

Investing in India?

5 Quick Tips

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A member firm of NIS

PRESENTATION OUTLINE

- **INDIA TOUR**
- **KEY SET-UP ISSUES**
- **ABOUT NIS GROUP & INDIA FIRM**

INDIA TOUR

INDIA TOUR

- The 2nd **most attractive investment destination**
(source UNCTAD World Investment Report 2007)
- Advantage - **low cost of production, large size domestic market**
- **Growth rate expected around 8%**
- Besides the service industry, evolving into a **manufacturing hub**
- Foreign Exchange reserves touched USD 310 bn in May 2008

FDI INFLOW

Top Investing Countries

US\$ Million

Ranks	Country	2005-06	2006-07	2007-08	2008-09	Cumulative
1	MAURITIUS	2,570	6,363	11,096	4,122	29,757
2	U.S.A.	502)	856	1,089	867	5,400
3	SINGAPORE	275)	578	3,073	750	5,107
4	U.K.	266	1,878	1,176	415	4,778
5	NETHERLANDS	76	644	695	286	2,991
6	JAPAN	208	85	815	55	2,181
7	GERMANY	303	120	514	258	1,801
8	CYPRUS	70	58	834	272	1,258
9	FRANCE	18	117	145	251	1,011
10	U.A.E.	49	260	258	154	818
	Total	5,546	15,726	24,579	10,073	72,582

Source – Department of Industrial Policy & Promotion

INDIA TOUR

Understanding Regulatory Compliances

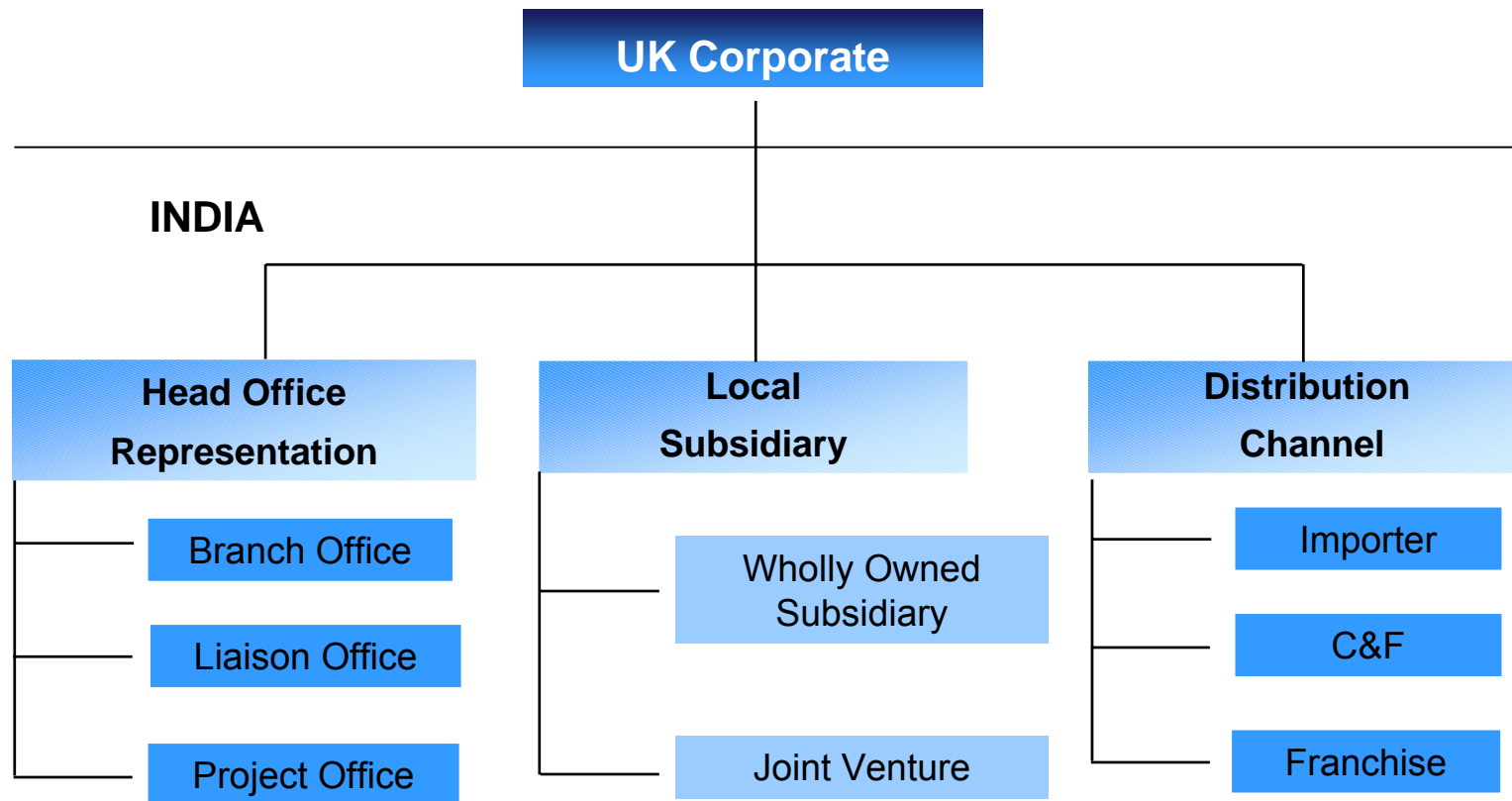
- Most laws originate from British Laws
- Procedure Driven
- Failures to comply usually leads to penalty and sometimes prosecution
- Stacked in favor of labour (*blue collar staff*)
- Fine reading and interpretation is the norm

SETTING UP IN INDIA

3 Useful Tips

INDIA ENTRY

Mode of Investment



INDIA ENTRY

Alternate Entity Comparison

	Corporate [CO]	Liaison Office [LO]	Project Office [PO]	Branch Office [BO]
Characteristics	Share capital owned by parent company	No commercial activities allowed	Temporary site office, specific projects	Commercial activities allowed
Status	Shareholders	Foreign Company	Foreign Company	Foreign Company
Tax Rate	30% +	Non Taxable	40% +	40% +
Control	Board of Directors	Parent Company	Parent Company	Parent Company
Set-up	FIPB Approval / Automatic Route (4-6 weeks)	RBI approval (4 weeks)	RBI approval (4 weeks)	RBI approval (4 weeks)
Closure	ROC (6-9 months)	RBI (3 months)	RBI (3 months)	RBI (3 months)

RBI – Reserve Bank of India

FIPB – Foreign Investment Promotion Board

ROC – Registrar of Companies

INDIA ENTRY

Planning your Joint Venture

(#1)

- How will the joint venture be financed?
- Who will primarily run the joint venture?
- How can I exit the joint venture?
- What happens if there is a fall out with the other party involved?

INDIA ENTRY

Joint Venture – Term Sheet and Shareholder's Agreement

(#1)

Management control issues viz.

- appointment to the board of directors and chairman of the board
- appointment of CEO, MD, CFO
- issues arising from future change of control, non-compete, etc.
- implications of 26, 51 and 75 percent shareholding

Operational issues viz.

- Labour handling
- Government Liaisoning
- Appointing head of sales, manufacturing, etc

CORPORATE SET-UP

Flawed Feasibility Study

(#2)

- **Negative List** - sectors where Foreign Direct Investment is not allowed e.g. betting, lottery business, atomic energy, retail trading (except 'Single Brand' product retailing)
- **Sectoral Caps** – foreign investment in certain industries governed by equity cap e.g. Insurance (26 %)
- A small list of activities is **reserved for the Small Scale Industries (SSI)**



Examine the Negative List, Sectoral caps and SSI reservations while conceptualizing investment into India

CORPORATE SET-UP

Existing Collaboration(s) in India can restrict your entry plans

(#3)

- Do you have an **existing joint venture** with an Indian partner for the very field in which you now intend to set-up business in India?
- Do you have an **existing technology collaboration** with an Indian partner for the same field in which you intend to do business in India?

Press Note 1 (2005 Series)

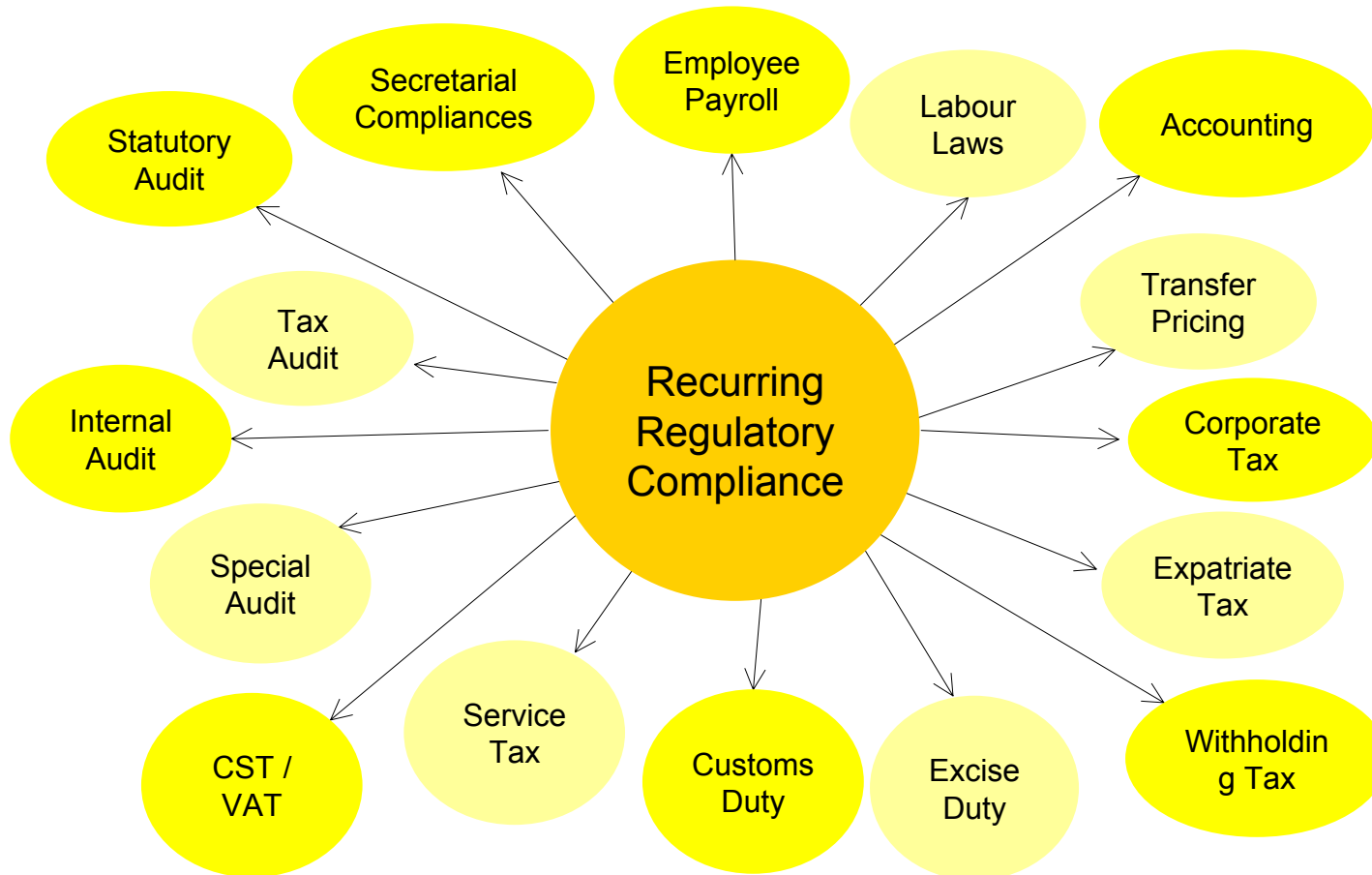
If yes, a 'No Objection Certificate' is mandatory from the existing Indian Partner and prior approval is required from the Foreign Investment Promotion Board of India

RECURRING REGULATORY COMPLIANCES

... And 2 Tips Here

COMPLIANCES

Overview



POST SET-UP – Recurring Compliance

Key Dates

REGULATORY MATTER	DUE DATE
CORPORATE LAW	
Board Meeting	Quarterly (calendar year basis)
Annual General Meeting	Within 180 days of closing the accounts
INCOME TAX	
Corporate Tax Return	September 30 th
Tax Audit Report	September 30 th
Fringe Benefit Tax Return	September 30 th
Transfer Pricing Report	September 30 th
TDS Returns (<i>Tax Withholding</i>)	Quarterly
Employee Tax Return	July 31 st
SERVICE TAX	October 25 th & April 25 th

TRANSFER PRICING

Ensuring that transactions between group companies are at market price? (#4)

- **Arm's Length price ('ALP')**

Any income arising from an international transaction between associated parties to be computed having regard to ALP

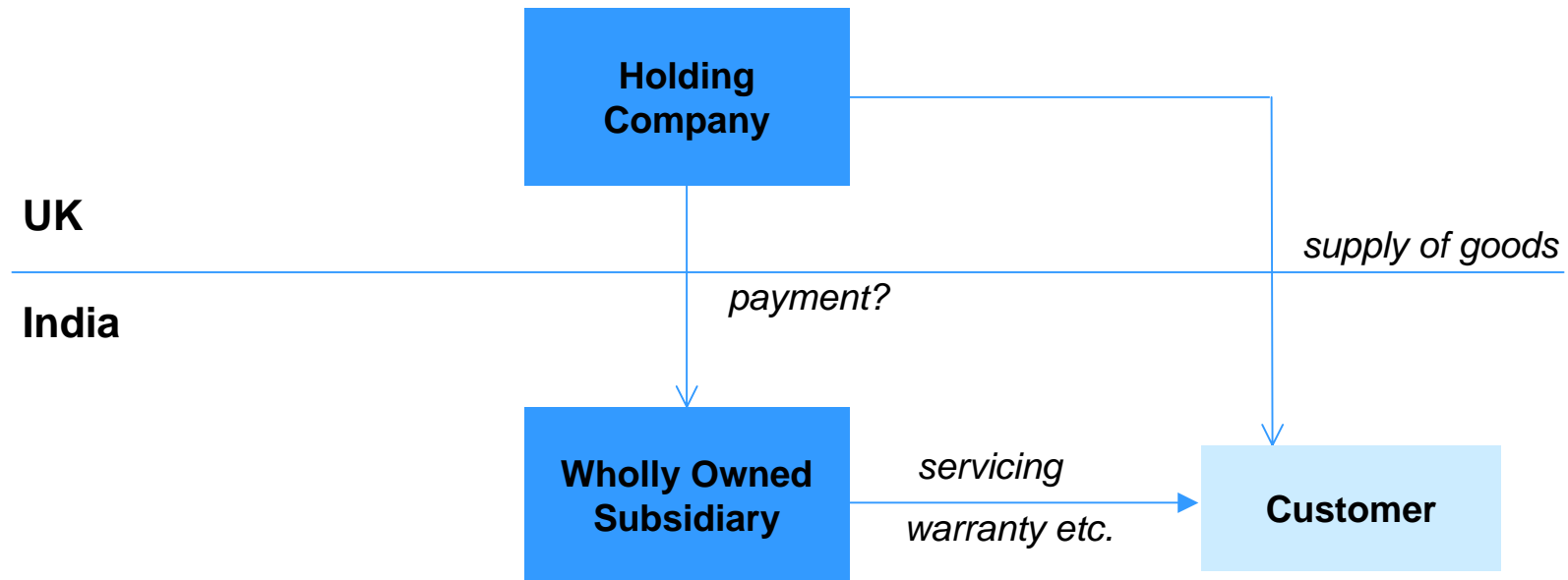
ALP means a price which is applied in a transaction between persons other than associated enterprises

- **Associated Enterprise ('AE')**

Participation in management or control or capital of other enterprise
Directly through intermediaries

TRANSFER PRICING

Determining the appropriate pricing for group companies transactions (#4)



Transfer Pricing Issue –
what should be the profit
margin of the Wholly
Owned Subsidiary?

- Foreign company operating through an agent, branch etc regarded as having a PE in India
- In certain cases, an Indian subsidiary can be classified as a PE

Where work linked to India, India tax office can prove existence of PE, part or entire portion of India linked transactions can be brought to tax in India

Thank you