Doing business in India
2016

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Contents

Introduction

This guide to doing business in India will provide foreign investors with an insight into the key aspects of undertaking business and investing in India. The country's increasingly liberal market, robust growth trajectory and a strong regulatory and legal system make it especially attractive for overseas investors.

Since the government initiated the liberalisation programme in 1991, India has developed from a closed-door economy to an open one. Consequently, the country's economy has grown rapidly; in 2015, it surpassed China to become the fastest growing large economy in the world, as well being the third largest in terms of Purchasing Power Parity (PPP), according to the World Bank's estimates.

Political stability and an open foreign investment policy have made India a prime region for foreign investment, especially in the services, telecommunication, construction activities and computer software and hardware sectors. According to the United Nations Conference on Trade and Development (UNCTAD) World Investment Prospects Survey 2014 - 16, India is the fourth most attractive destination for foreign direct investment (FDI). Alongside foreign investment, India's economy is being driven by increasing domestic demand from a young population and a growing middle class.

India's economy is incredibly diverse, comprising traditional village farming, modern agriculture, handicrafts, a wide range of modern industries and a multitude of services. India has also capitalised on its large educated English-speaking workforce to become a prime exporter of information technology services, business outsourcing services and human resource for software services.

The new government, led by Prime Minister Narendra Modi, came into power in May 2014 and announced two important decisions that were aimed at infusing fresh confidence among potential foreign investors. It has notified new relaxed regulations for FDI in the Indian Railways to modernise and expand the railway infrastructure. The government also increased the FDI cap in the defence sector from 26 per cent to 49 per cent.

Alongside a number of other government incentives for investment in industries such as manufacturing and infrastructure, India offers the following competitive advantages for investors:

- One of the largest consumer markets in the world
- Abundant skilled manpower, highly efficient professional managers and competent professionals in several other fields whose services are available at reasonable costs
- The world's largest youth population [1]
- Government agencies, with a pro-business attitude, who work closely with the business sector to promote economic growth
- An extensive trade network comprising a number of regional and bilateral free trade agreements
- A very competitive tax regime and comprehensive network of tax treaties
- A well regulated financial system that offers a broad range of services. Businesses can also tap into its developed capital markets as an alternative source of financing
- A robust and efficient legal and judicial system

While this guide makes reference to some of the most common issues investors might face, it must be noted that certain industries, such as the financial services sector, are subject to special regulation and therefore companies wishing to invest in this area should seek legal advice.

The information in this publication is current at January 2016.

[1] Concise Report on the World Population Situation in 2014, United Nations

Country profile

Capital City	New Delhi
Area	3,300,000 sq. km
Population	1,252,000,000 (approximately)
Language	Hindi (official language), English is also widely used
Currency	Indian Rupee (INR)
International dialling code	+91
National Holidays 2016	26 January – Republic Day* 7 March – Mahashivratri 24 March – Holi 25 March – Good Friday 15 April – Rama Navami 20 April – Mahavir Jayanti 21 May – Buddha Purnima 6 July – Eid al-Fitr 15 August – Independence Day* 18 August – Rakshabandhan 25 August – Krishna Janmashtami 12 September – Eid al-Adha 2 October – Mahatma Gandhi's Birthday* 11 October – Dussehra 12 October – Murharram 30 October – Diwali 25 November – Guru Nanak Jayanti 13 December – Milad un Nabi or Eid 25 December – Christmas Day ** National holidays*
Business and Banking hours	Business hours: 09:00 to 18:00 Bank hours: 10:00 to 17:00
Stock exchanges	National Stock Exchange (NSE) Bombay Stock Exchange (BSE)
Political structure	Parliamentary democracy
Doing Business rank 2016	130

Ease of Doing Business

Topics	2016 rank	2015 rank	Change in rank
Starting a business	155	164	9
Licenses and Permits	183	184	1
Getting Electricity	70	99	29
Registering property	138	138	No change
Financing	42	36	-6
Protecting Investors	8	8	No change
Paying Taxes	157	156	-1
Trading Across Borders	133	133	No change
Enforcing Contracts	178	178	No change
Resolving Insolvency	136	136	No change

Source: World Bank Group (Doing Business)

Legal overview

Political and legal system

India is a secular state and the largest multi-party democracy in the world. The Federal Constitution established the Union Government in 1950 and it has three distinct branches: the legislative, the executive and the judiciary. The legislative branch is divided into two houses: Council of States 'Rajya Sabha' and People's Assembly 'Lok Sabha'. The primary function of the Parliament is to pass laws regarding matters of the Constitution.

The country is a union of 29 states and seven union territories, each overseen by governments made up of elected representatives of the public. The central and state governments comprise a Council of Ministers headed by a Prime Minister and a Chief Minister, respectively. The Prime Minister or the Chief Minister is usually the head of the party, which holds the support of the majority members in the Parliament and the State Assembly respectively. Elections are usually held for the states, union territories and the centre once every five years.

The Central Government is based in the National Capital Territory of New Delhi and has exclusive jurisdiction over all matters of national interest such as defence, communication, banking and currency, international trade and foreign affairs. The state governments have primary responsibility for matters such as law and order, education, health and agriculture.

India combines features of both federal and unitary constitutions whereby laws can be enacted by both central and state legislatures. Since India's economic liberalisation process began in 1991, governments have enacted various regulations to remove bureaucratic, legal and other structural obstructions in order to attract both local and foreign investment.

India has a well-established, independent and non-partisan judicial system. The Supreme Court of India is based in New Delhi and is the highest court of appeal. The High Courts are based in the respective state capitals, along with subsidiary District Courts. All these courts collectively enforce the rule of law and safeguard the fundamental rights of citizens which are guaranteed by the Constitution.

India's legal framework is mainly adopted from English law, which continues to have a significant influence. Based on the principles of equality and secularism, Indian laws are aimed at the protection and promotion of business entities, healthy industrial and social environment and labour protection. The official language for court proceedings in the High Court and the Supreme Court is English.

The procedural law of the land and most of the commercial and corporate laws are modelled on English legislation. Furthermore, English case law continues to be referred to in Indian court proceedings. The laws governing the business environment can be categorised into: labour laws, corporate laws and other allied laws, such as those related to taxation and foreign exchange management.

Data protection

There is no specific legislation on data protection in India. Provisions for data protection can instead be found in privacy rights under the Constitution, the Information Technology Act 2000 and the Information Technology Rules 2011

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(IT Rules). There are also a number of sector-specific regulations, eg for banks, that state that businesses must maintain the confidentiality of personal data.

The IT rules apply to all individuals or businesses located in India and cover the handling of the following categories of sensitive personal data: passwords, financial information, physical, physiological and mental health conditions, sexual orientation, medical records and biometric information. The IT rules do not apply to foreign corporations or persons located outside of India, or information that is collected from persons located outside of India. The key obligations and processing requirements are as follows:

Privacy policy
Data controllers and processors must produce a privacy policy for the handling of personal information and sensitive personal information. This must be made available on the website of the data controller and include stipulated pieces of information as set out by the IT Rules.

Collection of information
Data controllers must first obtain the consent of the data subject before collecting any sensitive personal information; consent must be explicit and not implied. Information obtained from a data subject must be collected for a lawful purpose and necessary for that purpose. This information must not be kept longer than necessary to serve such purpose.

Disclosure
The consent of a data subject must be obtained before the data controller can disclose any sensitive personal information; exceptions exist where prior consent has been given or if it is necessary for compliance with legal action. Data controllers can only transfer data if it is necessary for the fulfilment of a lawful contract.

Security requirements
The IT Rules impose a number of security requirements on data controllers/processors; the security controls must comprise sufficient managerial, technical, operational and physical security control measures that are commensurate with the information assets being protected within the nature of the business.

Sanctions
Any businesses or individuals that fail to effectively implement and maintain reasonable security practices to protect sensitive personal information will be liable to pay damages to the affected persons. They may also be liable for a fine of up to INR500,000 or imprisonment of up to three years where there is unlawful disclosure of personal information.

The government has proposed to enact a new Privacy Bill which, once enacted, will override the provisions outlined in the Information Technology legislation. This legislation recognises an individual's right to privacy and stipulates that it cannot be infringed unless one of the following circumstances applies: protection of India's sovereignty or integrity, national security, prevention of commission of crime or public order. The Bill also contains provisions for the definition of personal and sensitive personal data, the need to inform consumers before collecting data and any penalties that will be applied to non-compliance.

In India, there is no national regulatory authority for the protection of data; consequently, there is no requirement for businesses to register or provide notice prior to processing data.

Exchange controls
The Foreign Exchange Management Act 1999 (FEMA) replaced the Foreign Exchange Regulation Act 1973 with a primary objective of facilitating external trade and payments and for promoting orderly development and maintenance of the foreign exchange market in India.

FEMA outlines the following provisions in respect of foreign exchange transactions:

- Current account transactions: Indian rupees are fully convertible for trade and current account purposes. Foreign currency can also be freely purchased; there are certain specified restrictions where the Reserve Bank of India's permission is required
- Capital account transactions: typically not permitted unless they are specifically allowed or prescribed conditions are satisfied

The exchange rate of the rupee is mostly market determined. The exchange rate management policy of the government focuses on smoothening excessive volatilities on the exchange rate with no fixed target, while allowing the underlying demand and supply conditions to determine the exchange rate movements over a period in an orderly manner. To this end, the Reserve Bank of India closely monitors the developments in the financial markets at home and abroad and carefully coordinates its market operations with suitable monetary and regulatory measures.

Money laundering regulations

India has criminalised money laundering under the Prevention of Money Laundering Act 2002 and the Narcotic Drugs and Psychotropic Substances Act. India is also a member of the Financial Action Task Force on Money Laundering (FATF).

The Prevention of Money Laundering Act defines money laundering as the act of attempting to indulge or assist another person, or being actually involved, in any activity connected with the proceeds of crime and projecting it as untainted property.

The Act prescribes an obligation on banking companies, financial institutions and intermediaries for the verification and maintenance of records of the identity of all clients and all transactions; information on such transactions must be provided to the Financial Intelligence Unit-India (FIU-IND) in the prescribed form.

These companies must also furnish details of suspicious transactions, whether or not made in cash, to the relevant regulator. Suspicious transactions comprise any transactions that: give rise to a reasonable ground of suspicion that it may be involved in the proceeds of crime, appear to have been made in circumstances of unusual or unjustified complexity, or appear to have no economic rationale or bona fide purpose.

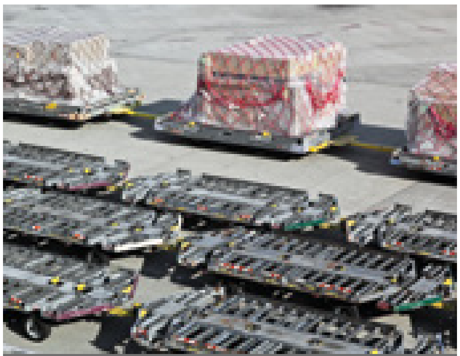
Competent authorities, as designated by the Government of India, can provisionally seize property believed to be 'proceeds of crime' for up to 180 days. This must be confirmed by an independent Adjudicating Authority.

Any person found guilty of money laundering is liable to a prison sentence of three to seven years and/or a fine of up to INR500,000. The Financial Intelligence Unit is the authority responsible for receiving, processing, analysing and disseminating information relating to suspect financial transactions.

Intellectual Property Rights

As a member of the World Trade Organisation, India recognises the importance of protecting intellectual property rights (IPR) within its legal framework. India is also a signatory to the following international IP agreements: the Paris Convention, the Berne Convention and the Patent Cooperation Treaty.

The Office of the Controller General of Patents, Designs and Trade Marks (CGPDTM) is responsible for the supervision of the working of the Patents Act, the Designs Act and the Trade Marks Act. Furthermore, the Copyright Office is responsible for the supervision of the Copyright Act.



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COPYRIGHT	
Copyright can protect: literary work, dramatic works, musical works, artistic works, layouts and typographical arrangements, recordings and broadcasts. Copyright works receive statutory protection automatically once they are placed in the public domain.	
Protection granted	Copyright arises upon the creation or performance of any work that is capable of being copyrighted. Copyright provides the copyright owner an exclusive right to control the reproduction, communication, performance and distribution of any copyrighted work in India. As India is a signatory of the Berne Convention for the Protection of Literary and Artistic Works, any copyrights arising in India will provide the owner the same rights in all applicable countries. While registration is not necessary, it helps to prove ownership should any criminal proceedings arise against infringers. Registration can be made, in person or via a representative, through the Registrar of Copyrights.
Infringements	In the case of infringements, whereby a person reproduces, distributes, displays or performs the protected work, without a license to do so, the owner of a patent can initiate court proceedings. A court may then order the payment of damages, permanent injunctions, accounts of undue and illegal profits earned through infringement, seizure of infringing goods or orders for the destruction of infringing materials. Infringement is punishable with imprisonment of between six months to three years or a fine of between INR50,000 and INR200,000.
Duration	Protection for literary, musical or artistic work lasts for the life of the author plus 60 years. Protection for anonymous, pseudonymous and posthumous works lasts for 60 years from the beginning of the calendar year following the year in which it was first published. Protection for films, sound recordings, performances etc, lasts for 60 years from the beginning of the calendar year after which it was first published or performed.

PATENTS	
Patents protect inventions which can be applied in an industrial environment. For a patent to be granted, the invention must be new and not disclosed anywhere in the world, have an inventive step which is not obvious to someone with experience in the subject and capable of being used in some kind of industry. It cannot fall under any excluded categories such as scientific theories and mathematical models.	
Protection granted	A patent gives its owner the ability to take legal action to stop others from: making a product or using a process which is the subject-matter of the patent, selling anything incorporating the subject-matter of the patent or inducing third parties into any of the above, without the inventor's permission. Patent applications must be submitted to the Patent Office or its branch offices. India's patent law operates under the 'first to file' principle – that is, if two people apply for a patent on an identical invention, the first one to file the application will be awarded the patent.
Infringement	Infringing a patent means manufacturing, using, selling or importing patented products or processes without the owners' permission. In the case of an infringement, the owner of a patent can initiate court proceedings against any person who infringes the patent. They may then receive damages, an account of profits, an injunction or any other applicable remedies.
Duration	Patents are valid for 20 years from the date of filing an application, subject to an annual renewal fee.

TRADE MARKS	
A trade mark must be a sign that is capable of both graphical representation and distinguishing the goods or services of one undertaking from another. Trade names also constitute a form of trade mark in India, with protection granted irrespective of existing trade names, for those wishing to trade under their own surname.	
Protection granted	Registering a trade mark with the Registrar of Trade Marks confers exclusive rights to use the trade mark and the right to take action against unauthorised users of the trade mark. Registration takes up to two years. India also provides rights for an unregistered mark. By using a trade mark, the proprietor obtains valuable goodwill which can be protected on a common law basis by a passing off action.
Infringement	Infringing a trademark comprises the use of an identical or similar trade mark for identical or similar goods and services, creating a likelihood of confusion for the public. Furthermore, where a mark has a reputation, infringement may arise from the use of the same or a similar mark which damages or takes unfair advantage of the registered mark. In the case of an infringement, the owner of a trade mark can instigate court proceedings against the infringer. They may then receive damages, an account of profits, an order for delivery and destruction of infringing goods, an injunction or any other applicable remedies.
Duration	10 years (registration can be renewed for further periods of 10 years, subject to the payment of renewal fees).

DESIGNS	
An industrial design, the external appearance of a product embodied in three dimensional configurations, lines, colours or a combination of the aforementioned elements, can be protected if it is applied to an article, new and clearly distinguishable from known designs.	
Protection granted	Registering a design gives the owner a property right over the design. Holding a design right provides the owner the exclusive right to: • Make, import or sell any article to which the design has been applied • Assign, transfer or license the right to the design • Prevent third parties from using the design without permission Registration must be made under the Designs Act to the Controller of Designs.
Infringement	A design right is infringed by an unauthorised person making an article exactly or substantially similar to the protected design or by making a design document for the purpose of making unauthorised copies. Remedies that may be available for infringement include damages or statutory damages recoverable as contract debt or injunctions.
Duration	Once obtained, a design right is protected for a period of 10 years from the date of filing of the application. It can then be extended for five years from the expiry of original period.

Conducting business in India

Any foreign investor wishing to conduct business in India can choose one of the following forms:

- Limited company (public, private or one person)
- Limited Liability Partnership firms (LLP)
- Partnership firms
- Liaison office
- Branch office
- Project office

Companies incorporated in India are regulated by the Companies Act 2013 of India.

The most common business form for foreign investors has been the Limited Liability Company (LLC), which can be public or private. Generally, private LLCs are most popular as they provide greater operational freedom and less stringent regulatory requirements.

Company

Under the present policy, all companies in India have to be incorporated under the Companies Act 2013. Any company incorporated in India is treated as an Indian resident for all Indian regulations.

Formation

A company can be incorporated as a private company, a public company or a one person company. Private companies cannot issue an invitation to the public to subscribe for shares or debentures of the company. Private companies can have between two and 200 shareholders but must have a minimum of two directors out of which at least one has to be an Indian-resident director. Public companies must have a minimum of seven shareholders and a minimum of three directors out of which at least one has to be a resident director. A one person company is a legal entity with only one member who is an Indian citizen and resident in India.

To incorporate a company, an identification number and a digital signature for each proposed director must be obtained. The promoters/ applicant of the company must then apply to the Registrar of Companies for the availability of the proposed name.

After obtaining approval, the Memorandum and Articles of Association of the proposed company are filed with the Registrar of Companies for registration, not more than 60 days following the name approval. A fee must be paid when submitting these documents; the size of the fee depends on the authorised share capital of the company. On registration, a Certificate of Incorporation is issued which is conclusive evidence of the company having been incorporated.

Subsequent to receiving the Certificate of Incorporation, public limited companies have to obtain a certificate of commencement of business. Consequently, a public limited company cannot commence business until the amount of subscription stated in the Memorandum and Articles of Association has been received by the company.

The costs associated with incorporation of a company comprise the cost of drafting and printing of the Memorandum and Articles of Association, stamp duty, registration and filing fees, in addition to professional fees of advisors who assist in the process. With the introduction of mandatory e-filing procedures, it usually takes four to six weeks to incorporate a company in India.

Capital requirement

There are no minimum capital requirements for companies in India.

Constitution

The Memorandum and Articles of Association must be submitted to the Registrar of Companies upon the registration of a company.

The Memorandum of Association will include:

- The company's name
- Location of the company's registered office
- Object clauses
- Liability of the members if the company is limited
- The amount of authorised capital that has been registered with the Registrar of Companies

The Articles of Association will generally comprise an outline of the rules and regulations that will govern the internal management of the affairs of a company and the conduct of its business.

Management structure

In India, a company is managed by the Board of Directors. Except where a transaction requires approval from the Board of Directors under the Companies Act, management powers may be conferred to any director or managing director. There is a requirement for every company now to have an Indian resident director.

Indian company law stipulates that a full time company secretary must be appointed, where the paid up capital of a company exceeds the prescribed limit, (presently INR50 million).

Filing requirements

Every company established in India must comply with the reporting

provisions found in the Companies Act 2013 of India. This includes filing annual returns, audited accounts, tax returns and board and shareholder resolutions. Furthermore, any companies receiving foreign investment must report the details of this (inward remittance as well as allotment of shares to the foreign investor) to the Reserve Bank of India. Companies whose securities are listed on a stock exchange in India have additional periodic disclosure obligations; these are in line with their listing agreements with the relevant stock exchange.

Limited Liability Partnership

A limited liability partnership entity is a hybrid form of business, comprising the features of a company, such as being a separate legal entity having perpetual succession, with the benefits of organisational flexibility associated with a partnership.

Foreign investors can invest in an LLP with the prior approval of the government in sectors where 100 per cent foreign direct investment is allowed.

An LLP is not subject to the mandatory requirements applicable to a company with regards to the provision of depreciation.

Formation

To set up an LLP, at least two partners are required, with at least two partners promoted as designated partners. At least one of the designated partners should be a resident of India. Where one of the partners is a company, the corporation must nominate an individual to act as a designated partner. The partners enjoy limited liability up to their agreed contribution. Identification numbers for all proposed directors and the digital signature for all the designation partners must be obtained. Following this, an online application for incorporation must be submitted no later than 60 days following the name approval. This must be submitted alongside: proof of address of the registered office of the LLP, details of the individual partners, total monetary value of the contribution in the LLP by all partners and the LLP agreement.

Following the approval of incorporation, the LLP agreement, as signed by all partners on all pages, and a notice of appointment of the designated partners should be submitted within 30 days. The fee for incorporation depends on the contribution in the LLP.

Filing requirements

An LLP is obliged to maintain annual accounts reflecting a true and fair view of its state of affairs. A statement of accounts and solvency must be filed by every LLP with the Registrar of Companies every year. The accounts of LLPs shall also be audited, subject to any class of LLPs being exempted from this requirement by the central government.

Partnership firms

A partnership is an association of two or more natural persons for the purpose of undertaking a business activity for profit. Each partner of a partnership has unlimited liability.

Under the present FDI policy of the Government of India, and the Foreign Exchange Management Act (FEMA), foreign investment in partnership firms is not permitted, with the exception of investment by non-resident Indian (NRI) individuals or Personas of Indian Origin (PIO), which is allowed on a non-repatriation basis.

Branch office

A branch office (BO) may be established in India with the primary aims of increasing the foreign company's customer base, bringing the company's product closer to the customers or making the distribution and marketing of its goods and services easier and more effective.

The RBI does not permit a BO to undertake any manufacturing activity in India unless the BO is located within a Special Economic Zone (SEZ). The range of activities to be undertaken by a BO is also very restricted and permission has to be obtained from the RBI each time any new activity is to be undertaken. Branch offices can be set up to undertake the following activities:

- Export/import of goods
- Rendering professional or consultancy services
- Carrying out research work in which the parent company is engaged
- Promoting technical or financial collaborations between Indian companies and a parent or overseas group company
- Representing the parent company in India and acting as a 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

A foreign company that wishes to set up a branch office in India must obtain prior approval from the RBI. The foreign company must submit an application, in a prescribed form (Form FNC), to the designated AD category 1 bank for onward transmission to the RBI. This must provide details about the foreign company, proposed interests and activities in India, reasons for wanting to open a branch office and any foreign exchange implications for such matters. Applications are considered on a case-to-case basis, with permission usually granted in two to four weeks.

Form FNC must be supplied with the following documents, which should be notarised in the country of registration and attested by the Indian embassy:

- Memorandum and Articles of Association
- Bankers' report from the applicant's banker in the host country of registration showing the number of years the applicant has had banking relations with that bank
- Latest audited financial statements
- Copy of Power of Attorney supported by the board resolution to the authorised signatory or the responsible person for the operations of the office in India
- A 'Comfort Letter' if the entity does not fulfil additional criteria of Minimum Track Record and net worth

Following the approval from the RBI, the branch office must register with the Registrar of Companies as a foreign company in India. The following information must be submitted in the e-form FC 1:

- Details of directors and secretaries of the foreign company
- Address of the principal office of the company and the principal place of business in India
- Power of Attorney or board resolution, granting necessary powers to the Indian head of the branch office
- Original version (if not in English) and translated version of Certificate of Incorporation and Memorandum and Articles of Association
- Evidence of setting up the operations in India, ie copy of lease deed, copy of bank statement, copy of employment letter

Liaison office

A liaison office (LO) is a suitable business form for foreign investors that do not have any intention to undertake commercial activities in India and only wish to represent the head office. The role of such offices is limited to collecting information about the possible market and providing information regarding the company to prospective Indian customers. The LO acts as a communication channel between the parent company overseas and its present and prospective customers in India. The liaison office cannot undertake any business activities nor earn any income in India.

A foreign company that wishes to set up a liaison office in India must obtain prior approval from the Reserve Bank of India. The setup of a liaison office follows the same procedure as that of a branch office; forms FNC and e-form FC -1 must be submitted.

Project office

Foreign companies that wish to execute specific projects in India are permitted to set up temporary project offices. A project office can be opened without prior approval from the RBI, providing it meets certain conditions. In some cases specific approval from the RBI may be sought to set up a project office if it does not meet the prescribed eligibility criteria for automatic route. The foreign entity needs to provide a report to the jurisdictional regional office of the RBI outlining the particulars of the project/contract. Once the project execution is complete, as per the terms of the contract awarded, the project office must be closed.

Other forms of business

Foreign investors can also set up a joint venture with Indian partners. This may be suitable in sectors which have restrictions or caps on foreign ownership (such as defence, multi brand retail, banking and insurance).

Tax system

India has a well-developed tax system which has undergone radical change in line with the country's liberation process. The power to levy taxes is distributed among the three tiers of government: union government, state governments and local bodies.

Taxes levied by the union government:

- Income tax
- Customs duties
- Central excise
- Service tax

Taxes levied by the state governments:

- Sales tax/VAT
- State excise
- Land revenue

Taxes levied by local bodies:

- Duty on properties
- Octroi
- Tax on markets
- Tax/User charges for utilities

Corporate Income Tax (CIT)

Scope

Corporate income tax is chargeable on taxable income computed in accordance with the provisions of the Income Tax Act 1961 hereinafter referred to as 'Income-tax Act'. All businesses are required to follow a uniform financial year from 1 April to March 31 for tax purposes, irrespective of the financial year followed for accounting purposes. Income earned during the financial year is liable to income tax in the next year, called the 'assessment year'.

Resident corporations are taxed on their worldwide income whilst non-resident companies are taxed only on income derived from India. For the purpose of taxation, a company is resident if it is formed and registered as an Indian company under the Companies Act or if its place of effective management (PoEM) is in India. PoEM has is defined as the place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are made. The CIT rate for a company for financial year 2016 – 17 is determined by the following residency factors:

	Turnover (INR)		
	Up to 10 million	**More than 10 million but less than 100 million**	**More than 100 million**
Resident company	30.9 %	33.063%	34.608%
	(30% plus education cess of 3%)	(30% plus surcharge of 5% plus education cess of 3%)	(30% plus surcharge of 12% plus education cess of 3%)
Non-resident company	41.2%	42.024%	43.26%
	(40% plus education cess of 3%)	(40% plus surcharge of 2% plus education cess of 3%)	(40% plus surcharge of 5% plus education cess of 3%)

Corporate tax rate for companies having total turnover/ gross receipts not exceeding INR50 million in Financial Year 2014-15 will be 29 per cent for the financial year 2016-17. Further domestic companies set up after 1 March 2016 and not claiming any tax incentives will be subject to corporate tax rate of 25 per cent subject to fulfilment of certain conditions.

India provides relief for double taxation under a number of double taxation avoidance agreements (DTAAs). India has entered into DTAAs with more than 90 countries, including the USA, UK, Japan, France and Germany. In the case of countries with which India has double taxation avoidance agreements in place, beneficial provisions of said DTAA shall prevail over the provisions of domestic law.

Further, India also provides relief from double taxation relief unilaterally where no DTAA has been entered. Such unilateral relief is provided on the basis of a formula prescribed under the Income Tax Act.

Taxable income

Taxable income is based on the audited financial statements of the company. Income is computed from gross income, following the adjustment for allowable expenses incurred in the production of income, capital allowances and incentives.

The sources of income subject to tax include:

- Profits and gains of business or professions
- Capital gains
- Dividends and interest
- Rents, royalties and premiums

Expenses incurred wholly and exclusively for business purposes are deductible from taxable income. Normally, capital expenditure/ loss is not allowed as a deduction unless otherwise specified, eg depreciation, expenditure relating to scientific research and development etc. Furthermore, expenditure incurred on corporate social responsibility activities has been specifically disallowed.

Deductibility of expenses is further subject to compliance with withholding tax provisions such as amounts of specified kinds paid to residents (eg salary, interest, royalty, technical service fees, commission, rent etc) or payment of interest, royalties, technical service fees or any other chargeable amounts paid to non-residents[1].

The following are some of the other important deductions that are available to arrive at the taxable business income:

- Certain preliminary expenses over a five-year period commencing from the year in which the business commences
- Capital expenditure on scientific research related to the business of the taxpayer
- 200 per cent of the amount of expenditure incurred by companies engaged in the business of manufacture or production of certain specified article or thing on in-house research and development facilities

Income Computation and Disclosure Standards ('ICDS')

The Central Government has announced ICDS which are required to be followed by an assessee following mercantile system of accounting for the purpose of computation of income chargeable to income-tax under head 'Profit and gains of business and profession' and 'Income from other sources'. The ICDS are effective from 1 April 2015.

Depreciation

Depreciation for tax purposes is normally calculated using the declining balance method (written down value method) at varying rates depending on the nature of assets. All similar type of assets eligible for the same rate of depreciation are placed together in a block and depreciation is charged on the value of the block. Rates typically vary from 10 to 60 per cent although special rates apply to certain assets such as energy-saving devices or water pollution-control equipment.

Depreciation is available for a full year, irrespective of the actual period of use of the asset. However, in the year of acquisition, depreciation is allowed at half the normal rates, if the asset is used for less than 180 days in that year. No depreciation is available in the year of sale of the asset. Depreciation on intangible assets such as know-how, patents, copyrights, trademarks, licences, franchises or other similar business or commercial rights, is also available.

In addition to the above, additional depreciation at the rate of 20 per cent (over and above normal depreciation) is available for new Plant and Machinery (other than ships and aircrafts) upon fulfilment of prescribed conditions. Further, in cases where only 50 per cent depreciation has been claimed in the first year on account of the new plant or machinery being used for less than 180 days, the balance 50 per cent of additional deprecation would be allowed in the subsequent year.

Administration

All taxpayers are required to obtain a tax registration number which is called the Permanent Account Number (PAN). The application is submitted using Form 49A (49AA in case of foreign citizens) on or before 31 May of the assessment year for which the income is assessable to tax. This number is to be quoted on all tax returns, correspondence with the tax authorities and on all documents relating to prescribed categories of transactions. Further, as per provisions of the Income Tax Act, a higher rate of TDS (at 20 per cent) is prescribed in case a person ('deductee') receiving any sum (on which tax is deductible) fails to furnish PAN to the payer ('deductor') of such sum.

Furthermore, every person responsible for withholding tax in accordance with the provisions of the Income Tax Act is required to make an application for a withholding tax registration number which is called as Tax Deduction Account Number (TAN). The application is to be submitted using Form 49B, within one month from the end of the month in which tax is deducted.

All companies must file CIT returns by 30 September or 30 November of the assessment year, depending on whether they undertake international transactions, which are subject to transfer pricing provisions.

Advance tax payments must be made on 15 June, 15 September, 15 December and 15 March of the financial year. Non-payment of advance tax will make companies liable to a levy of interest. These payments will then be off-set against the amount stated in the annual tax return. Any outstanding tax must be paid on or before the date of filing the return.

Capital gains

Under the Income Tax Act, capital gains are subject to special tax rates. This tax rate will depend on whether the capital asset transferred is a short-term or long-term capital asset; short-term assets are assets held for not more than 36 months immediately before the date of transfer. In the case of listed shares, listed securities or units of an equity-oriented fund or zero coupon bonds, the short-term holding period is not more than 12 months. Capital gain from short-term capital assets is taxed at the normal corporate tax rates for resident and non-resident companies (except for capital gain from short term listed equity shares and units of equity-oriented funds charged to the Securities Transaction Tax, which are taxed at 15 per cent).

All other capital assets will be considered as long-term capital assets and taxed as follows:

- Long-term listed equity shares and units of equity-oriented funds charged to Securities Transaction Tax - exempt
- Other long-term listed securities 10 per cent
- Other long-term unlisted securities transferred by a non-resident or a foreign company – 10 per cent
- Other long-term capital assets 20 per cent

Groups

India does not provide for the consolidation of income or common assessment of groups of companies for tax purposes. Each company is subject to an individual tax assessment.

Losses

Business losses, other than those from speculation business, can be off-set against income from all sources in the current taxation year. Any losses outstanding may be carried forward and off-set against profits arising in the subsequent eight years. Unabsorbed depreciation is permitted to be carried forward for an unlimited period. Losses can only be carried forward if the income tax return is filed by the due date.

Minimum Alternate Tax (MAT)

Companies are subject to a presumptive tax (MAT) on the profits shown in their financial statements (book profits), where the income tax liability determined under the normal tax provisions is less than 18.5 per cent of its book profits. MAT is levied at 18.5 per cent, plus the applicable surcharges and cess.

Tax credit for the difference between MAT and tax under normal provisions is allowed against tax liability in the ten years following, where tax becomes payable under normal provisions of the Act.

There was a debate on the applicability of MAT on foreign companies. In a recent amendment, income accruing to all foreign companies from capital gains resulting from transactions in securities, interest, royalty or fees for technical services chargeable to tax at a rate lower than the rate of MAT (ie 18.5 per cent), have been exempt from MAT liability. Further, the Central Board of Direct Taxes (‘CBDT’) has come up with a circular whereby the above exemption has also been provided for past years to foreign companies.

Alternate Minimum Tax (AMT)

AMT is a modified version of MAT which is applicable to limited liability partnerships and certain other taxpayers who receive specified profit-linked tax incentives. AMT is payable at 18.5 per cent (plus applicable surcharge and cess) on the amount of income before giving effect to the specified tax incentives. AMT credit can be carried forward for ten years following the year in which the credit arises.

Dividend Distribution Tax (DDT)

Dividends distributed by an Indian company are exempt from taxation in the hands of the shareholders. The company distributing the dividends is liable to pay DDT of 15 per cent. The rate mentioned above is exclusive of the applicable surcharge at 12 per cent, education cess and secondary and higher education cess at two per cent and one per cent, respectively. Further, DDT is required to be calculated on the gross-up amount including such DDT.

Additionally, to avoid the double taxation of dividends received from subsidiary companies on which DDT has been paid, the dividends received can be reduced from the total amount of dividends liable to DDT, provided certain conditions are met.

The tax on distributed profits is payable within 14 days from the date of declaration, distribution or payment of any dividend, whichever is the earliest.

Any dividend received from a foreign company is taxable in the hands of shareholders at their effective tax rates. However, an exception exists in the case of dividends received by an Indian company from a foreign subsidiary company (in which the Indian company holds 26 per cent or more equity). In such cases, the dividend received is taxable at a concessional rate of 15 per cent (as against the corporate tax rate of 30 per cent).

Withholding tax

Under Indian tax law, a tax payer is required to withhold tax on certain specified payments. There are certain exceptions (in form of category of recipient) and thresholds (in form of monetary limit of payments) prescribed for withholding of taxes.

The withholding tax rates for domestic payments are as follows:

Type of payment	Rate (%)
Dividends	– NIL (if DDT has been paid) – 10 (in case of resident shareholder
Interest	10
Various specified commissions	5
Payments to contractors	– 1 (for payments to individuals and Hindu undivided family) – 2 (for payment made to others)
Rent	– 2 (for equipment rental) – 10 (for other payments)
Professional and technical service fees	10
Royalties	10
Payments of compensation to residents for the compulsory acquisition of certain immovable property	10
Payments for the acquisition of immoveable property	1

Buy-back tax

The buy-back of unlisted shares by an Indian company is subject to a tax of 23.072 per cent (includes a surcharge of 12 per cent and a cess of three per cent). The tax is liable on the difference between the price at which the shares are bought back and the consideration received by the company for the issuance of shares.

Transfer pricing

India's transfer pricing regulations ('TP Regulations' or 'TPR' or 'Indian TPR') generally adopted the revised Organisation for Economic Co-operation and Development (OECD) transfer pricing guidelines, although key differences exist.

The TP Regulations follow the 'arm's length principle' in determining the price of international transactions between related parties in a gamut of cross-border dealings. The ambit of TPR is also extended to certain 'specified domestic transactions'.

The Indian TPR states that income arising from transactions between associated enterprises (AEs) should be computed with regards to the arm's length price (ALP). It has been clarified that the allowance for any expense or interest arising from an international transaction/specified domestic transaction shall also be determined with regards to the ALP.

In order to align the Indian TPR with global standards, use of multiple year data and range concept has also been notified for determining the ALP of a transaction. As per the new rules, where more than one ALP is determined by the most appropriate method either range concept or Arithmetic Mean (AM) would be used, depending on the method selected and the number of comparable data points.

The following methods are specified as acceptable for determining the arm's-length price:

- Comparable uncontrolled price method
- Resale price method
- Cost-plus method
- Profit split method
- Transactional net margin method
- Any other method that takes into account the price that has been charged or paid or would have been charged or paid, in the same or a similar uncontrolled transaction, with or between non-associated enterprises, under similar circumstances, considering all the relevant facts

The Indian TPR provides no priority of selection/application of methods.

The burden of demonstrating the arm's length nature of the international transactions lies with the taxpayer. Companies will be liable to a number of onerous penalties if they are non-compliant with the obligations and documentation requirements under transfer pricing regulation.

At present, transfer pricing is a highly litigated area; however, there are methods to resolve the litigation. Dispute Resolution Panels (DRPs) are set up with a view to achieve speedy and efficient disposal of transfer pricing cases at the lower level. Companies can also apply to the tax authorities for an Advance Pricing Arrangement (APA) for the upfront determination of the arm's length price and pricing methodology in relation to an international transaction.

Safe harbour rules also exist; 'safe harbour' is defined as circumstances in which the income tax authorities shall accept the transfer price declared by the taxpayer. These rules are presently applicable only on notified international transactions and notified domestic companies. These rules are optional and can be opted into for a period not exceeding five years.

Thin capitalisation rules
As present, there are no thin capitalisation rules in India.

Controlled foreign companies (CFC)
There is no controlled foreign company legislation in place in India.

Tax incentives

The Union Finance Minister, Arun Jaitley in his 2015 Budget speech had indicated that the rate of corporate tax will be reduced from 30 per cent to 25 per cent over the next four years along with the corresponding phasing out of exemptions and deductions. In line with this announcement, Central Board of Direct Taxes (CBDT) has laid down a draft roadmap for phasing out various incentive deductions under the Income Tax Act.

Research and development (R&D) activities:

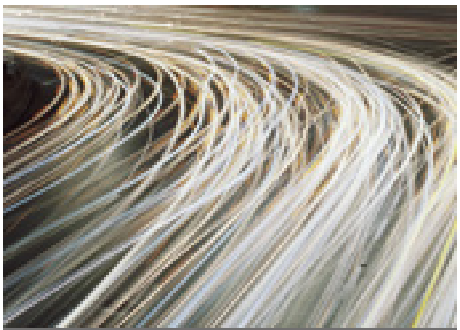
- 200 per cent weighted deduction on in-house scientific R&D expenditure (not being expenditure in the nature of cost of any land or building)
- 125 per cent weighted deduction in respect of payments made for outsourced R&D activities to approved Indian companies which have scientific R&D as their main object
- 100 per cent deduction on capital expenditure (other than land) on scientific R&D related to the business carried on by the company

Manufacturing companies:

- 100 per cent deduction of business profits available for 10 consecutive tax years to any business manufacturing and producing any article or a thing, located in North Eastern States of India provided the undertaking commences manufacturing by 31 March 2017 and carries on any eligible business

Special Economic Zones (SEZs)
An SEZ is a specifically delineated duty free enclave deemed to be a foreign territory for purposes of trade operations, duties and tariffs. The deductions available include:

- SEZ developer – 100 per cent deduction of business profits and gains derived from developing and maintaining a SEZ
- Entrepreneur – for profits and gains derived by its unit set up in any SEZ from export of articles or things or from services as under:
  - 100 per cent deduction of export profits for the first five tax years
  - 50 per cent deduction of export profits for the next five tax years
  - Up to 50 per cent deduction of



An SEZ is a specifically delineated duty free enclave deemed to be a foreign territory for purposes of trade operations, duties and tariffs.

export profits for the next five tax years (subject to transfer of profits to special reserve)

Business specific incentives for capital expenditure

- Allowance of 15 per cent deduction[2] to manufacturing companies for investment exceeding certain limits and made during a specified time period
- 150 per cent deduction on capital expenditure available for the following specified businesses:
  - Setting up and operating a cold chain facility
  - Setting up and operating a warehousing facility for storage of agriculture produce
  - Building and operating a hospital with at least 100 beds for patients
  - Developing and building a housing project under specific schemes
  - Production of fertiliser
  - Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network
  - Building and operating, anywhere in India, a hotel of two-stars or above as classified by the Central Government
  - Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act 1962
  - Bee-keeping and production of honey and beeswax
  - Setting up and operating a warehousing facility for storage of sugar
  - Laying and operating a slurry pipeline for the transportation of iron ore
  - Setting up and operating a semi-conductor wafer fabrication manufacturing unit notified by the Board in accordance with such guidelines as may be prescribed

Location based incentive

A tax incentive equal to 15 per cent of the actual cost of a new asset for an assessee who sets up a manufacturing undertaking in the State of Andhra Pradesh or Bihar or Telangana or West Bengal is available if the following conditions are satisfied:

- Undertaking is set up on or after 1 April 2015
- New asset is acquired and installed during the period beginning on 1 April 2015 to 1 April 2020

Further, such new manufacturing undertakings are entitled to additional depreciation at the rate of 35 per cent against 20 per cent allowed currently.

Anti-avoidance measures

The Indian Government introduced certain anti-avoidance measures to discourage transactions with persons/companies that are located in a country that does not exchange information with India. These measures enable the government to designate a certain country or jurisdiction as a 'notified jurisdictional area'. Transactions that occur between a taxpayer and a party located in a notified jurisdictional area could be subject to a higher withholding tax, a taxability of receipts or a non-deduction of expenses. The Central Government has notified Cyprus as a 'notified jurisdictional area'. The General Anti-avoidance Rules (GAAR), which will become effective in assessment year 2018-19, are designed to deal with aggressive tax planning. Tax authorities will be provided with the discretion to invalidate any arrangement that is shown to be in place for the purpose of avoiding tax. The GAAR rules do not apply to arrangements with an aggregate tax benefit below INR30 million.

Personal income tax (PIT)

Personal income tax is levied on the income earned by individuals and is administered by the Central Government. Any person that accrues or derives income from India is subject to personal income tax. Income is assessed on a current year basis and individuals must comply with the self-assessment scheme. The year of assessment runs from 1 April to 31 March.

Individuals liable to Indian tax

Both resident individuals and non-resident individuals are subject to tax on their income. Resident individuals are subject to tax on their global income. Individuals are resident in India for the year of assessment if they fulfil either of the following conditions:

- They are present in India for at least 182 days of the relevant financial year
- During the four years preceding, they were present in India for a total of 365 days or more, and at least 60 days in the relevant tax year

'Not ordinarily' resident individuals are subject to tax on any income derived or accrued in India during the relevant financial year. Individuals are deemed non-ordinarily resident if they fulfil either of the following conditions:

- They have been a non-resident during nine out of the 10 tax years preceding the relevant tax year
- They have been in India for no more than 729 days during the seven tax years preceding the relevant tax year

Any individuals who are not residents of India during the relevant tax years are classified as a non-resident. They are subject to tax on income derived in India during the relevant year but tax relief under a double tax treaty may be available.

Taxable income

All income received or accrued in India is subject to tax. This includes:

Employment Income

This includes any benefits provided by an employer unless they receive specified preferential tax treatment eg company provided housing, company provided car or interest-free loan. Medical expenses and contributions to Indian retirement benefit funds are exempt from taxation, providing they do not exceed specified limits.

Self-employment and business income

The computation of an individual's business income is similar to that of a corporation. Taxpayers are allowed to deduct all business-related expenses from gross business income.

Investment income

While dividend income earned from Indian companies is not taxed in the hands of shareholders, dividends from foreign companies are subject to tax at the normal tax rates. Interest earned on securities, investments and bank deposits is taxable; taxes are withheld at source at a rate of 10 per cent, plus cess.

Director's fees

Taxed at progressive rates and typically withheld at source at a rate of 10 per cent.

Transactions above INR50,000

Any sum of money received by an individual in excess of INR50,000 without consideration is taxable.

Rental Income

Taxed at the value determined within taxation legislation; deductions are allowed for taxes paid to local authorities, a sum equal to 30 per cent of the value and any interest payable on credit obtained for the purchase or maintenance of the property.

Capital gains

For capital gains tax, please see the provisions set out in the corporate income tax section.

Deductions

There are a number of deductions available for individual taxpayers in the process of computing gross income. These include:

- INR150,000 for prescribed contributions to life insurance, savings instruments and pension funds
- Interest paid on loans for the pursuit of higher education
- INR10,000 for interest on deposits in a savings account
- INR15,000 for medical insurance policies
- Charitable or religious donations
- INR200,000 for interest paid on housing loans
- An additional INR50,000 for contributions to the New Pension Scheme

Individual responsibilities in relation to Indian personal income tax

As detailed in the corporate tax section, all tax payers are required to obtain a tax registration number.

All individuals liable to income tax must file tax returns if their taxable income exceeds the exempt amount. The tax year is the financial year which runs from 1 April to 31 March. Income tax returns must be filed by 31 July. Tax returns must be filed electronically. Joint returns cannot be filed so married persons are taxed separately. Non-residents are subject to the same filing requirements as residents.

Wage withholding tax applies to all wages and salaries paid in India. Employers must withhold income tax from employees' monthly salaries. Taxpayers with income tax liability exceeding INR10,000 must make advance tax payments in four instalments: 15 June, 15 September, 15 December and 15 March.

Tax rates and bands – 2016 -17

Resident under the age of 60 (Income INR)	Fixed tax contribution	Percentage on excess
0 - 250,000	–	0
250,001 - 500,000	–	10
500,001 - 1,000,000	25,000	20
1,000,001 +	125,000	30

Residents that are senior citizens (aged 60 or above) and very senior citizens (aged 80 or above) with income up to INR300,000 and INR500,000 respectively, do not have to pay tax.

An education cess is levied at three per cent of tax on all levels of income. A surcharge at 15 per cent of the tax amount is levied on individuals whose income is more than INR10 million.

All individuals holding foreign passports and working for an entity in India are obliged to make compulsory social security payments out of their monthly wages; this rate is currently set at 12 per cent.

Other Taxes

Service tax

India's service tax regime was replaced with a negative list-based taxation of services on 1 July 2012. Service tax is therefore levied on all services except those mentioned in the negative list or specifically exempted. Tax on services is currently levied at 15 per cent; comprised of Service tax 14 per cent, Swachh Bharat Cess 0.5 per cent and Krishi Kalyan Cess 0.5 per cent.

Generally, the service provider is responsible for collecting service tax. However, in some specified services the service recipient is required to pay part or whole tax on the value of the services instead of the service provider under the reverse charge mechanism.

VAT/CST

VAT is an intra-state multi-point tax system administered at the state-level and is levied on sale of goods at each stage of the sales process. CST is levied on inter-state sale of goods and is administered, monitored and collected by the state from where the movement of goods for sale commences. Every State has its own VAT legislation and an independent tariff for fixing the rate of goods for intra-state sale of goods.

The rate of local VAT is mentioned in the applicable State VAT tax legislation and depends on the description of the goods and various VAT tax concessions/exemptions as may be available in such states. The rate of CST; however, is two per cent subject to production of statutory declaration forms or the local VAT rate applicable in the state of dispatch. Furthermore, imports from outside India and export of goods from India are not liable to VAT or CST.

The basic rates under VAT are as follows:

- 0 per cent – natural and unprocessed products and other essential goods, including lifesaving drugs
- 1 - 2 per cent – special goods such as gold, bullion, silver, etc
- 4 - 5.5 per cent – industrial input, drugs and medicines, IT products, capital goods and intangible goods, ie patents and others, as well as items of basic necessity
- 12.5 – 15 per cent – all other goods that do not fall under any of the categories mentioned above

The government has proposed to implement a national Goods and Services Tax (GST) which would streamline tax administration and remove inter-state tax differences. In the interim, the CST will continue to be levied on goods, alongside state VAT.

Excise duty

Excise duty, a central government levy, is levied on manufacture of excisable goods in India. The tax is levied at the 'manufacture' stage and is payable upon time of removal of excisable goods from the factory.

Manufacture generally includes any process which brings into existence a new commodity having a distinct name, character, use and marketability. However, for certain products, certain processes or activities, for example labelling, relabeling, packing, repacking etc. have been deemed as manufacture.

The current rate of excise duty is 12.50 per cent subject to exemption/concessions as may be available/notified from time to time. Generally, there is no excise duty liability on export of goods from India or supplies to SEZs/EOU etc ('deemed exports').

India follows the Harmonised System of Nomenclature (HSN) classification rules and the goods are classified under different chapter/tariff headings primarily according to their description, components and use. Generally, the duty is levied on the transaction value. However, in respect of certain products (primarily goods intended for retail sale) MRP based duty rates are also prescribed/applicable.

Credit of duties/taxes paid on procurements/imports is usually available to manufactures for offsetting output duty liability (subject to prescribed conditions).

Customs duty

Customs duty, a federal government levy, is levied on the import/export of goods into/from India. Customs duty comprises:

- Basic customs duty ‘BCD’ (standard rate of 10 per cent for goods/ 7.5 per cent for capital goods)
- Countervailing duty ‘CVD’ (equivalent to excise duty on such goods manufactured in India, standard rate of 12.5 per cent)
- Customs cess (levied on component of BCD and CVD at three per cent)
- Special Additional Duty ‘SAD’ (equivalent to sales tax on such goods sold in India, levied at four per cent on BCD plus CVD plus Customs Cess)

India follows the Harmonised System of Nomenclature (HSN) classification rules and goods are classified under different chapter/ tariff headings primarily according to their description, components and use.

Currently, the effective standard rate of customs duty on import of goods is 29.44 per cent (for capital goods, effective standard rate is 26.43 per cent) subject to exemption/ concessions as may be available/ notified from time to time and Free Trade Agreements entered into by India with other countries. At the time of writing there is no export duty levied on goods exported from India except few goods such as minerals etc (which are scarce in availability).

Security transactions tax

This is a tax payable on transactions in equity shares, derivatives and units of equity-oriented funds on recognised stock exchanges on India. The tax rate depends on the type of transaction.

Research & Development Cess (R&D Cess)

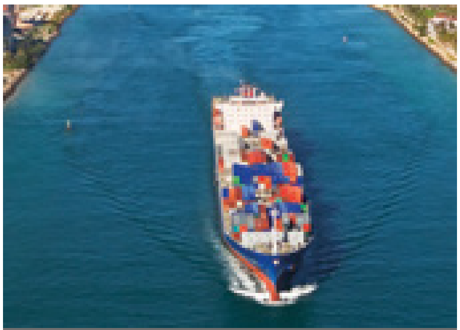
R&D Cess, a federal cess, is levied at a standard rate of five per cent on ‘import of technology’ into India, when imported under a foreign collaboration agreement. The term technology includes technical know-how/knowledge, designs, drawings, publications and technical personnel.

Entry Tax/Local Body Tax

Entry Tax/Local Body Tax (LBT) is a levy on the entry of goods into particular municipals/state jurisdictions for use, consumption or sale. LBT is presently levied only in Maharashtra. Entry Tax is also levied only by certain states.

[1] As per Finance (No. 2) Act 2014, 30 per cent of payment (on which tax is deductible at source) made to a resident shall be disallowed in computing total income for the year where no tax is deducted or after deduction have not be deposited to the credit of Central Government on or before the due date of filing of Income tax return.

[2] Such amount shall not be reduced from the written down value of block of asset and is an incentive over and above the depreciation/ additional depreciation normally available to such asset.In January 2014, the effective standard rate of customs duty on import of goods was approximately 28.85 per cent (for capital goods, effective standard rate was 25.85 per cent) subject to exemption/ concessions as may be available/notified from time to time and Free Trade Agreements entered into by India with other countries. At the time of writing there is no export duty levied on goods exported from India except few goods such as minerals etc. (which are scarce in availability).



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Labour

India is a member of the International Labour Organisation and complies with the conventions that it has ratified. Both central and state legislatures have enacted comprehensive regulation, covering a wide range of employment issues. Primary legislation includes:

- The Factories Act
- Payment of Wages Act
- Minimum Wages Act
- Industrial Disputes Act
- Employees' Provident Fund and Miscellaneous Provisions Act
- Payment of Gratuity Act
- Employees' State Insurance Act
- Workmen Compensation Act
- Trade Union Act
- Maternity Benefit Act

Applicability of labour legislation depends primarily on the location of the employer, the number of employees, the nature of the work carried out by employees and the industry in which the employees work.

Employees are grouped into two categories: workmen and non-workmen. Workmen are typically provided with a greater degree of legal protection and benefits when compared to non-workmen.

Employment contract
In India, alongside the above legislation, employment relationships are governed by the contractual agreement entered into between employer and employee.

While there is no express legal requirement for an employer to provide an employee with a written contract, it is customary to do so. Typically, a contract will include:

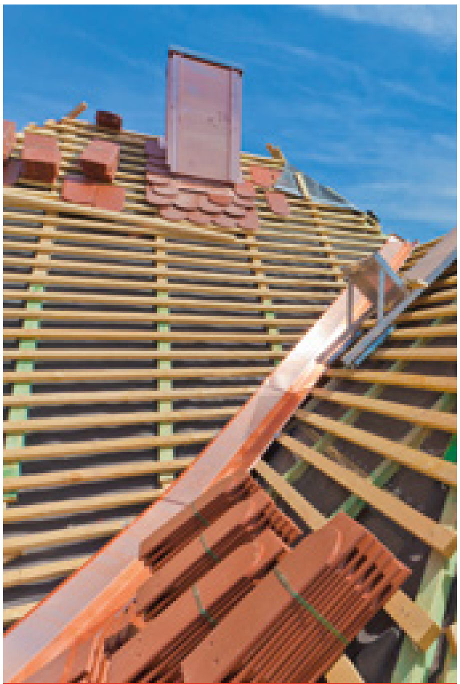
- Hours of work
- Wages
- A description of the nature of work to be undertaken
- Amount of paid leave
- Termination of employment procedure

Other terms will be implied by statutory standards.

Minimum wage
In India, minimum wages are declared at national, regional and sectorial level. The minimum wage to which an employee is entitled to depends on the nature of the employment, the industry in which they are employed, the location of the employment and the employee's age. The objective of the Minimum Wages Act is to safeguard the interests of workers, mostly in the unorganised sector by providing for the fixation of minimum wages in certain specified employments. It binds the employers to pay their workers the minimum wages fixed under the legislation, as frequently amended.

Working time and leave
In India, the normal working hours for factory workers are eight hours per shift, six days a week. Office workers typically work seven hours per day, six days a week. However, Indian subsidiaries of multinational corporations will usually follow a five day, eight hour per day working week.

There are officially three national public holidays and a number of state-specific holidays. All public holidays qualify as bank holidays whereby most offices will shut. If a public holiday falls at the weekend, generally the next working day is not given in lieu.



The minimum wage to which an employee is entitled to depends on the nature of the employment, the industry in which they are employed, the location of the employment and the employee's age.

While annual leave requirements will depend on the industry and location of the business, the threshold ranges from 12 to 21 days' holiday a year.

The Factories Act provides that every adult worker who has worked in a factory for at least 240 days in a calendar year is entitled to one day's leave with wages for every 20 days of work.

There is no federal law that outlines sick leave provisions although a number of state laws include differing requirements. The Workmen's Compensation Act and the Employees' State Insurance Act will provide social protection to those injured during work or subject to long-term sickness, respectively.

Female employees are provided with 12 weeks' paid maternity leave. Additional leave with pay is available for up to one month in the case that the employee provides proof of an additional illness gained during pregnancy or delivery.

Dismissal
Employment contracts will typically include a clause stating the procedures for termination by either party. Termination of individual employment contracts will depend on whether the employee is classified as a workman or non-workman; workmen tend to be given a greater degree of protection.

To terminate the contract of workmen employed in an industry, the employer is obliged to provide:

- One month's notice in writing (or payment in lieu of this)
- Retrenchment compensation at the rate of 15 days' average pay for every completed year of service

Notice must also be given in the prescribed form to the government.

If 100 or more workmen are employed in an industrial establishment, workmen can only be terminated, and the undertaking closed, with the prior permission of the government and payment of specific compensation. During this process, the government will consider the views of the workmen in its decision.

Dismissal of a non-workman is regulated, primarily, by their individual employment contract terms, alongside statutory provisions as set out by the local shops and establishments act.

In both cases, all benefits must be paid at the time of termination.

If there is just cause for dismissal, eg repeated misconduct, and the employer can provide evidence for this, the employee can be dismissed without the need for notice or severance payments.

Severance payments
Employers are obliged to pay severance payments to employees who are dismissed, including: leave encashment, gratuity payment and any other amounts due under the employment contract. The amount of severance payment due will be calculated dependent on the employee's salary and their length of service.

Social security
The Employees' Provident Fund Act applies to specified factories and establishments employing 20 or more employees. The EPF Act comprises: the Provident Fund Scheme, Pension Scheme and Employee Deposit Linked Insurance Scheme.

The Provident Fund Scheme also applies to all employees earning a salary of no more than INR15,000 a month. The scheme may also apply, irrespective of salary threshold, in the following circumstances: the employer and concerned employee voluntarily seek coverage or the employee is an international worker where the EPF Act is applicable regardless of salary threshold.

The statutory rate of contribution under the PF scheme is 24 per cent of statutory defined wages, equally split between the employee and employer. The employer must pay both contributions, recovering the employee's contribution from their salary.

A portion of the employer's contribution (equating to 8.33 per cent, up to a wage amount of INR15,000 a month) is placed into the Pension Scheme.

Under the Employee Deposit Linked Insurance Scheme, the employer is obliged to contribute 0.5 per cent of basic wages, up to a wage amount of INR15,000 a month.

The Employees' State Insurance Act applies to undertakings employing 20 or more employees (10 or more persons in case of non-seasonal factories or 10 in some states). The ESI Act applies to employees whose wages do not exceed INR15,000 per month. Under the Act, the employer and employee must contribute 4.75 per cent and 1.75 per cent respectively, to the Employees' State Insurance Corporation. The employer must pay both contributions, recovering the employee's contribution by deducting it from their salary.

Employees in receipt of a daily average wage up to INR100 are exempted from payment of contribution. Employers will however contribute their own share in respect of these employees.

Employment of non-resident employees
The Indian Government sets out guidelines for the provision of a Business Visa (BV) and Employment

Visa (EV) to any foreign national working in India.

Foreign nationals must obtain an EV before they can take up employment in India. Foreign nationals visiting India for projects or contracts may enter the country only on an EV.

Indian organisations engaging foreign nationals for contracts or projects are responsible for the conduct and departure of foreign nationals. Visa conversion is not allowed in India. The EV is required to be obtained from the country of origin.

Typically, foreign nationals entering India on a visa valid for more than 180 days should register with the local Foreigners' Regional Registration Office (FRRO or FRO) within 14 days of arrival in the country (unless the visa specifies otherwise).

In order to extend a visa, the foreign national would need to apply to the local FRRO or FRO for an extension.

Any person holding an Overseas Citizenship of India (OCI) is not required to register with the FRRO. OCIs are available for all persons of Indian origin, who have migrated from India and acquired citizenship of another foreign country, other than Pakistan and Bangladesh. Registered OCI holders are provided with a lifelong Visa to enter India

Overseas nationals may instead hold a Person of Indian Origin card which is valid for 15 years. In this case, registration with the FRRO is necessary if they plan to stay in India for longer than six months.

Generally, there are no restrictions on employing foreign nationals in India. However, where a foreign national is appointed as managing director, prior approval of the central government is required if the national has been in India for a period of less than 12 months before the date of the appointment.

Trade unions

A trade union is a voluntary organisation of workers pertaining to a particular trade, industry or a company and formed to promote and protect their interests and welfare by collective action.

Trade unions play a powerful role in businesses over a certain size and particularly in labour intensive sectors, such as the automotive industry, the banking industry and the pharmaceutical sector.

The regulation of trade unions comes under the Trade Unions Act. Legislation stipulates that employers must recognise trade unions and gives legal status to registered trade unions. Employment relationships may therefore be governed by collective agreements, alongside the relevant statutory provisions. The legislation also stipulates that a trade union must, at all times, have no less than 10 per cent or 100 workmen, whichever is less, (subject to a minimum of seven workmen) engaged or employed in the establishment or industry with which its connected. Further provisions govern how a union must be organised, its rights and how its funds must be used.

At present, there is no requirement for employee representation on the Board of Directors of a company.

Audit

All companies registered in India are primarily governed by the Companies Act. The Companies Act 1956 (1956 Act) was replaced by the Companies Act 2013 (2013 Act) with effect from 1 April 2014. Certain sections of the 2013 Act are not yet enforced. These sections primarily relate to the liquidation and winding up of companies. For these sections, the provisions of the 1956 Act continue to apply.

The MCA is the primary body concerned with the administration of the Companies Act 2013 and the accounting standards thereunder. It is also charged with supervising the Institute of Chartered Accounts of India, Institute of Company Secretaries of India and the Institute of Cost Accounts of India.

The MCA has mandated, through a notification, auditors to report frauds to the Central Government above a specific threshold else report to audit committee/board of directors only.

Accounting records
All companies registered in India shall prepare and keep books of accounts using the mercantile system of accounting. In addition, the Companies Act also requires preparation and maintenance of certain other books and records such as cost accounting records for specific business sectors.

All books and records must be kept at the registered office of the company unless the Board of Directors think it is necessary for them to be kept elsewhere. If this is the case, the company must notify the Registrar of Companies (Registrar) of the full address of this location.

While there is no prescribed language for the maintenance of books and business records, companies generally maintain their accounts in English. Nevertheless, the accounting records must be kept in Indian currency (INR).

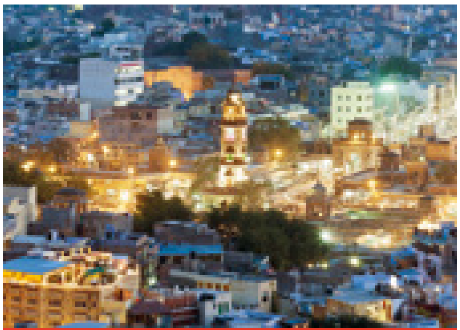
The books and records can be maintained in electronic form and must be preserved for a minimum of eight financial years immediately preceding the current financial year.

The responsibility for producing and maintaining proper books of accounts falls on the managing director, the whole-time director in charge of finance, the chief financial officer or any other person of a company charged by the board. If such person responsible fails to fulfil this duty, he/she may be punished with a term of imprisonment, a fine or both.

The Registrar, on an application made to him by a member, shall order an inspection of books and records required to be maintained under the law. Furthermore, any director of the company can inspect the books of accounts maintained at the registered office or any other place during business hours.

Financial statements
All companies, regardless of their size, must prepare their financial statements annually, and file the audited financial statements with the Registrar. The financial statements shall give a true and fair view of the state of affairs of the company in accordance with accounting principles generally accepted in India and comply with the notified accounting standards.

The 2013 Act requires Indian companies to mandatorily follow the financial year beginning on 1 April and ending on 31 March, which is also the financial year required to be followed for tax purposes.



All companies registered in India shall prepare and keep books of accounts using the mercantile system of accounting.

Companies following a different financial year must comply with this requirement by 1 April 2016, at the latest. However, a holding or a subsidiary of a company incorporated outside India which is required to follow a different financial year for consolidation may make an application to the National Company Law Tribunal to seek permission to follow a different financial year.

The 2013 Act also requires that every company which has one or more subsidiaries (including foreign companies, associates or joint ventures) shall, in addition to its separate financial statements, prepare consolidated financial statements of the company. Companies are required to mandatorily have the financial statements of all its subsidiaries audited and have them available on the company's website and provide a copy to shareholders if requested.

Accounting standards in India
The 2013 Act requires that the financial statements of Indian companies shall comply with the notified accounting standards. Schedule III of the 2013 Act prescribes the form and content for preparation of the balance sheet and statement of profit and loss and also the necessary information to be included in the notes to the accounts. Moreover, in certain special cases, other statutes that prescribe the form of financial statements may apply (eg for electricity, insurance and financial companies).

Also, in line with the objective of convergence with International Financial Reporting Standards (IFRS), the MCA notified the Companies (Indian Accounting Standards) Rules 2015, during fiscal year 2015.

MCA has provided a roadmap implementing Indian Accounting Standards (Ind ASs) in a phased manner, applicable to companies other than insurance, banking and non-banking finance companies. Companies meeting certain quantitative and qualitative criteria are mandatorily required to adopt Indian Accounting Standards (Ind ASs) commencing from 1 April 2016.

Companies may adopt Ind ASs voluntarily.

Audit requirements

Statutory audit
Every company, irrespective of its size, is required to have its financial statements audited. This must be done by a member of the Institute of Chartered Accountants of India (ICAI) or a partnership firm registered with ICAI.

The auditor must examine the affairs of the company and provide a report to the shareholders. This report should comprise whether, in his opinion, the financial statements show a true and fair view in conformity with the generally accepted accounting principles in India and notified accounting standards of the state of affairs as at the end of the financial year, profit or loss and cash flows for the year.

The 2013 Act requires that listed and certain class of unlisted companies cannot appoint or re-appoint the auditor for:

- More than two terms of five consecutive years, if the auditor is an audit firm
- More than one term of five consecutive years if the auditor is an individual

Auditors and audit firms completing a maximum term of 10 and five years, respectively, as at 1 April 2014, need to be rotated out by no later than 31 March 2017, with a minimum five-year cooling-off period thereafter.

Internal audit
The 2013 Act mandates internal audit for listed companies and certain unlisted public and private companies. This must be done by a member of the Institute of Chartered Accountants of India or the Institute of Cost Accountants of India.

Tax audit
Every company which exceeds the prescribed limit of total sales, turnover or gross receipts must get their accounts audited under the Income Tax Act, 1961. This must be done by a member of the Institute of Chartered Accountants of India.

Reporting on internal financial controls
The 2013 Act requires auditors of companies incorporated in India, for the fiscal year commencing on or after 1 April 2015, to report on whether the company has adequate internal financial controls system and operating effectiveness of such controls. The auditor is required to obtain reasonable assurance to state whether an adequate internal financial controls over financial reporting was maintained and whether such internal financial controls over financial reporting operated effectively in the company in all material respects in respect of separate and consolidated financial statements. A company has an option to choose an internal control framework to establish internal financial controls over financial reporting.

Filing and submission of statutory financial statements
A copy of the annual financial statements, including consolidated financial statements, along with other required documents shall be filed with the Registrar within 30 days of the AGM. A listed company is also required to publish quarterly results reviewed by auditors under listing requirements on the relevant stock exchanges.

Trade

Foreign Direct Investment
Following the economic liberalisation initiated in 1991, the Government of India has implemented a number of financial reforms opening up its economy to foreign investment. Foreign investment is primarily regulated by Foreign Direct Investment policy issued by the government, the Foreign Exchange Management Act (FEMA) and the regulations and notifications released under FEMA.

FDI is freely allowed in most sectors, including the services sector. It is prohibited in the following sectors: gambling, lotteries, atomic energy, trade in transferable development rights and the manufacturing of tobacco products. Furthermore, there are ceilings to the maximum amount of investment in sectors such as insurance, defence, telecommunications, private sector banking and print media. For all sectors where 100 per cent foreign direct investment is allowed, investment can be made through the 'Automatic Route' whereby no approval is needed from either the Government or the Reserve Bank of India. In order to conduct activities not covered in the above, Government approval must be obtained. Government approvals are accorded on the recommendation of the Foreign Investment Promotion Board (FIPB). Applications for all restricted FDI cases, except from specified exceptions, should be submitted to the FIPB Unit, Department of Economic Affairs (DEA) and Ministry of Finance.

FDI inflows during the financial year 2015-16[1] amounted to USD 2929 million.

The Ministry of Commerce and Industry is the body responsible for the promotion and regulation of foreign trade in India. The Ministry comprises the Directorate General of Foreign Trade and the Directorate General of Commercial Intelligence and Statistics. These offices are responsible for implementing foreign trade policy, issuing licenses to exporters and collecting and analysing trade statistics, as required by the policy makers.

Government incentives

The Indian government provides a number of incentives for foreign investors. Investment incentives are offered by both the central and state governments.

Tax incentives are extensively outlined as part of the tax section. These incentives comprise a number of different direct and indirect tax incentives, including tax holidays and accelerated deduction of capital expenditure.

In addition to the tax incentives, further incentives are available as detailed below.

Special Economic Zones (SEZ) scheme
The Indian Government introduced the Special Economic Zones policy with the primary aim of promoting exports by overcoming the multiplicity of controls and clearances, the absence of world-class infrastructure and an unstable fiscal regime. In order to attract investments into these Special Economic Zones, the following incentives are provided:

- Duty free import of goods for development, operation and maintenance of SEZ units
- 100 per cent income tax exemption on export income for SEZ units for the first five years, 50 per cent for next five years thereafter and 50 per cent of the ploughed back export profit for next five years
- External commercial borrowing by SEZ units up to USD500 million in a year without any maturity restriction through recognised banking channels
- Exemption from Central Sales Tax
- Exemption from Service Tax
- Exemption from Central Excise Duty
- Single window clearance for Central and State level approvals
- Exemption from State sales tax and other levies as extended by the respective State Governments

There are currently more than 200 operational SEZs in India with a number of further zones awaiting approval and implementation.

Export Oriented Unit Scheme
The Export Oriented Unit (EOU) scheme is complementary to the SEZ scheme. An EOU can be set up by an entrepreneur for the manufacturing of goods and the rendering of services; trading activity is not allowed. These units are permitted to be set up for a range of business activities including manufacturing, services, software development, agriculture, aquaculture, animal husbandry, floriculture, horticulture and sericulture, without any restrictions of location. Under the EOU scheme, the following incentives are provided:

- No license required for import
- Exemption from Central Excise Duty in procurement of capital goods, raw-materials, consumables spares etc. from the domestic market
- Exemption from customs duty on import of capital goods, raw materials, consumables spares etc

- Reimbursement of Central Sales Tax (CST) paid on domestic purchases
- Supplies from DTA to EOUs treated as deemed exports
- Reimbursement of duty paid on furnace oil, procured from domestic oil companies to EOUs as per the rate of drawback notified by the Directorate General of Foreign Trade
- 100 per cent Foreign Direct Investment permissible
- Exchange earners foreign currency (EEFC) Account
- Facility to retain 100 per cent foreign exchange proceeds in EEFC Account
- Facility to realise and repatriate export proceeds within twelve months

Electronic Hardware Technology Park (EHTP) Scheme and Software Technology Parks of India (STPI) Scheme

The STPI scheme is a 100 per cent export-oriented scheme for the development and export of computer software, including the export of professional services using communication links or physical media.

The EHTP scheme is a 100 per cent export-oriented scheme for the development and export of electronic hardware items. An EHTP may be an individual unit by itself or a unit located in an area designated as an EHTP Complex.

Both schemes are administered by the Ministry of Communications and Information Technology. These schemes offer a number of incentives and facilities to foreign investors including duty-free imports, deemed export benefits and tax holidays.

Imports

India's trade policy, which used to be anti-import, has largely been liberalised through the withdrawal of quantitative restrictions, reduction and rationalisation of tariffs, liberalisation in the trade and payments regime and improved access to export incentives.

Generally, under the Indian Trade Classification - Harmonised System, most goods can be imported without the need for a specific import license. However, there are certain categories of goods that are prohibited or can only be imported after obtaining an import license from the Directorate General of Foreign Trade (DGFT). These include:

- Licensed items: goods such as precious and semi-precious stones, products related to safety and security, seeds, plants, animals, electronic items, insecticides, pharmaceuticals and chemicals
- Canalised items (can only be transported through specific transportation channels or methods): goods such as petroleum products, bulk agricultural products such as grains and vegetable oils and some pharmaceutical products
- Prohibited items: goods such as tallow fat, animal rennet, wild animals and unprocessed ivory

Furthermore, the import and export of specific products to and from specified countries is prohibited; this includes the export of arms to Iraq and the import of wild animals into India.

Alongside its membership to the World Trade Organisation, India is also a member of the following free trade agreements:

- South Asia Free Trade Area (SAFTA)
- Asia-Pacific Trade Agreement (APTA)
- BIMSTEC (Bay of Bengal Initiative for Multi-Sectorial Technical and Economic Cooperation)
- Framework Agreement on Comprehensive Economic Cooperation between India and the Association of South East Asian Nations
- India-Mercosur Preferential Trade Agreement (PTA)
- India and Singapore Comprehensive Economic Cooperation Agreement (CECA)
- India-Sri Lanka Free Trade Agreement (ISFTA)
- India-Chile Preferential Trade Agreement (PTA)
- India-Afghanistan Preferential Trade Agreement (PTA)
- India-Bhutan Trade Agreement
- India-Nepal Trade Treaty
- Framework Agreement for Establishing Free Trade between India And Thailand
- Free Trade Agreement (FTA) between India And Gulf Cooperation Council (GCC)
- India-Japan Trade Agreement
- Joint Study Group between India And Korea
- Trade Agreement between India And Bangladesh
- Comprehensive Economic Cooperation and Partnership Agreement (CECPA) Between India and Mauritius
- Agreement on Economic Cooperation between India and Finland

[1] Department of Industrial Policy & Promotion, Government of India

Finance

Capital markets
Capital markets in India comprise equity, debt, foreign exchange and derivatives markets, including futures markets in commodities. The capital markets are comprised of a primary market where securities are offered to the public for subscription and a secondary market which is an equity trading venue.

The major stock exchanges are the Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE). Capital markets are regulated by the Securities and Exchange Board of India (SEBI). The major avenue for investments in India includes Foreign Direct Investment (FDI), Foreign Portfolio Investment (FPI) and Foreign Venture Capital Investment (FVCI). In keeping pace with the policy initiatives to attract foreign and Non Resident Indian (NRI) investment in India, the Government has revised FDI norms in various sectors and increased the FPI investment limit.

The RBI has allowed a number of foreign investors to invest, on repatriation basis, in non-convertible/ redeemable preference shares or debentures issued by Indian companies listed on established stock exchanges in India. The investment should be within the overall limit of USD51 billion allocated for corporate debt. Long-term investors registered with SEBI will also be deemed as eligible investors. The Government of India is also planning to introduce some the safe harbour rules relaxation to set for offshore fund managers, in order to allow private equity investors to shift their base to India without attracting a tax on capital.

In July 2015, the Government accepted the recommendation of the AP Shah committee that Minimum Alternate Tax (MAT)

should not be applicable on Foreign Portfolio Investments (FPIs) that do not have a presence in India. Also, the amendment states that certain fund management activity carried out through an eligible fund manager acting on behalf of such fund would not constitute business connection in India of the said fund; these provisions aim to help promote India as a favourable investment destination.

In October 2015, Reserve Bank of India (RBI) began allowing Indian companies to issue rupee denominated offshore bonds. Further, to encourage investment in the bond market, the Central Board of Direct Taxes (CBDT) has clarified that the beneficial tax treatment available to dollar denominated bonds would also be extended to income earned by non-resident investors from rupee denominated bonds.

The RBI introduced the Masala bond; rupee-denominated borrowings by Indian entities in overseas markets. In November 2015, the International Finance Corporation (IFC), the investment arm of the World Bank issued an INR1,000 crore bond to fund infrastructure projects in India. These bonds were listed on the London Stock Exchange (LSE).

Indian capital markets have grown into one of the leading capital markets in the developing countries. The application of many reforms means the market now comprises a developed regulatory mechanism, a modern market infrastructure, with growing market capitalisation, market liquidity and mobilisation of resources.

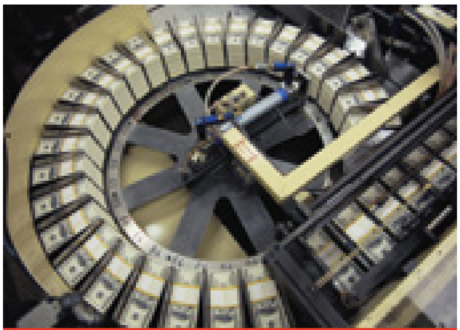
Corporates are now raising funds through Global Depository Receipts, American Depository Receipts, Foreign Currency Commercial Bonds (FCCBs) and External Commercial Borrowings (ECB), as well as the more traditional methods, eg equity issues and private placements. Trading in derivatives has increased to comprise a substantial part of trading volumes. Furthermore, debt instruments, bonds, government securities and mutual funds have now also become important parts of the capital markets.

Banking system

India has one of the largest banking networks in the world, with a large number of nationalised, co-operative, private and foreign banks providing a wide variety of services. The banking industry has grown significantly since the 1990's liberalisation and has also been influenced by the IT revolution. Global rating agency Moody's has upgraded its outlook for the Indian banking system to stable from negative based on its assessment of five drivers: Operating Environment; Asset Risk and Capital; Funding and Liquidity; Profitability and Efficiency; and Government Support.

The Reserve Bank of India is the primary regulator for the industry, providing prudential oversight over the industry, administering monetary and fiscal policies, directives, notices and regulations.

The Indian banking system consists of 26 public sector banks, 25 private sector banks, 43 foreign banks, 56 regional rural banks, 1,589 urban cooperative banks and 93,550 rural cooperative banks, in addition to cooperative credit institutions. Public-sector banks control nearly 80 per cent of the market. The banking sector is dominated by Scheduled Commercial Banks. Most nationalised banks have branches in semi-urban and rural areas of the country. Commercial banks transact all types of commercial banking business including cash management system, ATMs, credit cards, term and working capital loans, housing and consumer



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finance, purchase and sale of foreign currencies, providing forward cover relating to foreign exchange, funded and non-funded guarantees and many other facilities. Most banks are also offering advanced facilities like debit cards, internet banking and tele-banking.

The RBI has allowed third-party white label automated teller machines (ATM) to accept international cards, including international prepaid cards, and said white label ATMs can now tie up with any commercial bank for cash supply.

Since April 2014, the Reserve Bank of India (RBI) has granted 23 banking licences to new players – two were given universal banking licences (2 April 2014), 11 were issued payments banks licences (19 August 2015) and 10 were given licences for small finance banks (16 September 2015).

In August 2014, the government launched a nationwide scheme 'Pradhan Mantri Jan Dhan Yojana' (PMJDY#) which aimed to provide financial inclusion to every individual who did not previously have access to a bank account. The accounts opened under scheme mustered deposits worth INR26,819 crore (As of November 2015).

The regulatory authority has commenced several measures to support the Indian banking sector. The Union cabinet has approved the establishment of the USD100 billion New Development Bank (NDB) envisaged by the five-member BRICS group as well as the BRICS 'contingent reserve arrangement' (CRA). The Reserve Bank of India (RBI), the Department of Industrial Policy & Promotion (DIPP) and the Finance Ministry are also planning to raise the Foreign Direct Investment (FDI) limit in private banks sector to 100 per cent from 74 per cent.

Insurance industry

The insurance industry of India consists of 53 insurance companies, of which 24 are in life insurance business and 29 are non-life insurers. Life Insurance Corporation (LIC) is the sole public sector company among the life insurers in India and General Insurance Corporation of India (GIC Re) is the sole national re-insurer of India.

India's life insurance sector is the biggest in the world with about 360 million policies which are expected to increase at a Compound Annual Growth Rate (CAGR) of 12-15 per cent over the next five years. The insurance industry plans to hike penetration levels to five per cent by 2020.

India's insurable population is anticipated to reach 750 million in 2020, with life expectancy reaching 74 years. Furthermore, life insurance is projected to comprise 35 per cent of total savings by the end of this decade, as against 26 per cent in 2009-10.

Investment manage ment industry

The investment management industry is relatively immature in India, although, it offers a safe and secure avenue for investment in a diverse range of securities. Despite this, the total number of assets under management in mutual funds in India INR1,339,464 crore in December 2015.

The asset management industry is regulated by the Securities and Exchange Board of India (SEBI). Furthermore, the Association of Mutual Funds of India, a self-governing association of Indian Mutual Funds, plays a role in regulating its members' sales, distribution and communication practices.

Investors are able to invest in Indian mutual funds directly or through distributors under the codes of practice, as developed by the Association of Mutual Funds of India. There are now more than 40 mutual funds offering nearly 2,000 schemes. Furthermore, these providers are now offering more innovative and differentiated products to new target markets, eg rural markets.

Infrastructure

The overall quality and reliability of infrastructure is a critical factor for businesses across all sectors.

The Indian information and communications technology (ICT) industry has grown considerably in the last decade. India is now recognised as a global leader in ICT and has attracted a significant amount of foreign investment. Recently, e-commerce, cloud computing and online retailing has been the primary growth drivers across the sector. Furthermore, the Indian telecoms industry is considered as the second biggest telephone network in the world. The ICT industry is expected to grow with compound annual growth rate at 11.6 per cent for 2015 – 2019, and the value of the market expected to reach more than INR3.8 trillion in 2019. Key facts regarding the ICT infrastructure in India:

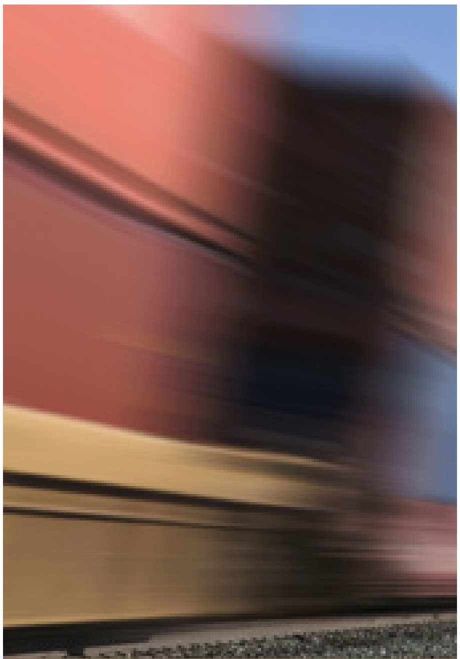
- 18 out of every 100 people use the internet
- One out of every 100 people have a fixed broadband subscription
- 74 out of every 100 people have a mobile phone subscription
- Six secure internet servers per one million people

The Indian government has set out a number of objectives of the National Policy on Information Technology. If achieved, these are likely to produce a more conducive operating environment for foreign investors. The objectives include:

- Transforming India into a global hub for the expansion of language technologies
- Developing a pool of 10 million skilled manpower in the Indian ICT sector
- Achieving significant market share in global technologies and services
- Offering fiscal benefits to foreign investors and Small Medium Enterprises (SMEs)
- Promoting adoption of ICTs in strategic and economic sectors to enhance the productivity and competitiveness of ICT

India's government has accorded high priority to infrastructure improvements; accordingly, both the central and state government have initiated products to upgrade the Indian infrastructure. However, India's rapid economic growth has outstripped infrastructure investment and major improvements are still required, particularly in low economically developed areas. Accordingly, a number of investment incentives are available for foreign investors in the infrastructure sector. Key features of India's transportation infrastructure include:

- Indian railways spread over 68,525 km with 12,000 passengers and 7,000 freight trains running each day from 7,083 stations, carrying around 23 million travellers and 2.65 million tonnes (MT) of goods daily
- 12 major and 187 minor and intermediate ports along more than 7,500 km long coastline
- India's first monorail was inaugurated in Mumbai in February 2014
- The infrastructure sector of India has attracted significant investment, from public authorities alongside private funding; the 2015 budget included USD11 billion in commitments through Private Sector Enterprises for infrastructure investment. This also includes ambitious projects such as National Highways Development Project (NHDP)
- There are 346 civilian airports – 253 with paved runways and 93 with unpaved runways



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