

Setting up a Business in India

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Introduction

India is an open market and majority of sectors, foreign investment is allowed with repatriation benefits (the profit and investment is allowed to take back in investor's currency). India has consistently been classified as among the most attractive investment destinations by reputed international rating organizations. With its highly-skilled and cost-effective manpower, it offers immense opportunities not only for Business Process Outsourcing, but increasingly for the higher end of the value chain in Knowledge Process Outsourcing and Engineering Process Outsourcing.

Foreign Direct Investment (FDI) is allowed in all most all sectors under automatic route (without previous approval of government). If proposed activity of an investor fall into an item marked for automatic route, the investors are freely allowed to setup Company in India for starting the business.

The following are the options available for a person / Company who wish to start a business in India

- 1. Setting up of a Company / Subsidiary company in India**
- 2. Purchase a Shelf Company – Quick Option**
- 3. Establishment of Branch Office or Liaison Offices**

1. Setting up of a company in India

A foreign national or foreign company, before planning to setup a company, need to look into the Government of India Policy and ensure that, proposed investment are within automatic route. CompaniesInn, experienced business consultants, can advise you on this. After having an understanding of FDI policy in respect of the proposed investment, one can go ahead with setting up of company in India following the steps as narrated below.

Minimum Requirements for Opening a company in India

Private Company

A company formed by minimum two persons as shareholders having the following features:

- Name of the company ends with the words 'Private Limited'

- Minimum paid up capital INR 100000
- Minimum two Directors

The shareholders can be foreign company, individual (Foreign Citizen or Indian Citizen) or Indian Companies or combination foreign company, individuals or Indian company. The proposed directors must be only individuals (Indian or foreign citizens). As per the Indian law, to become a director in an Indian company, one has to obtain Directors Identification Number (DIN)

Steps involved in Setting up of a company

1. **Apply for DIN (Directors Identification Number):** The proposed Directors shall make an application for DIN in the Government website using an address proof and Identity proof (foreign nationals, copy of passport are a must as Identity Proof). Once application is ready, same need to be signed after affixing a photograph. The application, address proof and Identity proof documents (if not in English a translation also) need to be notarized for submission to government.
2. **Apply for Digital Signature (DSC):** In India all documents are to be filed with the Ministry of Corporate Affairs are filed online using digital signature. Any of the proposed promoters should obtain a Digital Signature from one of the Certifying Authority in India.
3. **Apply Name for the Company:** After creating of DIN and DSC, immediately we can apply for name. If foreign company is a subscriber to the incorporation documents, and need to use same name for company in India, a no-objection letter from the foreign company is required. Also required a resolution from foreign company indicating their plan for setting a company and to authorise an individual to represent and to ensure that application is with proper authority.
4. **Incorporation Document preparation:** After approval of the name, Memorandum of Association and Articles of Association will be prepared for execution. These documents need to be executed by writing name address of the subscriber by own handwriting and notarized and legalised (either certified by Indian Embassy or apostatized) before submitting to the Ministry of Corporate affairs.
5. **Incorporation Filing and Registration:** The properly executed documents and other papers then filed online (scanned copy) with Government Registrar for incorporation. Usually 2 to 3 days time (if not must rush for incorporation), company will get registered and registrar will issue Certificate of Incorporation. The certificate will be sent to the registered office by speed post by the Registrar.

2. Purchase a Shelf Company – Quick Option

Incorporating a company take minimum 20 to 30 days if documents are in order and name allotted in time. Anyone looking for a new company can think of buying a shelf company from us.

Process

Purchase the company, by paying the fees to CompaniesInn

Execute documents for transfer

File necessary documents with Registrar

Change name and activity if required

3. Branch Office or Liaison office in India

Companies registered outside India (Foreign Companies) can establish their operations in India without registering a subsidiary company. The scope of operation of such offices is limited and is preferred for representative office, sourcing, technical support, market support in India.

The steps involved in establishing a branch/ Liaison office in India are:

1. RBI approval through and authorized dealer of category I bank
2. Registration with Registrar of Companies, New Delhi

Eligibility Criteria

Basic criteria

- Reserve Bank Route – Principal business of the foreign entity falls under sectors where 100 per cent foreign direct investment (FDI) is permissible under the automatic route.
- Government Route – Principal business of the foreign entity falls under the sectors where 100 per cent FDI is not permissible under the automatic route. Applications from entities falling under this category are considered by the Reserve Bank, in consultation with the Government of India, Ministry of Finance.

Additional criteria

Track Record

- For Branch Office – a profit making track record during the immediately preceding five financial years in the home country.

- For Liaison Office – a profit making track record during the immediately preceding three financial years in the home country.
- i) Net Worth [total of paid-up capital and free reserves, less intangible assets as per the latest Audited Balance Sheet or Account Statement certified by a Certified Public Accountant or any Registered Accounts Practitioner by whatever name].
- For Branch Office – not less than USD 100,000 or its equivalent.
 - For Liaison Office – not less than USD 50,000 or its equivalent.

More about the types of Foreign Company offices in India

A. Branch Office

A Foreign Company engaged in manufacturing or trading activities are allowed to set up Branch Offices in India with specific approval of the Reserve Bank. Such Branch Offices are permitted to represent the parent/group companies and undertake the following activities.

1. Export/import of goods.
2. Rendering professional or consultancy services.
3. Carrying out research work, in which the parent company is engaged.
4. Promoting technical or financial collaborations between Indian companies and parent or overseas group company.
5. Representing the parent company in India and acting as buying/ selling agent in India.
6. Rendering services in Information Technology and development of software in India.
7. Rendering technical support to the products supplied by parent/group companies.
8. Foreign airline/shipping Company.

Normally, the Branch Office should be engaged in the activity in which the parent company is engaged.

B. Liaison Office

A Liaison Office (also known as Representative Office) can undertake only liaison activities, i.e. it can act as a channel of communication between Head Office abroad and parties in India. Liaison Offices are not allowed to undertake any business activity in India and cannot earn any income in India. Expenses of such offices are to be met entirely through inward remittances of foreign exchange by the Head Office of the Company. Permission to set up such offices is initially granted for a period of 3 years and this may be extended from time to time by the Reserve Bank of India.

Requests for extension of validity of LOs [other than those from entities in the Insurance sector, banks, NBFCs and Construction and Development sectors (excluding infrastructure development companies)] may be submitted to the AD Category - I bank concerned under whose jurisdiction the LO / Nodal Office is located before the expiry of the validity of the approval

Applications from foreign banks and insurance companies will continue to be directly received and examined by the Department of Banking Operations and Development, Reserve Bank and Insurance Regulatory and Development Authority (IRDA) respectively.

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

C. Project Office

Reserve Bank of India has granted general permission to foreign companies to establish Project Offices in India, if they have secured a contract from an Indian company to execute a project in India, and

1. The project is funded directly by inward remittance from abroad; or the project is funded by a bilateral or multilateral International Financing Agency; or
2. The project has been cleared by an appropriate authority;

A company or entity in India awarding the contract has been granted Term Loan by a Public Financial Institution or a bank in India for the project.

D. Branch Office – SEZ

Approval of the Reserve Bank is not required to establish a branch/unit in Special Economic Zones for undertaking manufacturing and service activities. The general permission is subject to the following conditions:

1. Such units are functioning in those sectors where 100 per cent Foreign Direct Investment is permitted;
2. Such units comply with part XI of the Companies Act (Section 592 to 602); such units function on a stand-alone basis.

More about steps involved in establishing Foreign Company Office in India

1. The application for establishing BO / LO in India may be forwarded by the foreign entity in **Form FNC-1** through a designated AD Category - I bank to Reserve Bank of India, along with the prescribed documents.
2. A Unique Identification Number (UIN) would be allotted to both, the existing as well as the new BOs / LO.
3. The BOs / LOs shall obtain Permanent Account Number (PAN) from the Income Tax Authorities on setting up of their office in India and report the same in the Annual Activity Certificate.
4. On receipt of the approval from RBI, registration with Registrar of Companies is required.

Other Compliance and Registrations

Tax Numbers

Every company need to apply for PAN and TAN (Tax numbers) this can be applied immediately after incorporation. Usually it takes 1 to 2 weeks

Opening a Bank Account

After making application for Tax number, company can apply for Bank account with any of the Bank in India. Opening of account usually happen 3 to 5 days.

Capital Remittance to the Company Account

The subscribers (first shareholders) shall remit the value of shares subscribed to the company account immediately after opening the bank account. If foreign shareholders are involved, they need to remit into the bank account, in foreign currency for the shares taken. Also Indian company need to intimate Reserve Bank of India, regarding receipt of investment from foreign company/citizen.

File Return with Reserve Bank of India (RBI)

As per RBI regulation, if Indian company issue shares to foreign company or foreign nationals etc, after issue, within 30 days, company is required to file return with RBI.

Apply for Shop and Establishment Registration

Immediately after taking an office, company need to apply for shops and establishment registration

Apply for Professional tax Registration

It is a labour law registration and it is required to be taken immediately after setting up an office.

VAT (Value Added Tax) Registration

VAT registration is mandatory for those companies deal in goods. A company after setting up of office can apply for this registration to the respective local VAT authority.

Import & Export Code Number

After obtain PAN, a company intended to do import or export need to apply for IE code. Usually it takes 7 days for allotment.

How CompaniesInn helps International Clients in setting up of Companies in India.

CompaniesInn is a team of business setup professionals and corporate law professionals having over 10 years experience in business setup services and consulting. We have helped over 5000 companies in the last 3 years setting up of their business. Our vast experience in business setup services ensures the delivery of service on time at an affordable price.

Why CompaniesInn

1. **Experienced Team:** Our experienced team have the expertise to handle any assignment for setting up a business in India.
2. **Low Cost:** CompaniesInn business setup services are priced attractively to meet the requirements. Compared to Big 4 pricing or other law firm, it will at 1/4th cost. Moreover, our prices are pre defined and no hidden charges.
3. **All service available in one roof:** Clients choosing CompaniesInn for setting up a company need not look any other agencies for all connected services. CompaniesInn directly or through associates, will ensure the delivery of service at any location in India.
4. **Continued Support:** our associate firm, CN Partners LLP, have experience in corporate law compliance will ensure timely compliance of legal requirements for an affordable price.
5. **Tax Compliance and accounting services:** CN Business Solution LLP, is a book keeping and tax law compliance firm. This firm has the expertise and experience of book keeping and tax compliance.

CompaniesInn is the ideal partner for business setup service and regularity compliance services.

For more information and clarification Contact

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