

ASA & ASSOCIATES LLP
CHARTERED ACCOUNTANTS



Setting up >>
business presence in india

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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 | 29 ² |
| ❖ 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 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 153,845 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 2016-2017 | |
|----------------------------------|----------|
| 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 | Monthly (10/15/20) |
| Compliance | |
| Deposit of TDS | 7th of every month |
| Deposit of GST | 20th of every month |

* In case where the transfer pricing report is required

**

5th – deposited manually

6th – deposited electronically

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 |
|--|---|

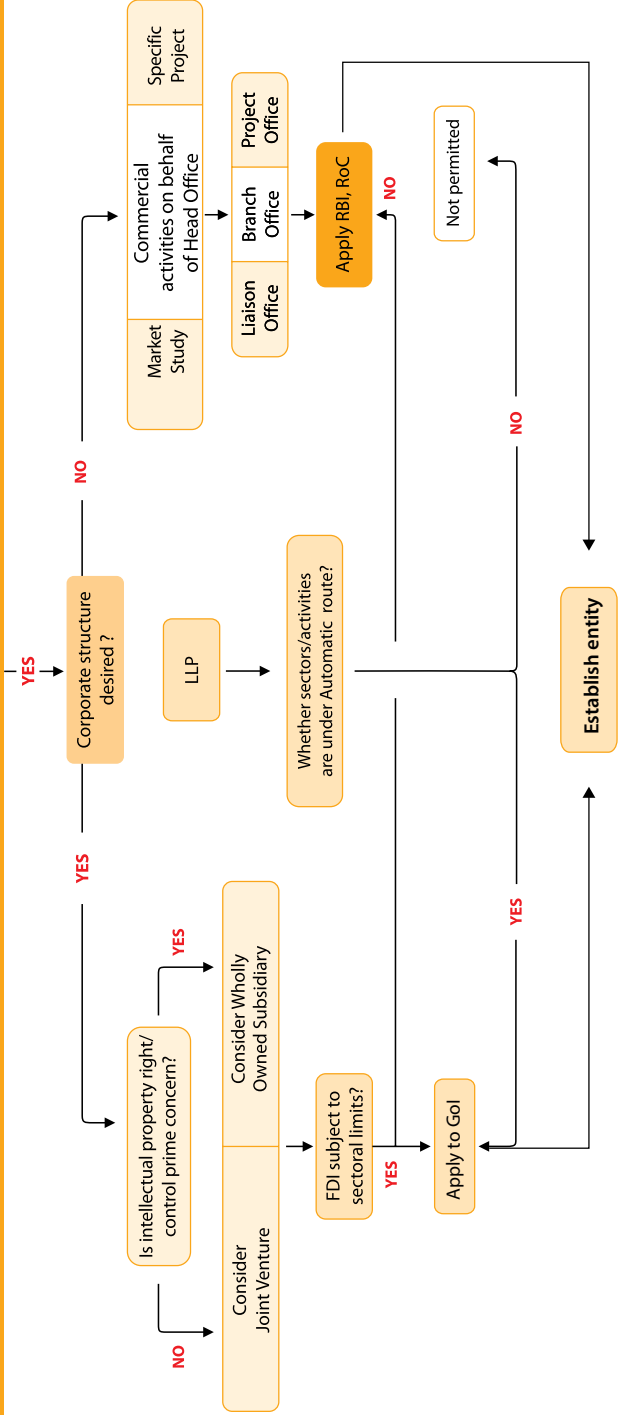
Sectoral Caps on FDI in certain industries (illustrative list)

| | |
|--|--|
| <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 |
|--|--|

- **In case of a LTD company, where paid up capital exceeds INR 10 crore (USD 153,845)**
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 769,230 apx.)**
Company Secretary Appointment
- **Labour laws**
 - Restrictions on hours worked by employees 48 hours per week maximum
Number of Indian employees which triggers employer obligation to provide employees state insurance (manufacturing units)10
 - Number of Indian employees which triggers employer obligation under provident fund scheme, bonus act **20**
 - Minimum bonus to be paid to an employee drawing INR 10,000 or less **8.33%** of basic wage
- **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 | | | | Filing 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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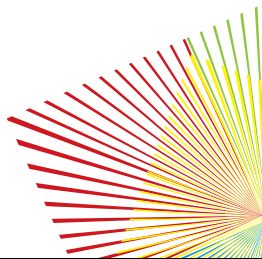
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International Affiliates

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.

