

Setting up >>
business presence in india

CORPORATE TAX >>

CORPORATE TAX IS PAID BY COMPANIES, BRANCHES AND PROJECT OFFICES OF OVERSEAS COMPANIES ON PROFITS AND OTHER INCOME

COMPANY	RATE (%)
Domestic ¹	
❖ Small enterprise ²	29
❖ Others	30
Foreign	40 ³

¹Surcharge at 7 per cent and 12 per cent where income exceeds ₹10 million and ₹100 million respectively

²Companies with turnover not exceeding ₹500 million in the immediately preceding financial year

³Surcharge at 2 per cent and 5 per cent where income exceeds ₹10 million and ₹100 million respectively

CORPORATE TAX

Businesses need to determine their annual tax payment and ensure deposit under an installment plan referred as Advance Tax by June 15th (15%), September 15th (45%), December 15th (75%) and March 15th (100%).

TRANSFER PRICING

Businesses having cross border dealing with related concerns fall within the ambit of Indian Transfer Pricing regulations, which requires maintenance of prescribed documentation and certification by an Indian firm of chartered accountants.

DOUBLE TAXATION AVOIDANCE AGREEMENT ('DTAA')

India has a network of DTAA with over 117 countries.

WITHHOLDING TAX

Businesses, including Liaison Office, need to withhold tax on specified payments viz. contractual, professional, rental, etc.

TAX AUDIT

Businesses with annual turnover exceeding INR 10 million (**USD 153,000 approx**) need to have accounts audited under specific provisions of the Indian income tax laws and certified by an Indian firm of chartered accountants.

PAYROLL TAX >>

EMPLOYER NEED TO WITHHOLD TAXES ON EMPLOYEE EARNINGS

RATES FOR FY 2018-2019	
Income Range (₹)	Rate (%)
Upto 250,000 ¹	Nil
250,001 – 500,000	5
500,001 – 1,000,000	20
1,000,001 and above ²	30

¹Exemption limit for senior and very senior citizens remains at ₹300,000 and ₹500,000 respectively

²Surcharge remains at 15 per cent on income exceeding ₹10 million

Surcharge introduced at 10 per cent on income > ₹5 million

(1 USD = 65 INR)

INDIRECT TAX >>

An employer is required to contribute and comply with a social security tax namely Provident Fund. There is also an Employee State Insurance cost. Both of these primarily focus on blue collared staff. Foreign nationals deputed to work in India will be taxed on the basis of tax residential status, which is linked to the number of days stayed in India. An employment/business visa is necessary, as is registration with the Foreigners Regional Registration Officer ('FRRO'). There are certain state specific regulations e.g. Professional Tax and Shop and Establishment Act, which prevail in Indian states like Karnataka, Maharashtra, Haryana, Tamil Nadu etc.

TAX ON GOODS AND SERVICES

Goods & Service Tax is an indirect tax, applicable throughout India, which replaced multiple cascading taxes levied by Central and State Government. GST is applicable from July 1, 2017 with taxes being 0%, 5%, 12%, 18% and 28%.

COMPANIES & LLP

Two main forms - Private Limited ('PVT') and Public Limited ('LTD'). PVT is the most common form for an international subsidiary. Entrepreneurs and professionals intending to organise a formal structure with defined limited exposure also prefer Limited Liability Partnership ('LLP').

Audited accounts are filed annually, on public record, with the Registrar of Companies ('RoC'), in a format set out under the Indian law and Indian Accounting Standards, within a set time scale. Companies also file an Annual Return which gives detail of shareholders and directors. Businesses are required to follow fiscal year i.e. April 1st to March 31st, for compliance under the Indian Income tax laws.

REGULATORY MATTER	DUE DATE
Corporate Law	
Board Meeting	Four meetings every year with a gap not exceeding 120 days between two such meetings
Annual General Meeting ('AGM') (adoption of financials)	Within 180 days of end of the financial year
Annual Return with the ROC	Within 60 days from the date of AGM
Tax	
Corporate Tax Return	September 30th & November 30th*
Tax Audit Report	September 30th & November 30th*
Transfer Pricing Report	November 30th
TDS Returns (Tax Withholding)	Quarterly
Individual tax return	July 31st
GST Return • GSTR 3B • GSTR 1 - Turnover > ₹ 15 million - Turnover ≤ ₹ 15 million	Monthly** Monthly** Quarterly/Monthly**
Compliance	
Deposit of TDS	7th of every month
Deposit of GST	20th of every month

* In case where the transfer pricing report is required

** As notified till date

Filing of GSTR 2 and GSTR 3 yet to be notified

REGULATORY COMPLIANCE >>

Restricted Sectors (FDI disallowed)

<ul style="list-style-type: none">♦ Gambling and Betting♦ Lottery Business♦ Chit funds♦ Nidhi Company♦ Trading in Transferable Development Rights (TDRs)	<ul style="list-style-type: none">♦ Real Estate Business or construction of farm house♦ Manufacture of cigars, cigarettes etc.♦ Railways♦ Atomic Energy♦ Activities/sectors not open to private sector investment
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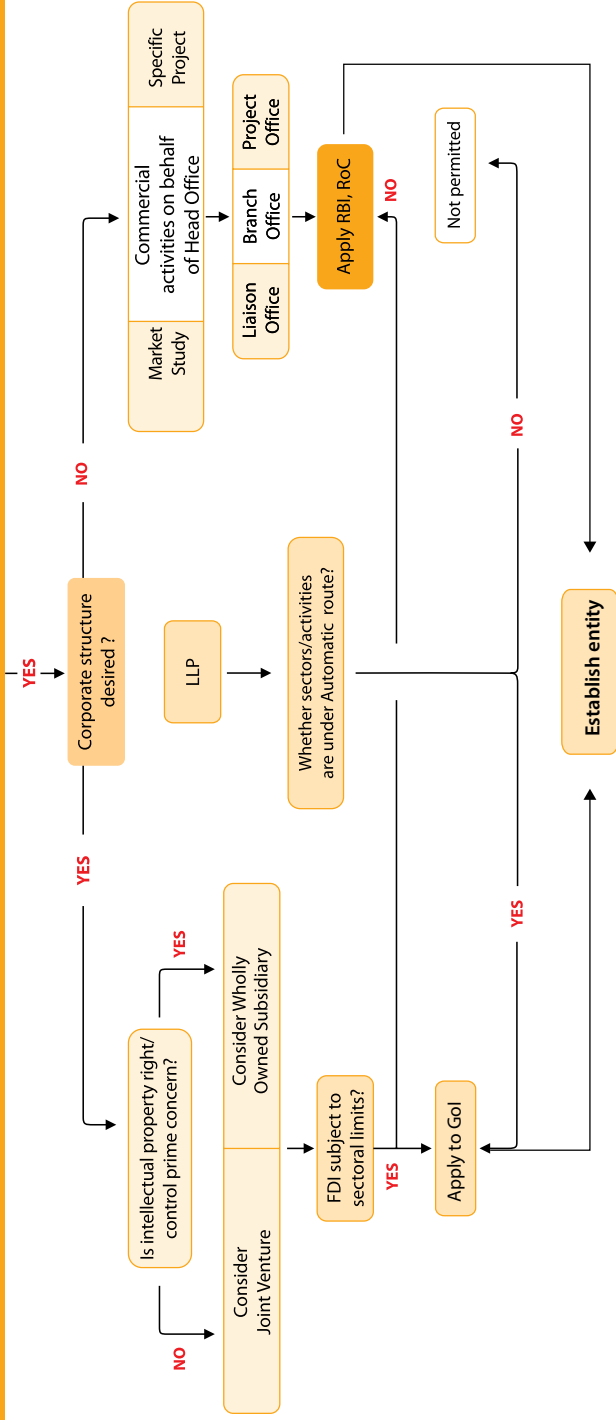
Sectoral Caps on FDI in certain industries (illustrative list)

<ul style="list-style-type: none">♦ Defence Production (100%) Govt approval needed beyond 49%♦ Insurance (49%)♦ Telecommunication (100%)♦ Civil Aviation - Foreign Airlines (49%)♦ Agriculture (100%)	<ul style="list-style-type: none">♦ Single brand retail trading (100%)♦ Multi brand retail trading (51%)♦ Print Media (26%) i.e. publishing of newspapers and magazines dealing with news and current affairs
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- **In case of a LTD company, where paid up capital exceeds INR 100 million (USD 1,600,000 approx)**
Appointment of a Key Managerial Personnel (i) Managing Director, or Chief Executive Officer or manager and in their absence, a whole-time director; (ii) Company secretary; and (iii) Chief Financial Officer) mandatory
- **In case paid up capital exceeds INR 50,000,000 (USD 770,000 approx)** Company Secretary Appointment
- **Labour laws**
 - Restrictions on hours worked by employees - 48 hours per week maximum
 - Registration under ESI is mandatory in case number of employees are 10 or more
 - Number of Indian employees which triggers the employer's obligation to register under provident fund scheme & bonus act is **20** or more
 - Minimum **8.33%** of basic wage to be paid as bonus, in case employee is drawing wages upto INR 21,000
- **On retrenchment / lay off / closure**
Compensation is provided to employee as per terms of employment, applicable labour laws and local regulations

INDIA ENTRY STRATEGY >>

SET UP BUSINESS IN INDIA



INDIA SUBSIDIARY... >>

OR BRANCH OFFICE OR...

	WHOLLY OWNED SUBSIDIARY	JOINT VENTURE COMPANY	LIAISON OFFICE	PROJECT OFFICE	BRANCH OFFICE	Limited Liability partnership
Characteristic	Company with entire share capital owned by the foreign investor	Company where two or more parties jointly hold the share capital	Representative office with no right to undertake commercial activities in India	Temporary site office for specific project only	Commercial activities on behalf of the Head Office	Corporate structure with benefits of Limited Liability & flexibility of partnership
Ownership	Foreign company directly or through holding company structures	Joint ownership with other partners	Is part of overseas company	Is part of overseas company	Is part of overseas company	Foreign owned LLP are permitted with prior government approval
Control	Controlled by its Board of Directors	Joint Control determined as per shareholders agreement	Controlled by Parent	Controlled by Parent	Controlled by Parent	Controlled by Partners
Corporate Liability	Parent not generally liable. Liability is limited to share capital of subsidiary unless Permanent Establishment is determined	Liability of investors limited to share holding	Parent is fully liable	Parent is fully liable	Parent is fully liable	Liability of each Partner is limited to agreed contribution
Set-up Requirements	Prior Approval/ automatic route	Prior Approval/ automatic route	Prior Approval from RBI / AD Bank	Automatic route/ Prior approval from RBI / AD Bank	Prior Approval from RBI / AD Bank	Approval / Automatic Route
	Indian Office Address					
	Appoint Directors (1 director to be resident in India)		Intimate RoC		LLP Agreement	
	Filing of incorporation documents				Filling of incorporation documents	
	Issue shares to parent	Issue of fresh shares			2 Persons nominated (1 partner to be resident in India)	
On-going legal obligations	Maintain books of accounts & secretarial records		Maintain books of accounts		Maintain books of accounts	
	Register changes to constitution/ directors/ shareholders					
	Annual Audit					
	Annual Return to RoC, I-T		Annual Return to Roc, I-T and Police			Annual Return to RoC, I-T
	Not required		Annual accounts of parent company			Not required
Closure	Application to RoC & NCLT		Application to RBI, ROC & I-T			Application to RoC & NCLT
Repatriation of money	After NCLT order		After RBI permission subject to tax clearance			After NCLT order

* NCLT - National Company Law Tribunal | * RBI - Reserve Bank of India | * I-T - Income Tax Authorities
 * RoC - Registrar of Companies
 * AD Bank - Authorised Dealer Bank

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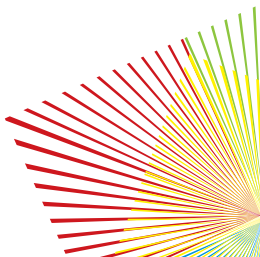
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National Affiliates

Chandigarh, Jaipur, Jammu, Kolkata, Lucknow, Ludhiana, Pune

International Affiliates

Australia, Austria, Belgium, Canada, China, Denmark, Egypt, France, Finland, Germany, Hongkong, Hungary, Indonesia, Ireland, Israel, Italy, Japan, Luxembourg, Malaysia, Mauritius, Myanmar, Netherlands, Norway, Philippines, Poland, Portugal, Russia, South Korea, Singapore, Slovenia, Spain, Switzerland, Sweden, Thailand, Turkey, UAE, UK, USA, Vietnam

* This document has been prepared as a service to the clients. We recommend that you seek professional advice prior to initiating action on specific issues.