

# Doing Business in India



[www.fidfinvest.com](http://www.fidfinvest.com)



## Why India?

India is the biggest democracy in the world and if measured by population the second biggest country. The buying power of India is the fourth biggest in the world – with a strongly increasing tendency. The middle class is growing in the next few years by 300 to 400 million people who will all spend money on services and goods.

The Indian government put a lot of effort into supporting the economy and promoting India as a business location. Over the last couple of year the complicated tax system has been completely modified and more simplifications are being planned.

Furthermore the Indian government offers “Special Economic Zones” which offer various facilities and tax remissions to mainly export orientated businesses. With these zones India would like to strengthen companies focussing on production and export and bring more foreign investment capital to India.

Today India is number one for business outsourcing”. Various big companies have moved part of their business activities to India and profit from low salaries and a legion of very educated and motivated employees.

India is especially interesting for companies who would like to invest their money in the country as well as moving a part of the business to India.



[www.fidfinvest.com](http://www.fidfinvest.com)



## Taxation System in India

In last 10-15 years, Indian taxation system has undergone tremendous reforms. The tax rates have been rationalized and tax laws have been simplified resulting in better compliance, ease of tax payment and better enforcement. The process of rationalization of tax administration is ongoing in India.

### Tax levied by Central Government

- **direct taxes:**

- tax on corporate income
- capital gains tax
- personal income tax

- **indirect taxes:**

- excise duty
- custom duty
- service tax
- securities transaction tax

### Taxes levied by State Governments and local bodies

- sales tax / VAT
- other taxes





## 1. Taxes on corporate income

Companies residents in India are taxed on their worldwide income arising from all sources in accordance with the provisions of the Income Tax Act. Non-resident corporations are essentially taxed on the income earned from a business connection in India or from other Indian sources. A corporation is deemed to be resident in India if it is incorporated in India or if its control and management is situated entirely in India.

Domestic corporations are subject to tax at a basic rate of 35 % and a 2.5 % surcharge. Foreign corporations have a basic tax rate of 40 % and a 2.5 % surcharge. In addition, an education cess at the rate of % on the tax payable is also charged. Corporates are subject to wealth tax at the rate of 1 %, if the net wealth exceeds INR 1.5 mn (equals approx. CHF 45'000, EUR 27'000, USD 37'000).

Domestic corporations have to pay dividend distribution tax at the rate of 12.5 %, however, such dividends received are exempt in the hands of recipients.

## 2. Capital gains tax

Tax is payable on capital gains on sale of assets.

Long-term Capital Gains Tax is charged if

- Capital assets are held for more than three years and
- In case of shares, securities listed on a recognized stock exchange in India, units of specified mutual funds, the period for holding is one year.

Long-term capital gains are taxed at a basic rate of 20 %. However, long-term capital gain from sale of equity shares or units of mutual funds are exempt from tax.





Short-term capital gains are taxed at the normal corporate income tax rates. Short-term capital gains arising on the transfer of equity shares or units of mutual funds are taxed at a rate of 10 %.

Long-term and short-term capital losses are allowed to be carried forward for eight consecutive years. Long-term capital losses may be offset against taxable long-term capital gains and short-term capital losses may be offset against both long term and short-term taxable capital gains.

### 3. Personal income tax

Personal income tax is levied by Central Government and is administered by Central Board of Direct taxes under Ministry of Finance in accordance with the provisions of the Income Tax Act. The rates for personal income tax are as follows:

Income up to	INR 100'000 <sup>*1</sup>	0 %
Income from	INR 100'001 to INR 150'000	10 %
Income from	INR 150'001 to INR 250'000	20 %
Income exceeding	INR 250'000	30 %

Surcharges of 10 % on total tax is levied if income exceeds INR 850'000.

<sup>\*1</sup> INR 100'000 equals approx. CHF 3'000, EUR 1'800, USD 2'500





## Incorporation of a business entity

A foreign company planning to set up business operations in India has the following options to set up a business entity:

- As an incorporated entity under the Companies Act 1956 through Joint-Ventures or wholly owned subsidiaries
- As an unincorporated entity through liaison office/representative office or project office or branch office of a foreign company

### 1. Incorporation of a company

Incorporation of a company in India is governed by the Companies Act 1956. A company could be a private limited company or a public limited company.

For the purpose of incorporation in India under the Companies Act, 1956, the first step for the formation of a company is the approval of the name by the Registrar of Companies in the State/Union Territory in which the company will maintain its registered office. This approval is subject to certain conditions. For instance, there should not be an existing company by the same name. Further, the last words in the name are required to be "Private Ltd." in the case of a private company and "Limited" in the case of a Public Company.

Upon compliance with all requirements, the Registrar will register the company and issue a certificate of incorporation of company that would bring the company into existence as a legal entity. Once the company has been duly registered and incorporated as an Indian company, it is subject to Indian laws and regulations as applicable to other domestic Indian companies.

For incorporating a Private Limited Company a minimum of two directors are required and minimum two shareholders. For incorporating a Public Limited Company a minimum of three directors are required and minimum seven subscribers.





## 2. Setting up a liaison / representative office, project office or branch office

Application for setting up these offices may be submitted to Reserve Bank of India in Mumbai (Foreign Investment Division).

- **Liaison / representative office**

A foreign company may open a liaison office in India to promote its business interest, spread awareness of its products, explore further opportunities and act as a communication channel between itself and various Indian companies. A liaison office could be established with the approval of Reserve Bank of India. The role of liaison office is limited to collection of information, promotion of exports/imports and facilitate technical/financial collaborations. It is required to maintain itself out of inward remittances received from abroad through normal banking channels. Liaison office cannot undertake any commercial activity directly or indirectly. Permission for such offices is initially granted for a period of three years and may be extended from time to time. Applications for renewal of permission is required to be made to the concerned regional office of Reserve Bank under whose jurisdiction the office is situated.

- **Project office**

Foreign companies planning to execute specific projects in India can set up a temporary project/site offices in India for carrying out activities only relating to that project. RBI has now granted general permission to foreign entities to establish project offices subject to specified conditions





- **Branch office**

Foreign companies engaged in manufacturing and trading activities abroad are allowed to set up branch offices in India for the purposes of

- export/import of goods
- rendering professional or consultancies services
- promoting technical or financial collaborations
- representing the parent company
- acting as buying/selling agents
- rendering services in IT and development of software
- rendering technical support to the products supplied by the parent/group companies
- foreign airline/shipping companies

Source: [www.indianembassy.org](http://www.indianembassy.org)

*The information contained herein is general in nature and is not intended to constitute financial, tax or legal advice. Whilst all efforts have been used to present the information accurately, we make no representations and provide no warranties to that effect or to its reliability. Readers must obtain their own independent advice. This publication may be reproduced, provided the source is quoted.*

