automatic route, beyond 49% through approval route)

Textile

Introduction

India's textiles sector is one of the oldest industries in Indian economy dating back several centuries. The Indian textile industry has 2 broad segments. 1st, the unorganized sector consisting of handloom, handicrafts and sericulture, which are operated on a small scale and through traditional tools and methods. The 2nd is the organized sector consisting of spinning, apparel and garments segment which apply modern machinery and techniques. Decentralised power looms/ hosiery and knitting sector form the largest component of the textiles sector.

Current Scenario Vis-à-vis foreign Investment

- The textiles sector has witnessed a spurt in investment during the last 5 years. The industry (including dyed and printed) attracted FDI worth $ 3.12 billion during April 2000 to March 2018.
- The industry contributed 7% of the industry output (in value terms) of India in 2017-18.It contributed 2% to the GDP of India and employs more than 45 million people in 2017-18.The sector contributed 15% to the export earnings of India in 2017-18.

Investment Opportunities

- Entire value chain of synthetics.
- Fabric processing set-ups for all kind of natural and synthetic textile.
- Apparel and retail brands.
- Home and office furnishings

Reason to Invest

- India has abundant availability of raw materials such as cotton, wool, silk and jute. It also enjoys a comparative advantage in terms of skilled manpower and cost of production.
- To boost exports, free trade with ASEAN is allowed.
- Huge investments are being made by Government under Scheme for Integrated Textile Parks and Technology Upgradation Fund Scheme to encourage more private equity and to train workforce.
- Domestic textile industry in India is estimated to reach $ 223 billion by 2021 from $ 150 billion in November 2017,

Road Ahead:

Rise in income levels is expected to drive demand in textile industry. Growth in building and construction will continue to raise demand for non-clothing textiles

With consumerism and disposable income on the rise, the retail sector has experienced a rapid growth in the past decade with the entry of several international players.

High economic growth has resulted in higher disposable income. This has led to rise in demand for products creating a huge domestic market.

Textile and apparel exports from India are expected to increase to $ 82 billion by 2021. Khadi Express train will be run to create awareness about the Indian khadi.

FDI Policy

100% FDI is allowed under the automatic route

Chemical

Introduction

India ranks 6th globally in Chemicals sales and contributes 3% to global chemical industry. Chemicals industry in India is highly diversified, covering more than 80,000 commercial products. It is broadly classified into bulk chemicals, specialty chemicals, agrochemicals, petrochemicals, polymers and fertilizers. India's proximity to the Middle East, the world's source of petrochemicals feedstock, makes for economies of scale. Market size of India Chemicals industry stood at $ 163 billion in 2017-18. Total production of major chemicals and petrochemicals stood at 27,847 MT during 2018-19, a growth of 4.15% over 2017-18. Alkali chemicals had the largest share (69%) in the Chemical industry production. Production of polymers account for around 61% of total production of basic major petrochemicals.

Current Scenario Vis-à-vis foreign Investment

- FDI inflow in chemicals (other than fertilizers) stood at $ 16.7 billion during April 2000 – June 2019.
- India is a strong global dye supplier, accounting for 16% of the world production of dyestuff and dye intermediates.
- Chemicals industry in India has been de-licensed except for few hazardous chemicals.
- Upcoming Petroleum, Chemicals and Petrochemicals Investment Regions will provide state-of-the-art infrastructure for the sector.

Investment Opportunities

- Agro-chemicals - India's 50% exports of Agro-chemical production is likely to continue.
- Petrochemicals - Demand for petrochemicals has grown at 5.4% CAGR during FY15-FY18. 31% of this demand comes from polymers while 22% from olefins.
- Fertilizers - As of FY18, the Indian fertilizer market was around $64 billion. The market is expected to grow at 13% CAGR from FY19-23 to around $138 billion.
- Organic Chemicals - Demand for organic chemicals is expected to grow at 9% CAGR from FY19-23, with phenol demand growing at 11%

Reason to Invest

- Rising disposable income, median age of population, urbanization, growing penetration and demand from rural markets
- There has been a shift of production and consumption story towards Asian and Southeast Asian countries in all sectors which is also driving demand for Chemicals and Petrochemicals
- Shift in consumer preferences towards a healthier lifestyle and environment-friendly products
- Over the last decade, the Indian Chemical industry has evolved from being a basic chemical producer to becoming an innovative industry with investments in R&D.

Road Ahead:

- Indian chemicals industry is projected to reach $ 304 billion by 2025. Demand of chemical products is expected to grow @ 9% per annum over the next 5 years
- Petrochemical demand is expected to grow at 7.5% CAGR from FY 2019-23, polymer demand growing at 8%
- Agrochemicals market in India is expected to grow at 8% CAGR reaching $3.7 billion by FY22 and $4.7 billion by FY25.

FDI Policy

100% FDI is allowed under the automatic route (except certain hazardous chemicals)

Healthcare

Introduction

Key components of the healthcare market in India are hospitals (Government and Private), pharmaceuticals, diagnostics (imaging and pathology), medical equipment, supplies, medical insurance and telemedicine. The healthcare industry in India was 4th largest employer in 2017 employing 319,780 people. The hospital industry in India, accounting for 80% of the total healthcare market, is witnessing a huge investor demand from both global as well as domestic investors. Medical tourist arrivals in India increased by over 50% in 2016 from 2015. The diagnostics industry and primary health-care industry has also been witnessing major growth.

Current Scenario Vis-à-vis foreign Investment

- FDI in hospitals and diagnostic centers stood at $ 6.3 billion during April 2000 – June 2019
- 1.5% was the share of healthcare sector in total FDI inflows during the above period.
- During 2015-20, the in-patient market is expected to grow @ CAGR of 13%

Investment Opportunities

- Hospitals, medical devices, clinical trials, outsourcing, telemedicine, medical tourism, health insurance and medical equipment.
- Healthcare infrastructure, home-bases care services, health-care and wellness centers
- Mobile & wearable devices (such as glucose monitors, exercise trackers, etc.) acting as preventive measures against health issues
- Technology, robotic process automation, Internet-of-medical-things (IOMT), Artificial Intelligence (AI)

Reason to Invest

- Healthcare is one of of India's largest sectors in terms of both revenue and employment.
- Growing incidence of lifestyle diseases, rising demand for affordable healthcare delivery systems due to increasing healthcare costs, technological advancements, emergence of telemedicine, rapid health insurance penetration and government initiatives like e-health together with tax benefits and incentives are driving factors for growth of healthcare market in India.
- The industry is growing at a tremendous pace owing to its strengthening coverage, services and increasing expenditure by public as well private players.

Road Ahead:

Indian health-care industry is projected to reach $ 372 billion by 2022 (more than 3 times from $ 110 billion in 2017). The hospital industry alone is expected to reach $ 132 billion by 2023 from $ 61.8 billion in 2017, growing at CAGR of 16-17%.

By 2020, India is expected to rank amongst the top 3 healthcare markets globally in terms of incremental growth. The healthcare IT market is expected to grow 1.5 times from current $ 1 billion. India plans to create 1 million skilled healthcare providers by 2022.

$ 200 billion is expected to be spent on medical infrastructure by 2024. Home-based care services to gain popularity as average life expectancy will cross 70 years by 2022. By 2022, the diagnostics market is expected to grow at CAGR of 20.4% to reach $ 32 billion from $ 5 billion in 2012.

FDI Policy

100% FDI is permitted under automatic route for greenfield projects. For brownfield projects, upto 100% FDI is permitted under approval route.

Telecom

Introduction

India has world's 2nd largest mobile market with a subscriber base of over 1.2 billion. The Indian mobile industry contributed over $ 140 billion to India's GDP in 2015. The industry is divided into following subsectors: Infrastructure, Equipment, Mobile Virtual Network Operators (MNVO), White Space Spectrum, 5G, Telephone service providers and Broadband. More than 60 companies have received license from Government in May 2017 to provide MVNO services; majority of these companies being focused on Tier 2 and Tier 3 cities.

Current Scenario Vis-à-vis foreign Investment

- FDI inflows in the sector during the period April 2000 – June 2019 stood at $ 37.1 billion
- FDI inflows during April 2014 – March 2018 stood at $ 16 billion. In 2016-17 alone, FDI inflows stood at $ 5.6 billion

Investment Opportunities

- Production of mobile handsets and other equipment manufacturing, technologies to equip masses with better connectivity, security, storage, such as IOT, cloud computing, etc.
- Non-traditional telecom services such as OTT, digital content, e-education, e-health, e-commerce. 4G and 5G ecosystem - High data speed, low latency, high reliability and low energy consumption
- Start-ups - India ranked #2 start-up ecosystem in the world.

Reason to Invest

- Indian smartphone users consume maximum data in the world at 9.8 GB per month. India is expected to lead growth of smartphone adoption globally with an estimated net addition of 350 million by 2020.
- The industry has witnessed exponential growth primarily driven by affordable tariffs, wider availability, roll-out of Mobile Number Portability (MNP), expanding 3G and 4G coverage, evolving consumption patterns of subscribers and a conducive regulatory environment.
- Increasing internet revenues, mobile equipment manufacturing, Government's announced Phased Manufacturing Program (PMP) for Make in India, etc.

Road Ahead:

Indian Mobile industry is expected to create a total economic value of $ 217.4 billion by 2020. Smartphones are expected to account for 2 out of every 3 mobile connections globally, making India the 4th largest smartphone market by 2020.

Telecom tower in India is set to boom as its tenancy ratio will increase from 1.95 times in 2016 to 2.9 times by 2020 due to expansion of 3G, 4G and onset of 5G technologies. Total number of SIM connections is expected to reach 1.4 billion by 2020 from 1.1 billion in 2017.

Digital India is expected to create $ 1 trillion business opportunity by 2020. Number of internet users in India is expected to reach 829 million by 2021. Telecom industry contribution to GDP is expected to reach 8.2% by 2020 from 6.5% in 2017.

FDI Policy

100% FDI is allowed, upto 49% through automatic route, beyond 49% under approval route.

Electronic Systems

Introduction

India is one of the largest consumer electronics markets in Asia Pacific. The Indian Electronics industry is being driven by macro factors such as growing middle-class population and rising disposable income. In addition, declining electronics prices and adoption of high-end technology devices is leading to upsurge in consumption of electronics devices. The electronics products segment contributed 82% to the overall market in 2015, while the rest comprised electronic components.

Current Scenario Vis-à-vis foreign Investment

- FDI inflows in the sector during the period April 2000 – June 2019 stood at $ 2.5 billion. FDI equity inflows growth in 2014-16 viz a viz 2012-14 stood at 79%
- Electronic products industry in India was valued at $ 61.8 billion in 2015, segmented as follows:
  - Mobile devices (27%)
  - Consumer electronics (18%)
  - Industrial electronics (15%)
  - Others (40%)

Investment Opportunities

- Automotive Electronics - Engine control and advanced driver assistance systems, infotainment / navigation
- Medical devices - Remote patient monitoring, handheld portable healthcare devices
- IT office automation - E-governance and Digital India to boost IT hardware

Reason to Invest

- Technology transitions such as rollout of 4G/ LTE networks and IOT are driving accelerated adoption of electronics products. Initiatives such as 'Digital India' and 'Smart City' projects have raised the demand for IoT in the market.
- Digital banking sector like wallet players and payment banks will raise demand for POS and VSAT-enabled mobile ATMs, which will further give a fillip to the growing industry.

Road Ahead:

Indian Electronics industry is anticipated to reach $ 228 billion by 2020 and $ 400 billion by 2025, having grown at CAGR of 17% during 2014-2020. The industry stood at $ 100 billion in 2016-17.

Consumer Electronics and Appliances Industry in India is expected to become 5th largest globally by 2025.

Digital media, smart cities, cloud computing, better connectivity, solar projects, etc. are likely to be the growth factors for the industry going forward.

FDI Policy

100% FDI is allowed under automatic route.

Aviation

Introduction

India is the 3rd largest domestic civil aviation market globally. It has 91 international carriers comprising of 5 Indian carriers and 86 foreign carriers, which ensure that India is well connected with most major countries. India has connectivity with 59 countries through 344 routes. It has 464 airports and airstrips, of which 125 airports are owned by Airport Authority of India (AAI). These 125 AAI airports manage close to 78% of domestic passenger traffic and 22% of international passenger traffic. Passenger traffic in India stood at 316.51 million during April 2018 - Feb 2019. Out of which domestic passenger traffic stood at 252.92 million while international traffic stood at 63.59 million. The aircraft movement, passenger traffic and freight traffic increased by 4.9%, 4.5% and 3.1% respectively in February 2019 viz-a-viz February 2018, across all Indian airports taken together.

Current Scenario Vis-à-vis foreign Investment

- FDI in air transport (including air freight) during April 2000 – June 2019 stood at $ 1.9 billion
- Passenger traffic in India stood at $ 316.51 million during April 2018 - Feb 2019, out of which domestic passenger traffic stood at $ 252.92 million while international traffic stood at $ 63.59 million.

Investment Opportunities

- New airports – Government aims to increase the number of operational airports to 250 by 2020
- Public Private Partnerships (PPP) in greenfield airports
- Infrastructure development - $ 120 billion investment in airport infrastructure
- Regional connectivity - Boosting air connectivity to smaller cities & northeastern states

Reason to Invest

- India is 3rd largest air travel market globally in terms of domestic passenger traffic. It is the 9th largest civil aviation market globally.
- Increase in Indian carriers – Number of airplanes expected to grow to 1100 by 2027
- Focus on airport modernization - AAI to spend $ 3 billion on non-metro projects over 2016-2020
- Significant increase in mergers & acquisitions in the sector

Road Ahead:

India aims to become the 3rd largest aviation market globally by 2024. Indian carriers plan to increase their fleet size to 1,100 aircraft by 2027. Freight traffic on Indian airports is expected to cross 11.4 MT by 2032.

Government agencies project requirement of about 250 brownfield and green-field airports by 2020. India is expected to cater to 520 million passengers by 2037.

Maintenance, Repair & Overhaul (MRO) industry expected to grow to $1.2 billion by 2020 from $ 950 million currently. India has been projected to be the 2nd fastest-growing country in the world for passenger traffic by the Airports Council International (ACI) in its traffic forecasts between 2017-40.

FDI Policy

100% FDI is allowed under automatic route in non-scheduled air transport services, helicopter services, maintenance & repair organizations, ground handling services (subject to sectoral regulations)

Establishing Presence in India

Choosing the right form of Business

Foreign investment can come into the country in various forms and entities. Each form has its own set of merits and demerits. The key is to balance the advantages and disadvantages of various forms of business. A prospective foreign investor will have to keep in mind various aspects before entering into the Indian market, including regulatory requirements, sources of financing, setting up of infrastructure etc.

Key factors on which choosing the form of business depends:

Nature of business

Nature of business for which the foreign entity is desirous of making investment in India is one of the crucial factors. There are certain sectors where foreign investment is either partially allowed or completely prohibited by the Indian Government. A Joint Venture might be most suitable form if the foreign company is willing to provide technical know-how to an already established Indian entity and in turn Indian company may contribute in terms of infrastructural set up, manpower etc. Similarly, a Liaison Office might be set up in India to spread awareness about the foreign company, explore new markets or to promote its business interests.

Scale of Operations

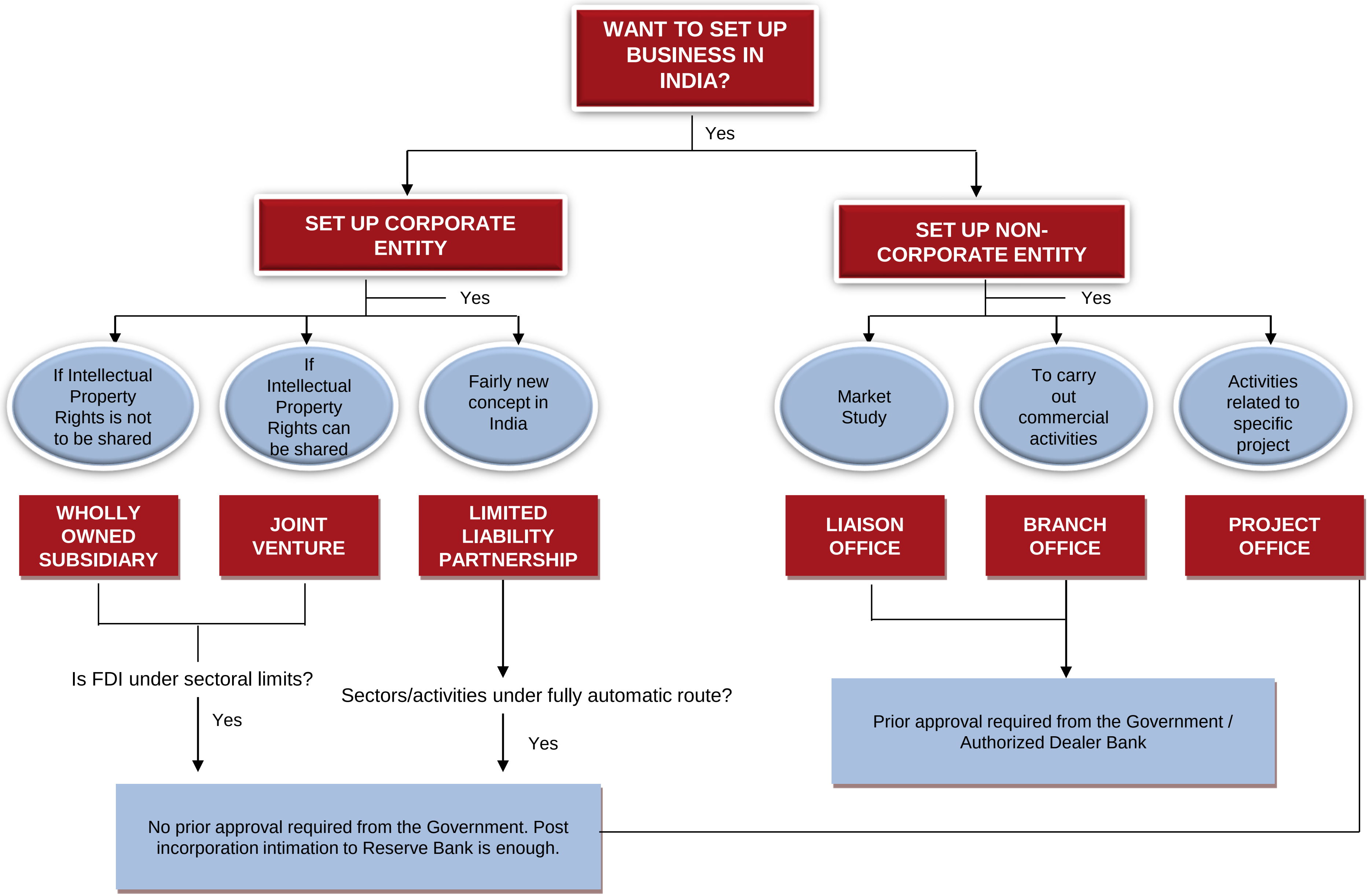
Another key factor in choosing the right form of setting up business in India is the scale of operations with which the foreign company is willing to start its business. If the volume of proposed operations is large then it is preferable to set up a wholly owned subsidiary company (Private or Public). If the foreign investor intends to invest for short duration or for a specific project in India, then a Liaison Office can be set up. Foreign companies engaged in the business of manufacturing and trading activities outside India, may set up a Branch Office to facilitate import/ export of their goods or for providing services to their customers in India. Similarly, a Limited Liability Partnership is suitable for small and medium scale business.

Amount of capital to be invested

One of the major concerns before setting up a business entity in India by a foreign investor is the amount of capital proposed to be invested. Setting up of and complying with regulatory norms in case of a Branch Office or a Liaison Office requires less capital as compared to incorporating a wholly owned private or public subsidiary.

Moreover, complying with the statutory requirements in case of a wholly owned subsidiary is also a costly affair.

Entry routes available to Foreign Investor




Different Forms of Doing Business
in India

Formation of Non-Corporate Entity

Liaison Office / Representative Office

Foreign entity may not be keen to invest a huge amount of capital in India during its initial stage. It might simply be interested in evaluating business opportunities and explore markets in India. In such a case, it may form a non-corporate entity in India.
Here, we shall discuss some common entry routes for the foreign investor:-

A.Liaison Office ('LO') / Representative Office

What is an LO

- A body corporate incorporated outside India, including a firm or association of persons, may open a Liaison Office (LO) in India. As the name suggests, it can only take up liaison activities in India and thus, act as a channel for communication between its head office abroad and Indian parties.
- This form of business is best suited if the proposed foreign investor intends to mark its presence in India, explore the market and spread awareness about its products and services among Indian customers.
- However, a major drawback of establishing a LO is that the foreign entity cannot carry any business activities through LO.

Activities permitted to be undertaken by an LO

- Representing in India the parent company / group companies.
- Promoting export / import from / to India.
- Promoting technical/financial collaborations between parent/group companies and companies in India.
- Acting as a communication channel between the parent company and Indian companies.

Liaison Office / Representative Office

Steps for Incorporation: Approving Authority: Reserve Bank of India (RBI)

Permission from RBI

Application in Form FNC is required to be submitted, along with other required documents, to the Foreign Exchange Department, through Authorised Dealer Bank.

There are two routes under which application in Form FNC is considered by RBI:

1. **Reserve Bank Route**

   This route is followed where the principal business of the foreign entity falls under sectors where 100% FDI is permissible under the automatic route. The power to grant approval in such cases has been largely decentralized by the Reserve Bank to Authorised Dealer Banks in India.

2. **Government Route**

   The application is considered under this route where principal business of the foreign entity falls under the sectors where 100% FDI is not permissible under the automatic route.

Additional criteria

There are few additional criteria which are considered by RBI on case to case basis. These are mentioned below:-

1. A **profit making track record** of the foreign company during the **immediately preceding 3 financial years** in the home country.
2. **Net Worth** of foreign company should **not be less than USD 50,000** or its equivalent.

Initially, the permission is granted by RBI for a period of 3 years, which can later be extended by the Authorised Dealer Bank.

Foreign Insurance companies and Foreign banks

Foreign Insurance companies can establish Liaison Offices in India only after obtaining approval from the Insurance Regulatory and Development Authority (IRDA).

Similarly, foreign banks can establish Liaison Offices in India only after obtaining approval from the Department of Banking Operations and Development (DBOD), Reserve Bank of India.

Liaison Office / Representative Office

Post establishment compliances (immediately after establishment)

- After establishment, LO is required to intimate to Registrar of Companies (RoC) in Form FC-1, within 30 days of establishment.

Branch Office

B. Branch Office ('BO')

What is a BO: If the foreign investor company is engaged in the business of manufacturing and trading, and it wishes to undertake certain business activities in India as well, then it can set up a Branch Office (BO) with approval from Reserve Bank / Authorised Dealer Bank.

Purpose of a BO

- Export / Import of goods (only on wholesale basis).
- 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.

Things to be kept in mind before incorporation

- A BO set up in India is not allowed to carry any kind of retail trading in India.
- A BO is also not allowed to carry out manufacturing or processing activities in India, directly or indirectly.
- Profits earned by the BO are freely remittable from India, subject to payment of applicable taxes.

Branch Office

Steps for Incorporation: Approving Authority: Reserve Bank of India (RBI)

Permission from RBI

The manner and procedure for making application to RBI seeking permission to set up a Branch Office in India is similar to that of setting up a LO. Application is to be made in Form FNC.

Additional criteria

As in case of a LO, there are few additional criteria for BO also, which are considered by RBI on case to case basis. These are mentioned below:-

1. A **profit making track record** of the foreign company during the **immediately preceding 5 financial years** in the home country.
2. **Net Worth** of foreign company **should not be less than USD 100,000** or its equivalent.

Branches of Foreign banks

Foreign banks are required to obtain necessary approval under the provisions of the Banking Regulation Act, 1949, from Department of Banking Operations & Development, Reserve Bank, to open a branch office in India.

Branch Office in Special Economic Zones (SEZs)

Foreign companies can establish its branch in Special Economic Zones (SEZs) to undertake manufacturing and service activities. The general permission is granted by RBI and is subject to the following conditions:-

1. such branches/units are functioning in those sectors where 100 per cent FDI is permitted;
2. such units comply with the provisions of the Companies Act as applicable to the companies incorporated outside India;
3. such units function on a stand-alone basis.

Post establishment compliances (immediately after establishment):

The post establishment compliances of a Branch Office are similar to that as in case of a Liaison Office.

Project Office

C. Project Office ('PO')

What is a PO: A Project Office (PO) is essentially a Branch Office, but for a limited period of time and limited purpose. If a foreign company has secured a project from an Indian company, then in order to carry out such project conveniently and efficiently, it may open a PO in India. However, it must be borne in mind that a PO cannot carry out any other activity other than those which are incidental to or related to the project.

Steps for Incorporation:

No prior approval is required from RBI to set up a Project Office in India, subject to following conditions:-

1. Foreign entity has secured a project from an Indian company; and
2. the project has been cleared by an appropriate authority; and
3. (a) the project is funded directly by inward remittance from abroad; or (b) the project is funded by a bilateral or multilateral International Financing Agency; or (c) 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.

The conditions mentioned in serial nos. (1) & (2) is mandatory. Out of remaining 3 conditions [3(a), (b), (c)], any one or more conditions can be fulfilled.

However, if the above criteria are not met, the foreign entity has to approach the Reserve Bank of India for approval.

Setting up of Project Offices by foreign Non-Government Organisations/ Non-Profit Organisations/ Foreign Government Bodies/ Departments

- If any of the above foreign entities intends to set up a PO in India, then such entities are required to apply to the Reserve Bank for prior permission to establish an office in India, whether Project Office or otherwise. This is because it falls under the Government Route

Post establishment compliances (immediately after establishment)

The post establishment compliances of a Project Office are similar to that as in case of a Liaison Office or Branch Office.

Additionally, the foreign company establishing a Project Office in India is to furnish report through the concerned AD branch, to the Reserve Bank of India, containing required information, within two months of its establishment.

Formation of Corporate Entity

Wholly Owned Subsidiary (Company)

If a foreign investor chooses to enter the Indian market through this route, then following choices are available:-

A. Wholly Owned Subsidiary

Foreign investors may set up wholly owned subsidiaries (either public or private company) under the Companies Act, 2013. This will ensure an independent legal status, different from its parent foreign company, limited liability and a separate existence if its own.

Things to be kept in mind before incorporation:

Activities allowed by the Government

There are certain activities in which foreign investment is allowed completely and in some activities it is partially allowed. Also, some commercial sectors are open to foreign investment under automatic route, which means no prior approval from government is required, while others require prior approval from Government.

There is also a list of activities in which foreign investment is completely prohibited. Therefore, this is an important aspect to be kept in mind before setting up of a wholly owned subsidiary in India.

Requirement of minimum number of directors and shareholders

There is a minimum requirement of directors and shareholders, as mentioned below:-

- Private Limited Company
  - ✓ Minimum Shareholders: 2 (Two);
  - ✓ Minimum Directors: 2 (Two)
- Public Limited Company
  - ✓ Minimum Shareholders: 7 (Seven)
  - ✓ Minimum Directors: 3 (Three)

It must be noted here that while only individuals can become directors, a shareholder can also be a company (including foreign company). Also, at least 1 of the directors on the Board of the company must be resident in India.

Statutory compliances

A wholly owned subsidiary, either public or private limited, will have to comply with all the laws, rules and regulations as applicable, including but not limited to Companies Act, 2013, Foreign Exchange Management Act, 1999, Shops and Establishment Act, Income Tax Act etc., failing to which may result in heavy penalties.

This might result in increase in the running expenses of the Indian subsidiary as professional guidance shall be mandatorily required to stay compliant with all the applicable laws.

Wholly Owned Subsidiary (Company)

Steps for Incorporation: **Approving Authorities: Registrar of Companies (ROC) & Reserve Bank of India (RBI)**

1. Obtaining approval from Government of India, if required

If the activities of the Indian wholly owned subsidiary fall under Government approval route, then the approval from the Government has to be obtained.

Currently, there are 9 sectors activities which require approval of the concerned Ministry/ Department. The Government has come up with Foreign Investment Facilitation Portal (FIFP), which is the new online single point interface of the Government of India for investors to facilitate FDI. The portal is likely to facilitate the single window clearance of applications which are through approval route. The portal has features like e-communication, quicker processing, reduced paperwork, SMS/email alert etc.

2. Obtaining DSC (Digital Signature Certificate) of proposed directors

Digital Signature Certificates (DSC) are the digital equivalent (that is electronic format) of physical or paper certificates. DSC is required to sign any electronic document like e forms. DSC can be obtained from any licensed Certifying Authority.

3. Drafting of Memorandum of Association (MOA) & Articles of Association (AOA)

Memorandum of Association (MoA) is the charter of the company and it sets out its scope of activities. Articles of Association (AoA), on the other hand, regulates the internal working of the company. Both these documents are very crucial to the company and hence be drafted with caution.

4. DIN (Director Identification Number) of proposed directors, Applying for availability of name and Filing incorporation documents can now be done online through a single form

Wholly Owned Subsidiary (Company)

Post establishment compliances (immediately after establishment)

Foreign Exchange Management Act (FEMA), 1999

1. **Obtaining FIRC (Foreign Inward Remittance Certificate)**

   As soon as the subscription amount from foreign subscriber is received in India, Authorised Dealer Bank will issue FIRC.

2. **Reporting to the Reserve Bank of India (RBI)**

   The company is required to report to RBI in Single Master Form under sub form FC-GPR, along with other documents, within 30 days of issue of shares. Shares have to be allotted within 180 days of the receipt of subscription amount.

Companies Act, 2013

In case of a wholly owned subsidiary, 100% shares of the Indian company are held by the foreign entity (in its own name as well as through a nominee).

Therefore, declarations from registered shareholder & beneficial shareholder have to be filed in Form BEN-2, within 30 days of receipt of such declarations.

Limited Liability Partnership (LLP)

B. Limited Liability Partnership

Limited Liability Partnership or LLP is a fairly new concept in India. An LLP is a corporate entity formed under the Limited Liability Partnership Act, 2008 and one of its important characteristics is that its partners have limited liability (unlike partnership firms registered under the Indian Partnership Act, 1932).

An LLP has perpetual succession and separate legal existence from its members. Thus, an LLP is a corporate structure that combines benefits of both, a company and a partnership firm.

As the compliance cost for a LLP is much lower than other forms of business and because of its greater flexibility, LLP can be a good option for foreign entities to start business in India. This form of business is best suited to service industry, as well as small and medium scale enterprises.

Limited Liability Partnership (LLP)

Steps for Incorporation: **Approving Authorities: Registrar of Companies (ROC) & Reserve Bank of India (RBI)**

1. **Foreign investment through automatic route**
   Foreign investment in LLP is allowed through automatic route only in sectors where 100% foreign investment is permitted under automatic route. There are certain other conditions also, as specified by Government, which needs to be fulfilled

2. **Obtaining DSC (Digital Signature Certificate) of proposed partners**
   As mentioned in case of wholly owned subsidiary, DSC can be obtained from any licensed Certifying Authority

3. **DIN (Director Identification Number)/ DPIN (Designated Partner Identification Number) of proposed partners**
   It is mandatory for proposed partners to obtain DIN/ DPIN under the Companies Act, 2013. DIN/ DPIN can be applied electronically in Form DIR-3 on the website of Ministry of Corporate Affairs (MCA), along with required documents and filing fee.

4. **Applying for availability of name**
   The fore most step in formation of a LLP is to apply for availability of name of the proposed LLP. Care must be taken to comply with the naming guidelines in this regard. Form Reserve Unique Name (RUN LLP) has to be filed with MCA for reservation of name of the proposed LLP.

5. **Filing of incorporation document**
   Once the name of proposed LLP has been approved, incorporation documents, which includes subscriber's statement, details of partners and registered office etc. are required to be filed in e Form FiLLiP.

6. **Drafting and execution of LLP Agreement**
   LLP Agreement is one of the most crucial document as it governs the rights and duties of partners. It may be drafted as per the convenience and mutual understanding among partners of LLP. Various aspects covered under the agreement may include amount and manner of contribution, rights and duties of partners, description of business of proposed LLP etc.

7. **Filing of LLP Agreement**
   LLP is formed once the Form FiLLiP is approved by the Ministry of Corporate Affairs. LLP Agreement shall be then filed within 30 days of incorporation of LLP in Form 3.

Limited Liability Partnership (LLP)

Post incorporation compliances (immediately after incorporation)

Foreign Exchange Management Act (FEMA), 1999

1. **Obtaining FIRC (Foreign Inward Remittance Certificate)**

   As soon as the amount of consideration from foreign investor is received in India, Authorised Dealer Bank will issue FIRC

2. **Reporting to the Reserve Bank of India (RBI)**

   LLP is then required to report to RBI (through its Authorised Dealer) in Form FOREIGN DIRECT INVESTMENT-LLP(I), along with other documents, within 30 days of the receipt of amount of consideration.

Joint Venture Company

C. Joint Venture Company

Another option available for foreign entity to invest in India is to set up a joint venture company, which means collaboration with an Indian company and contributing in terms of capital, infrastructure, knowledge, technology etc. It may involve an entirely new business, or an existing business that is expected to significantly benefit from the introduction of the new participant. A Joint Venture company can be set up as a separate legal entity, distinct from both, the foreign entity and Indian entity.

Setting up of a joint venture

A joint venture may mean either to set up an entirely new company (public or private) in India with an Indian partner or it may involve investing in an already existing company in India.

Steps for Incorporation: **Approving Authority: Registrar of Companies (ROC)**

A new joint venture company

Procedure for incorporation and post incorporation statutory compliances of a new joint venture company is similar to that of incorporation of a wholly owned subsidiary (public or private) in India, with only difference in its shareholding pattern.

In this case, both Indian and foreign partners shall have their agreed percentage of stakes in the joint venture company.

Investment in an existing Indian company

A foreign investor company may subscribe a percentage of shares of an existing Indian company by way of allotment or transfer of shares already allotted. This will help saving the initial cost of incorporation and other infrastructures. It will also save time of both the partners and the business can be started immediately once the initial formalities are completed.

In this case, if shares are allotted to the foreign investor, then the details of the same shall be reported by the Indian company to the Reserve Bank in Form FC-GPR, within 30 days of allotment, through its Authorised Dealer.

On the other hand, if the shares are transferred from an existing shareholder (Transferor) to the foreign investor, then Form FC-TRS shall be filed with RBI, through its Authorised Dealer, within 60 days of receipt of full and final amount of consideration. Filing of Form FC-TRS is the responsibility of the transferor or transferee, whosoever is resident in India.

Comparison

Comparison in brief

Particulars	Wholly Owned Subsidiary (Company)	Joint Venture Company	Limited Liability Partnership (LLP)	Liaison Office (LO)	Branch Office (BO)	Project Office (PO)
Activities allowed	All commercial activities as per Company's Charter documents			To function only as a Communication channel; commercial activities not allowed	Commercial activities allowed	Activities as required for specific project
Ownership	Foreign company directly through holding shares	Foreign company in joint ownership	Foreign owned LLP	Treated as an extension in India of the Foreign company		
Approving authority	RBI & ROC			RBI / Authorized Dealer Bank		
Control	Board of Directors		Partners	Foreign company through India operations head		
Taxation	25% (15% for manufacturing). Dividend Distribution Tax (DDT) 15% in case of profit repatriation		30% No DDT	40%		
Closure	Application to ROC and Tribunal		Application to ROC	Application to RBI		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Income Tax Return
Tax Dollars Fund Education
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federal form 8886
from page 4

Taxation

Taxation - Summary

Gamut of Taxes

- DIRECT TAX
  - Income Tax
  - Dividend Distribution Tax
  - Transfer Pricing
  - Double Taxation Avoidance Agreement
- INDIRECT TAX
  - Goods & Services Tax (GST)
  - Basic Customs Duty
  - Stamp Duty
  - Professional Tax

Direct Taxes

Existing Taxation System in India

Corporate Tax

The Corporate Tax rate in India depends on the origin of the company. A company resident in India is taxed @ 25% of its profits. Government has recently reduced corporate tax rate to 15% for new manufacturing companies. Foreign companies including BO and PO are taxed at 40% of profits.

Companies residents in India are taxed on worldwide income. Non-resident companies are taxed on the income earned / sourced from India. Income of Non-resident companies may not be taxable or may be taxable on gross basis at a lower rate of 10% if they do not have a taxable presence (i.e, ‘business connection’ or ‘permanent establishment’) in India.

‘Permanent establishment’ is a fixed place through which the business of the enterprise is wholly or partly carried on. A BO constitutes Permanent establishment in India. A subsidiary (generally) does not. An LO will not constitute Permanent establishment provided its activities are limited to liaising between head office and India parties as per approval granted by Reserve Bank of India

Dividend Distribution Tax

Dividend Distribution Tax (DDT), as the name suggests, is a charge on the dividend payable to the shareholders. The dividend thereafter is not taxable in the hands of recipient. At present, dividend distribution tax is 15%.

Transfer Pricing

Transfer Pricing provisions require commercial outcomes arising from transactions between related enterprises to be consistent with the arm’s length principle. “Arm’s length principle” refers to the conditions that exist between two independent entities dealing independently with each other.

The purpose is to see whether independent persons would have transacted at similar prices. In case transaction appears under / over valued, transfer pricing laws require adjustment of prices of cross-border transactions as adopted by related parties.

Double Taxation Avoidance Agreements (DTAA)

The objective of Double Tax Avoidance Agreements (DTAA) is that the same income earned by a foreign company is not taxed both, in host country as well as home country. In case of countries with which India has Double tax Avoidance Agreement, the tax rates are determined by such agreements. The Government of India has tax agreements with about 90 countries, including Japan, US, UK, most European countries, Mauritius, Singapore etc.

Goods & Services Tax (GST)

Overview of GST in India

About GST

- GST is a comprehensive 'consumption tax' on supply of goods and services
- GST allows cross utilization of input tax credits between goods and services
- GST Returns to be filed on monthly / quarterly / annual basis
- State based 'E-way Bill' mandatory documentation for physical movement of goods

Dual GST Structure

- **Intra-state transactions**
  - *Location of supplier and place of supply in same State*
  - Central GST (CGST)
  - State (SGST) / UT GST
- **Inter-state transactions**
  - *Location of supply and place of supply in different State*
  - Integrated GST (IGST)

Exclusions

- Basic Customs Duty
- Stamp Duty
- Alcohol for human consumption
- Petroleum products
- Taxes on professions, trades, callings and employments

Rates	0%	5%	12%	18%	28%
Goods & Services covered	Essential Food, medicines, services	Precious metals, Common use items	Standard Rate	Standard Rate	Demerit goods (Additional cess to be imposed on luxury goods)

Salient Features

- Mandatory registration & compliance for taxpayers having aggregate turnover > INR 2 million (INR 4 million for taxpayers exclusively supplying goods)
- Foreign company supplying goods / services to India also required to obtain GST registration
- Separate registration required in each State from where business is undertaken
- Multiple registration possible for various places of business within the same State
- Reduced compliance burden for small taxpayers under Composition Scheme


Compliances for a Foreign Company in India

Compliances for Foreign Company

Accounting / Book-keeping & Payroll management

A foreign company is required to maintain **Books of accounts** in India as per India accounting norms, along with supporting documentation. Further, it is required to implement monthly **Payroll processing** system for its employees and adhere with the employment based / labour regulations in India.

Tax compliance

- **Annual Income-tax return:** As per India tax laws, foreign company is required to file its annual Income-tax return within the stipulated time limit. (due date: 30 Sep / 30 Nov)
- **Form 49C (for LO):** Foreign company having its presence in India in the form of LO, is required to report in Form 49C. (due date: 30 May)
- **Withholding tax compliance:** As per India Income-tax laws, foreign company is required to withhold tax (‘WHT’) on certain categories of payments. The taxes withheld are required to be deposited with the India Government within the stipulated time limit. Reporting of taxes withheld and deposited is done by way of filing quarterly WHT returns. Further, WHT certificates are required to be generated and issued to the payees.
- **Personal Income-tax:** As per the India Income-tax laws, the expatriate & local staff of the foreign company are required to report their income and pay Income-tax in India, and file Income-tax Return with the tax authorities on an annual basis (due date: 31 July)
- **Transfer Pricing:** As per Indian Transfer pricing regulations, an annual report in Form 3CEB may have to be obtained by foreign company from a Chartered Accountant, in relation to ‘International transactions’ entered into by it during the year, if applicable (due date: 30 Nov)
- **Goods & Services Tax:** Foreign company is required to deposit GST in India on monthly / quarterly basis on the manufacturing, trading activities carried out in India or taxable services provided in India. Reporting is required to be done on monthly / quarterly basis.

Compliances for Foreign Company

Statutory Audit, Tax Audit, GST Audit

In respect of **Statutory Audit**, the Auditor being an Indian Chartered Accountant firm has the responsibility to report by expressing an opinion on whether the annual financial statements prepared comply with the accounting standards issued by the Institute of Chartered Accountants of India ('ICAI'). The Auditor's deliverable is in the nature of an audit report as per provisions of Indian Companies law and applicable auditing standards.

Under the India Income-tax laws, **Tax Audit** report is required to be obtained from an India Chartered Accountant firm where the annual gross receipts / turnover exceeds a specified limit (currently INR 10 million for business).

GST Audit is applicable for businesses having aggregate turnover more than INR 20 million in a year, by sale of goods or services. It involves examination of records, returns and other documents maintained by a GST registered person. It also ensures correctness of turnover declared, taxes paid, refund claimed, input tax credit availed and other prescribed compliances under the GST laws to be certified by an authorized expert.

Company Law compliance

As per the Companies law, Office/ Liaison Office/ Project Office has to file an Annual **Form FC-3** with the Registrar of Companies in India, to report its annual accounts, consolidated financials of parent company, & list of places of business in India (due date: 30 Sep) & Annual Return in **Form FC-4** (due date: 29 May).

Wholly Owned Subsidiary/ Joint Venture company has to comply with norms as prescribed under Companies Act. Annual accounts, consolidated financials etc. has to be filed in **Form AOC-4 & Form MGT-7** annually. Other compliances include conducting meetings, maintaining of statutory registers etc., which is either on regular basis or event based.

A LLP is required to file **Form 8 & Form 11** on annual basis. Meetings among the Partners / Management and other requirements are governed by the LLP Agreement

Compliances for Foreign Company

Shops and Establishments Act

A foreign company may be required to obtain registration under the relevant Shops & Establishments Act. Shops & Establishment Act deals mainly with employment related regulations.

Foreign Exchange law

For LO/BO/PO

Annual Activity Certificate : As per the exchange control regulations of India, the India Branch Office/ Liaison Office/ Project Office has to obtain an Annual Activity Certificate ('AAC') from the Auditor to certify that its activities during the year were in consonance with the terms and conditions stipulated by RBI. The AAC so obtained has to be filed before RBI (through AD Bank) Director-General of Income-tax (DGIT) on annual basis.

For corporate entities

Wholly Owned Subsidiary/ Joint Venture company shall file Statement of Assets & Liabilities with Reserve Bank of India annually. In case of any transfer of shares to or from any non-resident person or entity, the same has to be reported to RBI. If any fresh allotment is made to any non-resident entity, then also reporting has to be done to RBI.

How We Can Assist

Our Services

Services	Description
Optimum organization structure-Assessment of Legal Entity Options:	• Discussions with Client to understand the work being done / planned to be done in India and the region. • Understanding Client's organization structure globally. • Assessing and devising the entry level/setting up strategies. Preparing, reviewing, and presenting a report on entry options/strategies. This would include an analysis of various options to set up legal entity and assisting the Client to consider and evaluate various legal entity options from legal, tax and regulatory perspective. Our deliverable consists of a report analyzing the various options available under the present legal and tax laws with recommendation for the most suitable legal entity structure for the Client in India.
Assistance in establishment of the Indian Presence	Once a suitable presence is identified, we assist the Client in legally establishing such presence in India under the applicable laws/regulations. Further, we assist in obtaining tax & other Registrations and opening of bank account in India.
Book-keeping, Assurance & Tax compliance services	• Accounting Services • Assurance & Financial Reportings • Provision/Management of end to end outsource support for compliance management under tax and other applicable laws • Assistance in preparation and filing of Annual/Quarterly/Monthly Returns under Tax Laws: – Income tax – Withholding taxes – Goods & Services Tax (GST)

Our Services

Services	Description
Advisory Services - Strategic, Governance, & Management Advisory to enhance the Clients Profile and Organizational Effectiveness	• Developing the Governing Board and assisting the organisation in designing and implementing a best practice framework for organizational development and governance. • Assistance in developing and implementing organizational policies, systems and procedures aligned to the Clients frameworks and Indian law and regulation. • Assisting the Client in India in designing and implementing a robust, efficient and effective Planning, Budgeting and Reporting systems. • Designing and implementing robust and workable solutions for risk identification and risk management. • Business Development Advisory - Assisting in identification and conversion of business opportunities. • Assisting the Client in developing strategic and operational alliances and in becoming affiliated to/member of key institutions.
Other on-going Legal, Tax and Regulatory Advisory / Representation Services	• Management counsel for providing legal, tax and regulatory advisory services • Drafting, reviewing and assistance in negotiation of contracts, agreements, employment contracts, leases, sub-contract agreements and other documents • Review and modification of organizational policies and procedures • Litigation Management Support • Due diligence on partners/grantees • Review of organizational policies and procedures - Legal Risk Assessment • Contract Management and Compliance Services • Assurance function- Internal (policies, systems and procedures) and external (compliance with tax/legal/regulatory regime). • Need based representation before judicial and quasi judicial authorities and Ministries/Departments of the Government of India/State Governments

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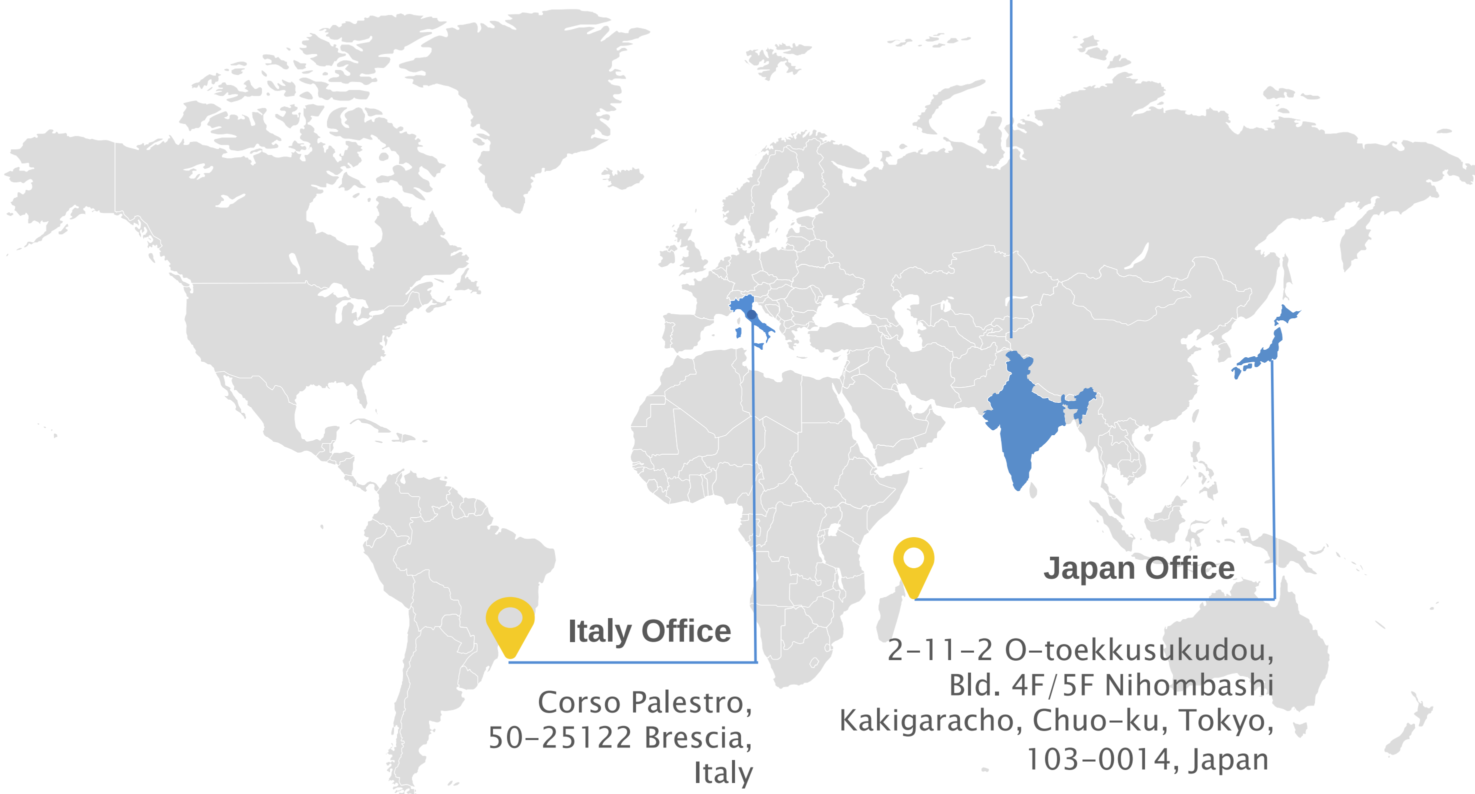

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