

DOING BUSINESS IN INDIA



DOING BUSINESS IN INDIA

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1. INTRODUCTION

India is the fourth largest economy in the world in terms of purchasing power parity. It is the largest democracy and the tenth most industrialized country in the world. It has a long established and a robust democratic, federal system, independent judiciary and a free and vibrant press.

Since 1991, the Government of India has made significant changes in the business and regulatory environment as part of its liberalisation and economic reforms program namely deregulation of the Indian industry by substantially pruning the licensing requirements, easing of norms for attracting foreign investment, liberalisation of the financial sector, liberalization of trade policy which has removed administrative and quantitative controls on foreign trade and full convertibility of Rupee on current account, full commitment to safeguarding intellectual property rights, entry of the private sector into banking and infrastructure sectors, previously reserved for the public sector only.

India offers several advantages for doing business:

Stable political system based on parliamentary democracy.

Strategic location from which the vast domestic and South Asia / South East Asian market can be tapped.

Rupee has been made fully convertible on current account, attained Article VIII status in IMF.

Special incentives for export activities.

The country has well developed agriculture and diversified manufacturing base and a huge domestic market.

Large market size with a middle class population estimated at over 300 million with increasing purchasing power reflected by significant increase in purchase of consumer durables in recent years.

Skilled manpower and managers are available at moderate cost.

Large untapped natural resources

Independent judiciary and sophisticated legal and accounting system.

Investment in certain high priority industries upto 100% and for payment of royalty and know-how fees is under the automatic approval route [wherein no specific approval is required to undertake such activities in India, subject to specified parameters].

A specially empowered board, the Foreign Investment Promotion Board (FIPB) in the Ministry of Industry has been set up as the nodal agency to deal with all matters relating to foreign investments in India and to negotiate with large MNCs to attract investment.

Use of foreign brand names is permitted.

Legal protection for Intellectual Property rights.

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For approved investments, capital and dividends is freely repatriable subject to taxation.

New Industrial policy has opened up vast areas to the foreign and private investment including hitherto restricted areas like infrastructure, Power, Telecom, Mining and Consumer goods sector.

Well-developed Capital markets, banking infrastructure and financial services sector.

Special investment and tax incentives given for exports and certain sectors such as Power, Telecom, Software, Oil and Gas.

Import regime in conformity with WTO commitments - removal of remaining quantitative restrictions on import of goods into India barring certain items on grounds of natural security, defence and health.

Double Taxation Avoidance agreements with over 65 countries resulting in a stable and relatively lower tax cost for foreign companies doing business in India.

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2. INVESTMENT POLICY FRAMEWORK

The Industrial Policy Resolution of 1956 and the Statement on Industrial Policy of 1991 forms the basis of the industrial policy of the government.

2.1 Foreign Direct Investment (FDI)

Since 1991, the FDI regime has been progressively liberalised with removal of most of the restrictions on foreign investment and simplification of procedures. There are very few industries now where foreign investment is prohibited and the investment ceilings applicable in certain cases, are gradually being removed.

Salient features of the economic policies and incentives for foreign investments are:

- 100% foreign equity allowed in several sectors under the Automatic Approval Route (without the requirement of any prior approval). The Foreign Investment Promotion Board (FIPB) grants approval for foreign investment proposals not conforming to the criterion under the Automatic Approval route.
- Free repatriation of profits and capital investment is permitted.
- Use of foreign brand names and trade marks for sale of goods in India is permitted. •

Capital markets are open to Foreign Institutional Investors.

- Indian companies permitted to raise funds from the international markets. •

Progressive reductions in corporate taxes have been implemented.

- “Single Window” clearances facilities and “Investor escort services” have been provided in various states.
- Various State Governments are also taking policy and other initiatives to facilitate proposals for Foreign Investment.

2.2 Policy for FDI

In the ongoing process of liberalisation and removing the bottlenecks in terms of facilitating foreign investments in India, approval to all the items / activities are under the automatic route [i.e. without applying for / obtaining a prior approval], except the following :

- All proposals that require an Industrial License (see para 2.11 below)
- All proposals in which the foreign collaborators have a previous venture / tie up in India in the same field if the same are not as per guidelines issued by the Government and as stated in Para 2.3 below.

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- All proposals relating to acquisition of shares in an existing Indian Company in the Financial Service sector or wherever SEBI (Substantial Acquisition of Shares and takeover) Regulations, 1997 is attracted.
- All proposals falling outside notified sectoral policy / caps or under sectors in which FDI is not permitted. Sector Specific Guidelines on Foreign Direct Investment are detailed in **Annexure 1**. Automatic Route of investment are available only upto the specified cap and proposals beyond the cap require approval from Foreign Investment Promotion Board [FIPB] set up by the Government of India.

Proposal for investment in export oriented unit (EOU) / export processing zone (EPZ) / electronic hardware technology park (EHTP) / software technology park (STP) units qualify for automatic approval route subject to satisfaction of certain prescribed parameters.

Non-resident Indians (NRIs) are also allowed to freely invest in India. Government of India's policy in regard to investment by NRIs is very liberal, so much so that in most cases they are eligible for 100% equity. Rules for repatriation of investment and return thereon have also been liberalised and simplified.

FDI policy is reviewed on an ongoing basis and measures for its liberalization are taken and changes notified from time to time.

An illustrative list of sectors under automatic route for FDI upto 100% is given in **Annexure - 2**.

2.3 Automatic Route with Previous Ventures / Tie-Up in India

The Government has reviewed the guidelines notified vide Press Note 18 (1998 series) which stipulated approval of the Government for new proposals for foreign investment / technical collaboration where the foreign investor has or had any previous joint venture for technology transfer / trademark agreement in the same or allied field in India.

New proposals for foreign investment / technical collaborations are now allowed under the automatic route, subject to sectoral policies as per the following guidelines:

- Prior approval of the Government would be required only in cases where the foreign investor has an existing joint venture or technology transfer/trade mark agreement in the 'same' field.
- Even in the above mentioned cases, the approval of the Government would not be required in respect of the following:
 - Investments to be made by venture capital funds registered with SEBI, or
 - Wherein the existing joint venture investment by either of the parties is less than 3%, or
 - Where the existing venture/collaboration is defunct or sick.

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- Joint ventures to be entered after the date of Press Note No. 1 dated January 12, 2005 may embody a 'conflict of interest' clause in the Joint Venture agreement to safeguard the interest of joint venture partners in the event of the partners desiring to set up another joint venture or a wholly owned subsidiary in the 'same' field of economic activity.

2.4 Restrictions on Foreign Investment

- FDI is not permitted in certain sectors - as given in **Annexure 3**.
- Certain industries are reserved for Public Sector only - as given in **Annexure 4**.

2.5 Procedure for FDI under automatic route

FDI up to 100 % is allowed under the automatic route from foreign investors without prior approval in most of the sectors including the services sector. FDI in sectors / activities under automatic route does not require any prior approval either by the Government or RBI. The investors are required to notify the Regional office concerned of RBI within 30 days of receipt of inward remittances and file the required documents with that office within 30 days of issue of shares to the foreign investors.

2.6 Approval from Foreign Investment Promotion Board (FIPB)

In all cases where automatic approval route is not available either because of investment limits or because the items are specifically excluded for such facility prior approval for foreign investment will be required from the Government of India. Approval of the Government of India is granted by FIPB.

The FIPB is a specially empowered board set up specifically for expediting the approval process for foreign investment proposals.

It may, however, be clarified that Automatic Route of approval is not available in respect of proposals in which the Joint venturer embody a 'conflict of interest' clause in the Joint Venture agreement to safeguard the interest of joint venture partners in the event of the partners desiring to set up another joint venture or a wholly owned subsidiary in the 'same' field of economic activity. In such cases approval from FIPB will be necessary.

2.7 Portfolio Investment by Foreign Institutional Investors

The Government of India also welcomes investment in Indian companies by Foreign Institutional Investors (FII). Investment by a single FII through the secondary market is allowed upto 10% of the paid up equity, while in a single company, the aggregate FII exposure is permitted upto the applicable sectoral cap for the industry sector in which the Company operates.

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FII is defined as an institution established or incorporated outside India for making investment in Indian securities and also includes a sub account of an FII. FII must register themselves with the Securities & Exchange Board of India (SEBI) and comply with exchange control regulations of RBI.

Foreign Pension Funds, Mutual Funds, Investment Trusts, Asset Management Companies and incorporated / institutional portfolio managers or their power of attorney holders are allowed to invest in India as FII's.

2.8 Investment in trading activities

Foreign investment in Trading Activities is also welcome provided the Indian undertaking in which investment is made is an export house, or a trading house, or a super trading house or a star trading house registered under the Export and Import Policy in force. Investment upto 51% is through automatic approval route. Investment beyond 51% is required to be cleared by Foreign Investment Promotion Board (FIPB).

2.9 Investment Incentives

The underlying objective of the Indian Government's foreign investment policy is to upgrade technology and to enhance foreign exchange earnings. To achieve this goal, several tax benefits and other incentives are offered for setting up new industrial units and for promoting exports. These incentives are applicable to all Indian companies notwithstanding the quantum of foreign investment in the company

- Unit set up in Special Economic Zones, Export Processing Zones and Software and Electronic Hardware Technology parks.
- 100% export-oriented units in domestic tariff area.
- Power sector and other infrastructure industries.
- Trading companies engaged solely in exports.

Besides the incentives mentioned above the unabsorbed losses of the new unit in the initial years can be carried forward and set off against the profits in future. Research and Development costs are fully deductible on a current basis. Sales Tax / VAT, Excise Duty, Customs Duty exemptions are available in certain cases. In certain areas concessional credit is available in the form of soft loans.

2.10 Transfer of shares / convertible debentures to Non-Residents

Transfer of shares / convertible debentures from residents to non-residents / non residents to residents

- No prior approval of Government (FIPB) and Reserve Bank of India is required in respect of issue or transfer of equity shares/ convertible debentures/ convertible

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preference shares of an Indian company, including existing Indian subsidiary of a foreign parent, by way of sale, between a resident and non resident including issue of fresh/ additional equity, in sectors other than financial service sector (i.e., Banks, NBFCs and Insurance Companies) subject to fulfillment of the following conditions:

- Activities of the investee company are under Automatic Route under FDI policy and do not attract the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulation, 1997.
 - The Non Resident shareholding after the transfer complies with sectoral limits under FDI policy.
 - The Pricing at which the transfer takes place is in accordance with the pricing guidelines prescribed by SEBI in case of listed companies and RBI in case of unlisted companies.
- General permission has also been given for transfer of shares and convertible debentures held by a non-resident to a person resident in India subject to compliance with the guidelines prescribed by SEBI/RBI for pricing and method of payment and remittance /credit of sale proceeds.

2.11 Industrial Licencing

2.11.1 Policy

Industrial Licenses are regulated under the Industries (Development & Regulation) Act, 1951. The requirements of Industrial licence have been progressively reduced. At present industrial licence for manufacturing is required only for the following:

- i. Industries retained under compulsory licencing,
- ii. Items reserved for small scale sector; and
- iii. When the proposed location attracts locational restriction

i. Industries requiring Compulsory Licencing

The following industries require compulsory industrial license:

- a. Distillation and brewing of alcoholic drinks.
- b. Cigars and cigarettes of tobacco and manufactured tobacco substitutes;
- c. Electronic Aerospace and defence equipment: all types;
- d. Industrial explosives including detonating fuses, safety fuses, gun powder, nitrocellulose and matches;
- e. Hazardous chemicals;
 - Hydrocyanic acid and its derivatives •
 - Phosgene and its derivatives

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- Isocyanates and di-isocyanates of hydrocarbon, not elsewhere specified (example: Methyl Isocyanate); and Drugs and Pharmaceuticals (according to modified Drug Policy issued in September, 1994 and subsequently amended in February, 1999)

ii. Industries under small scale sector

- a. An industrial undertaking is defined as a small-scale unit if the capital investment in plant and machinery does not exceed Rs 50 million.

Small-scale units can get registered with the Directorate of Industries/District Industries Centre of the State Government. Such units can manufacture any item, and are also free from locational restrictions.

The Government has reserved certain items for exclusive manufacture in the small scale sector. The list is subject to periodic review and items are dereserved.

- b. Non-small scale units can manufacture items reserved for the small scale sector only after obtaining an industrial license. In such cases, the non-small scale unit is required to undertake an obligation to export 50 per cent of the production of SSI reserved items.
- c. A small scale unit can not have more than 24 per cent equity in its paid up capital from any industrial undertaking, either foreign or domestic. If the equity from another company (including foreign equity) exceeds 24 per cent, even if the investment in plant and machinery in the unit does not exceed Rs 50 million, the unit loses its small-scale status.

iii. Locational Restrictions

Industrial undertakings are free to select the location of a project. Industrial Licence is required if the proposed location is within 25 KM of the Standard Urban Area limits of 23 cities having population of 1 million as per 1991 census.

Locational restriction does not apply:

- a. If the unit were to be located in an area designated as an "industrial area" before the 25th July, 1991.
- b. In the case of Electronics, Computer software and Printing and any other industry, which may be notified in future as "non polluting industry".

The location of industrial units is subject to applicable local zoning and land use regulations and environmental regulations.

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2.11.2 Procedure for obtaining Industrial Licence

Industrial Licence is granted by the Government of India in the Secretariat for Industrial Assistance (SIA) on the recommendation of the Licensing Committee. Application for industrial licence is required to be submitted in the prescribed form. (Form FC-IL)

2.11.3 Policy for Industries exempt from Licensing

Industrial undertakings exempt from industrial license are only required to file an Industrial Entrepreneur Memoranda (IEM) in Part 'A', in the prescribed format, with the Secretariat of Industrial Assistance, and obtain an acknowledgement. No further approval is required. Immediately after commencement of commercial production, the industrial undertaking is required to file with the SIA, Part B of the IEM.

2.12 Environment Clearances

Entrepreneurs are required to obtain Statutory clearances relating to Pollution Control and Environment, as may be necessary for setting up an industrial project for 31 categories of industries in terms of Notification (SO 60(E) dated 27.1.94) issued under The Environment (Protection) Act, 1986 from the Ministry of Environment & Forest, Government of India. This list includes petrochemical complexes, petroleum refineries, cement, thermal power plants, bulk drugs, fertilisers, dyes, paper etc.

However, if investment in the project is less than Rs. 1 billion, such Environmental clearance is not necessary, except in cases of pesticides, bulk drugs and pharmaceuticals, asbestos and asbestos products, integrated paint complexes, mining projects, tourism projects of certain parameters, tarred roads in Himalayan areas, distilleries, dyes, foundries and electroplating industries. Further, any item reserved for the small-scale sector is also exempt from obtaining environmental clearance from the Central Government. Powers have been delegated to the State Governments for grant of environmental clearance for certain categories of thermal power plants. Setting up industries in certain locations considered ecologically fragile (e.g. Aravalli Range, coastal areas, Doon valley, Dahanu, etc.) are guided by separate guidelines issued by the Ministry of Environment and Forests, Government of India.

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3. DIRECT AND INDIRECT TAXES

There are various taxes and duties levied by various authorities in India. The principal taxes that are levied by various authorities are as follows:

Central / Union Government	Income Tax, Customs duties, Central Excise and Sales Tax , Service Tax
State Governments	Tax on agricultural income, VAT / Sales Tax, Stamp Duty, State Excise, Land Revenue, Professional Tax
Other Local Bodies such as Municipalities	Property taxes, Octroi, Tax for utilities like water supply, drainage etc.

Several tax and non tax incentives are offered for setting up new industrial undertakings and for encouraging exports. There are special incentives for new units in specified and export processing zones and for those set up as 100% export-oriented units. These incentives are available to all Indian Companies irrespective of the extent of foreign investment in their share capital. Many tax treaties provide for lower withholding rates for interest, dividends, royalties and fees for technical services.

3.1 Rates

A foreign company under the Income Tax Act is a company, which is not a domestic company. All companies registered in India under Companies Act are treated as a domestic company.

The corporate tax year is the year ended 31st March and is taxed in the assessment year commencing on the succeeding 1st April.

The effective corporate tax rate is as follows:

Type of assessee	Total income exceeds Rs.10 million	Total income not exceeding Rs.10 million
Companies registered in India (Domestic Co.)	33.99%	30.90%
Foreign Company (not registered in India)	42.23%	41.20%

(Tax rate includes the basic income tax, surcharge & Cess)

3.1.1 Minimum alternative Tax (MAT)

The company is liable to pay income tax @ 11.33% of the book profits of the company. Tax credit in respect of MAT is available for the next seven years for set off with the regular tax. MAT does not apply to units established in SEZ

3.1.2 Tax on distributed profits of domestic Companies

Dividend Tax @ 16.995 % is payable by Companies and and 28.325% in case of distribution by mutual funds on profits declared and distributed by them.

Dividend is tax free in the hands of the recipient.

3.1.3 Capital Gains

Sale of unlisted shares and other capital assets

Short-term capital gains [other than on sale of listed securities] are subject to tax at the normal rates mentioned in Para 3.1 above. Long-term capital gains are subject to tax at the effective rate of 22.66% (Foreign Companies / NRIs have to pay capital gains tax @ 11.33%). For the computation of long term capital gains, the actual cost of capital assets and cost of improvement may be increased by cost inflation index as notified by the government.

In computing capital gains on sale of shares and debentures in Indian companies, non-residents have the benefit of protection against depreciation of the rupee vis-à-vis the foreign currency in which the asset was acquired. The benefit of Indexation is not available in such cases.

For computation of long term capital gains from shares or debentures held by nonresidents, the cost of the acquisition is computed by converting the full value of the sale consideration into the same foreign currency as was initially used for acquiring the assets and the capital gain so computed will be reconverted into the Indian currency and will accordingly be taxed.

Exemption / concession on capital gain arising from securities transactions and levy of transaction tax

Long Term Capital Gains arising on sale of securities (held for more than one year) on a recognised stock exchange are exempted from tax. Short Term Capital Gains arising on sale of securities on a recognised stock exchange is taxed at a reduced rate of 11.33% (10.30% if total taxable income is less than 10 millions) provided the Securities Transaction Tax is paid.

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3.1.4 Securities Transaction Tax

A new tax coined as “Securities Transaction Tax” was levied with effect from 1st October 2004 in lieu of the Long Term Capital Gain arising in case of listed securities traded through stock exchanges. The Securities Transaction tax is levied on the value of all the following transactions:

- Purchase or sale of an equity share in a company or a derivative or a unit of an equity oriented fund entered into a recognised stock exchange
- Sale of unit of an equity oriented fund to the mutual fund.

Rates of Security Transaction Tax:

Transaction	Tax Rate
Purchase / Sale of equity shares and units of equity oriented mutual funds (Delivery Based)	0.125%
Sale of equity shares and units of equity oriented mutual funds (Non-delivery Based)	0.025%
Sale of derivatives	0.017%
Sale of unit of equity oriented fund to the mutual fund	0.25%

3.2 Fringe Benefit Tax

Fringe benefit tax (FBT) has been levied on the employer on the value of benefits provided or deemed to be provided to the employees. The effective FBT rate as applicable to the domestic company is 33.99 % and in case of a non-domestic company (Foreign Company) is 31.6725%.

For the purpose of above tax, Fringe Benefits means -

Head of expenses	Percentage
Any privilege, service, facility or amenity directly or indirectly provided by an employer to his employees whether by way of reimbursements or otherwise (including former employees)	No value given
Any free or concession ticket provided by the employer for private journey of the employees and their family	100 % less recovery
Any contribution by the employer to an approved superannuation fund for employees exceeding Rs. 0.10 mn per employee	100 %
The value of deemed fringe benefit is proposed to be considered as the aggregate of the specified percentage of the following expenditures (subject to certain conditions / deductions)	
Festival celebrations; Use of health club and similar facilities; Use of club facilities; Gifts; Scholarship	50%

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Entertainment; Provision of hospitality of every kind to any person whether by way of food and beverage provided to the employees in the office or factory; Conference; Sales promotion including publicity; Employee welfare; Conveyance; Hotel boarding and lodging; Repair, running and maintenance of motor cars; (*); Repair, running and maintenance of aircrafts;(*); Use of telephone; Maintenance of any accommodation in the nature of guest house	20%
Tour and travel including foreign travel expenses	5%
<p>Employees Stock Option (ESOPs)</p> <p>The FBT will be 30% of the difference between FMV and the price that employee pays. The tax liability will be calculated as on the vesting date</p> <p>For listed entities, the fair market value, or FMV will be determined on the date of vesting, FMV will be the average of opening and closing quotes of the scrip. For unlisted companies, the FMV will be determined by a Merchant Banker, on the vesting date</p>	

(*) Including depreciation on motor cars/ aircrafts.

It is further provided that in cases where the employer is engaged in the business of carriage of passengers or goods by motorcar or by aircraft, reduced percentage of 5% of repairs, running and maintenance and fuel expenses have been prescribed for the purpose of valuation.

Similarly, for hotels, a lower percentage of 5% of the expenses incurred on hospitality has been specified for the purpose of calculating the liability under the fringe benefit tax.

Similarly a reduced percentage of 5% is applicable under the head Conveyance in case of entities engaged in construction business and under the head conveyance and Hotel expenses in case of Pharmaceutical business, manufacture and production of computer software.

Similarly for companies in Airways and Shipping Industries, the value of Fringe Benefits in relation to Hospitality, hotel, lodging and boarding shall be 5% instead of the existing rate of 20%.

It is further provided that following expenses would not form part of the fringe benefits:

- Any benefit or amenity in the nature of free or subsidized transport or any such allowance provided by the employer to the employees for commuting between their residence and place of work shall not form part of fringe benefits.
- In case of sales promotion (including publicity), the expenditure on distribution of free samples of medicines or of medical equipment to doctors, and payment to brand ambassadors shall not be included for valuation of fringe benefits.

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The fringe benefit tax paid by the employer is not eligible for deduction in computation of income from business and profession.

An employer liable to pay fringe benefit tax is required to furnish a return of fringe benefits within October 31st of every year.

The entities are also liable to pay advance tax and any failure of payment will attract interest on the same.

3.3 Tax Incentives

The important incentives include:

- **Depreciation**

Capital expenditure incurred on the acquisition and installation of fixed assets is depreciated on a reducing balance basis.

Factory and Office Buildings	10%
Plant and Machinery	15%
Furniture and Fittings	10%
Computers	60%
Pollution Control Equipment and Energy Saving Devices	100%

Depreciation is calculated on the opening written down value of the block of assets plus the additions to the block less the sale proceeds / scrap value of deletions from the block. In the year of acquisition, the depreciation is restricted to 50% of the above rates if the asset is put to use for a period of less than 180 days.

Additional depreciation @ 20% is allowable on new plant and machinery in an existing undertaking.

- Deduction of **preliminary expenses**.

- **Special tax exemptions** for units located in specified zones

- Deduction of 100% of profits, derived from the export of articles or things or computer software is available for undertakings set up in Free Trade Zones, Electronic Hardware Technology Parks, Software Technology Parks for 10 years, up to 31.3.2009
- Profits generated out of exports by an Industrial undertakings set up in Special Economic Zones are exempt from tax for first five consecutive years from the year in which the undertaking begins to manufacture or provide articles or things or computer software as the case may be. Next 2 years profits are exempt @ 50 % and next 3 years @ 50% provided an equivalent amount is transferred to

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Special Economic Zone Reinvestment allowance reserve a/c to be used in specified manner.

- Deduction of 100% of profits, derived from the export of articles or things or computer software, is available for 100% Export Oriented Units for ten years, up to 31.3.2009.
 - Deduction of 100% of income of an off shore banking unit situated in a Special Economic Zone from business activities with undertakings located in the Special Economic Zone, for a period of three years followed by 50% of such income for the next two years.
 - Tax benefits in Special Economic Zones is restricted to new units only.
- Tax incentives available for those engaged in development of infrastructure are listed below:
 - Deduction of 100% of the profits from business for a period of 10 years for

Development or operation and maintenance of ports, airports, roads, highways, bridges, rail systems, inland waterways, inland ports, water supply projects, water treatment systems, irrigation projects, sanitation and sewage projects, solid waste management systems., laying of cross country natural gas distribution network, including gas pipeline and storage facilities integrated to the network; and navigation channel in the sea

Generation, distribution and transmission of power, which commence before 31.3.2010.
 - Development, operation and maintenance of an Industrial Park or Special Economic Zone before 31.3.2009.
- Tax incentives for certain specified sectors are also available as explained below:
 - **Building Housing Projects**

Deduction of 100% of profits derived by undertakings engaged in the business of developing and building housing projects that are approved by the local authority before 31.3.2007.
 - **Handling, Storage and Transportation of Food Grains**

Deduction of 100% profits derived by an undertaking from the integrated business of handling, storage and transportation of food grains for the first five years and 25% (30% in the case of companies) for the next five years.
 - **Refining of Mineral Oil**

Deduction of 100% of profits derived by an undertaking engaged in the commercial production or refining of mineral oil for a period of first seven years.

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- Export of Wood-Based Handicraft

Deduction of 100% of profits derived from export of woodbased handicraft is available to undertakings up to 31.3.2009.

Business of Hotels and Convention Centres

Deduction of 100% of profit for two, three or four star hotels and convention centers in National Capital Territory of Delhi and certain nearby districts from 1st day of April, 2007 and ending on the 31st day of March, 2010

3.4 Losses - carry forward

Business loss (other than speculation loss) may be set off against any other income in the same year and, to the extent it remains unabsorbed, is allowed to be carried forward for eight successive years and can be set off against business income in such later years.

Shares held for more than one year and other assets held for more than 36 months are treated as long term capital assets.

Capital loss can be set off against any other capital gains income in the same year. Capital loss can be carried forward to 8 years. Long Term Capital Loss carried forward can only be set off against long term capital gains. Short term capital loss can be set off against any capital gains.

3.5 Withholding tax

Withholding rate on payments to non-resident corporate	Percentage
Interest (on Foreign Currency Loan)	22.66%
Royalties or fees for technical services (Payable under Indian Government approved agreements)	11.33%
Other taxable Income - Corporate Assessee	45.32%

These rates are general rates applicable on countries, which do not have a Double Taxation Avoidance Agreement (DTA) with India. As stated earlier India has entered into DTA with 65 countries.

The tax rates determined by such agreements are given in **Annexure - 5**.

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3.6 Tax Returns

The accounting year for tax purposes must end on March 31 and every company is required to file its income tax return by the following October 31.

3.7 Advance Tax

Advance tax has to be paid in four installments

		Corporate Assessee	Non Corporate Assessee
On or before June 15	:	15%	-
On or before September 15	:	45%	30%
On or before December 15	:	75%	60%
On or before March 15	:	100%	100%

3.8 Transfer Pricing

Transfer pricing (TP) regulations have been introduced with effect from 1st April 2001. Under TP regulations, international transactions between two or more associated enterprises must be at arm's-length prices. The regulations are applicable mainly on the following types of transactions

- Income and related expenses / interest arising from international transaction to be computed considering arm's length price.
- Cost / expense sharing for benefit, service or facility to one / more enterprises to be determined based on arm's length price.

To compute the arms length price the regulations specify the following methods •

Comparable uncontrolled price method.

- Resale price method.
- Cost-plus method.
- Profit-split method.
- Transactional net margin method.
- Any other method that may be prescribed by the Central Board of Direct Taxes.

The regulations also require the enterprise to maintain prescribed documents and information and to obtain and furnish to the revenue authorities by an accountant's report containing prescribed details regarding the international transactions.

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The Indian Tax authorities may make adjustments, if they determine that the prices determined are not at arms length and recover the taxes due. No deduction would be allowed from the total income of the assessee where the Assessing officer pursuant to the provisions of the Indian Income Tax Act has determined the arms length price.

Penalties have been prescribed in the regulations for understatement of profits as well as for non-compliance with the procedural requirements.

3.9 Authority for Advance Ruling

With a view to avoid a dispute in respect of assessment of income-tax liability in the case of a non-resident (and also specified categories of residents), a Scheme of Advance Ruling was incorporated in the Income Tax Act. The Authority for Advance ruling (AAR) pronounces rulings on the applications of the non-resident/residents submitted and such rulings are binding both on the applicant and the Income-Tax Department.

3.10 Wealth Tax

Wealth Tax is leviable on individuals and companies only in respect of specified nonproductive assets. Debts incurred for acquiring the specified assets are deductible in arriving at net taxable wealth. Net wealth upto Rs. 1.5 million is exempt from wealth and net wealth in excess of this amount is taxable at a flat rate of 1 %.

3.11 Indirect Taxes

- **Value Added Tax (VAT)**

The VAT is a tax on goods but not on services, and has two basic rates (4% and 12.5%). A wide range of goods and sectors is exempt from the tax and existing sales taxes continue to apply in those cases (e.g. fuel and liquor). Features familiar to European-style VAT include an input tax credit and a refund for VAT paid on exports. Excess input credits will be carried forward within the same financial year (the year ending 31 March) only and any balance remaining at the end of the financial year has to be claimed as a refund. Registered businesses will have to issue serially numbered tax invoices and returns will be made monthly or quarterly..

- **Sales Tax**

Sales tax is levied in States that have not implemented VAT / on some commodities where VAT is not applicable. It is first point tax levied on sale of commodity that is manufactured or imported and sold for the first time. The rate ranges from 2% to 15% based on the nature of the commodity sold.

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- **Excise Duty**

Excise duty is levied on manufacture of excisable goods in terms of excisable the Central Excise and Salt Act, 1944. Under MODVAT (modified value added tax) scheme, a manufacturer can obtain credit for excise duty paid on inputs used in the manufacture of final products. The scheme covers most taxable goods. Credit is also available for additional import duty (countervailing duty) paid on imported inputs.

- **Custom Duty**

Customs duties are imposed on imports at rates specified in the annual budget. The Union Budgets over the last few years have significantly reduced the incidence of Excise duty and Customs duty levied on various goods. This is in line with the Government of India's commitments under the WTO regime. It is the intention of the Government to progressively reduce the duties further. The import duties on a wide ranging list of raw materials have been significantly reduced.

- **Service Tax**

Recently there has been a focus on service sector by the Central Government. The Central Government has imposed Service Tax @ 12.36% (including cess) on more than 100 services provided by various categories of companies / individuals.

OTHER INCENTIVES FOR EXPORT

- An advance licensing system allows duty-free import of raw materials and components used in manufacture for export.
- Sales tax is not levied exports.
- Concessional finance from banks is available against export orders.
- Special import licenses are given to recognise export houses having prescribed levels of net foreign exchange earnings and others fulfilling certain conditions.

4. ANNUAL COMPLIANCE

Books and records

Companies incorporated under the Companies Act 1956 must keep proper books and records, sufficient to give a true and fair view of the company's affairs and to explain its transactions. Every company is required to keep proper books of account and records at its registered office with respect to the following.

- All sums of money received and expended by the company as well as the matters with respect to which the receipts and expenditures took place.
- All sales and purchases of goods made by the company. •

The assets and liabilities of the company.

- A company that belongs to a class of companies engaged in production, processing, manufacturing, or mining activities also must maintain such details of utilization of material, labor and other items of cost as may be prescribed by the central government for that class.

There is no provision in the Companies Act as to the form in which the books of account are to be maintained, but it is required to be maintained on an accrual basis. Such books of account are required to be preserved for eight years after the end of any financial year.

In addition to the books of account mentioned above, a company is required to maintain various registers at its registered office viz. an investment register, a register of shareholders, a register of directors and their share holdings and minute books of shareholders and directors meetings.

Accounts and Audit Requirements

Preparation of the accounts by the Companies in India is governed by the Companies Act, 1956 and various pronouncements made by the Institute of Chartered Accountants of India (ICAI). Certain such requirements which we consider relevant to understand the subject matter in brief are summarised as follows:

- The accounts of the companies in India are required to be prepared under accrual method of accounting. The financial statements are prepared under historical cost convention in accordance with generally accepted accounting principles and accounting standards issued by ICAI. These accounting standards are generally similar to and in line with International Accounting Standards (IAS). The accounts of the company are prepared as per Schedule VI of the Companies Act. This schedule specifies various disclosure and presentation requirements and the accounts have to be prepared in accordance therewith. The depreciation on the fixed assets has to be charged at the rates as prescribed under Schedule XIV and the remuneration to directors has to be as per the Schedule XIII of the Companies Act.
- Besides, the Companies while preparing the accounts are also required to comply with the requirements of the various accounting standards issued by the ICAI. There are 29 Accounting Standards mandatory in India and they deal with the matters concerning accounting principles and disclosures generally in line with IAS e.g. disclosure of accounting policies, going concern basis, revenue recognition on accrual basis,

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disclosures of items pertaining to prior period, events occurring after balance sheet date, valuation of stock, accounting of fixed assets and depreciation, accounting of retirement benefits, accounting of borrowing cost, accounting of deferred tax, impairment of assets etc. and related party transactions, segment reporting, earning per share etc.

- While the preparations of the financial statements are the responsibility of the Company's management, the auditors' responsibility is to express an opinion on these financial statements based on their audit. For carrying out the audit there are Standard Auditing Practices (SAP) prescribed by ICAI. These SAPs are generally in line with International Auditing guidelines and practices followed in this respect in other parts of the world. The auditors conduct their audit in accordance with auditing standards generally accepted in India. Those standards require that they plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.
- In India besides the audit as required under the companies act as stated above, an audit has also to be conducted under the Income Tax Act, 1961. The same has to be conducted every year for the financial year starting from 1st April of every year till 31st March of subsequent year. The said tax audit has to be conducted as given under the provisions of the Income Tax Act and a questionnaire giving various details about the Income, Expenses, stock, method of accounting, payment of statutory dues and other relevant matters are to be reported therein. The format of the auditors report has also been provided under the said act and in this report the auditor has to certify the replies / data's as given are true and correct. The details of the said report along with other details are incorporated in the Income Tax Return submitted with the Indian taxation authorities.

5. FOREIGN TECHNOLOGY AGREEMENTS

For promoting technological capability in Indian industry, acquisition of foreign technology is encouraged through foreign technology collaboration agreements. Inductions of know-how through such agreements are permitted either through automatic route or with prior approval from the Government.

Foreign technology collaborations that are eligible for approval are:

- Technical know-how fees.
- Payment for designs and drawings.
- Payment for engineering services.
- Other royalty payments.

Government has delegated powers to Reserve Bank of India to allow payment for foreign technology collaboration by Indian companies under automatic route subject to the following limits

- Lump sum payments up to US \$2 million.
- Royalty payments up to 5 per cent of domestic sales and 8 per cent of exports without any restriction on the duration of royalty payments. The aforesaid royalty limits are net of Indian taxes and are computed in accordance with standard conditions.
- Payment of royalty up to 2% for exports and 1% for domestic sales is allowed under automatic route for use of trademarks and brand name of the foreign collaborator without technology transfer.

Royalty on brand name / trade mark is allowed to be paid as a percentage of net sales, viz., gross sales less agents'/dealers' commission, transport cost, including ocean freight, insurance, duties, taxes and other charges, and cost of raw materials, parts and components imported from the foreign licensor or its subsidiary/affiliated company. In case of technology transfer, payment of royalty includes the payment of royalty for use of trade mark and brand name of the foreign collaborator.

However, RBIs prior approval will continue to be required for remittance towards purchase of trade mark/franchise

Government Approval - Project Approval Board

For royalty payment in the following categories, Government approval (PAB when technical collaboration is proposed and FIPB where both financial & technical collaboration are proposed) would be necessary:

- Sectors / Activities which are not on the automatic route for FDI.
- Proposals not complying with any of the parameters for automatic approval as mentioned above.

6. LEGAL SYSTEM AND MAJOR LAWS

India is a common law country with a written Constitution which guarantees individual and property rights. There is a single hierarchy of courts with Hon'ble Supreme Court at the top.

The major economic laws include the following:

- Companies Act, 1956
- The Indian Contract Act, 1872
- Copyright Act, 1957
- Trade Marks Act, 1999
- The Foreign Trade (Development and Regulation) Act, 1992
- The Industries Act, 1951
- The Sale of Goods Act, 1930
- Customs Act, 1962
- Geographical Indications of Goods Act, 1999
- Indian Patents Act, 1970
- Designs Act, 2000
- Employees Provident Fund and Miscellaneous Provisions Act, 1952
- Industrial Disputes Act, 1947
- Maternity Benefit Act, 1961
- Payment of Bonus Act, 1965
- Payment of Gratuity Act, 1972
- Workmen's Compensation Act, 1923
- Industrial Employment (Standing Orders) Act, 1946
- Minimum Wages Act, 1948
- Payment of Wages Act, 1936
- Monopolies and Restrictive Trade Practices Act, 1969
- Competition Act, 2002
- The Consumer Protection Act, 1986
- Arbitration and Conciliation Act, 1996
- Information Technology Act, 2000
- The Securities & Exchange Board of India Act
- Securities Contract & Regulation Act.
- Factories Act

7. FORM OF ENTERPRISE

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

By incorporating a company both public and private under the Companies Act, 1956

Foreign equity in such Indian companies would however be subject to equity caps in respect of the area of activities under the Foreign Direct Investment (FDI) policy as stated in Para 2 above.

- As a foreign Company through
 - Liaison Office/Representative Office
 - Project Office
 - Branch Office

Company

The principal form of large business enterprises in India is a company incorporated with limited liability.

The law relating to companies is enacted in the Companies Act, 1956. The act regulates Indian companies and branches of foreign corporations operating in India. A company is defined as a company incorporated under the Act.

Companies incorporated under the Act can be public or private companies. To qualify as a private company, the entity's Articles of Association (by laws) must restrict the right to transfer its shares, limit the number of shareholders to 50 (excluding employees and former employees) and prohibit any invitation to the public to subscribe to shares or debentures. Private companies are exempt from compliance with certain provisions of the act.

All companies other than private companies are public companies.

As per the requirements of Companies Act 1956, the minimum paid-up share capital of a private limited company must be Rs. 100,000 [Rupees One Hundred Thousand]. In case of public limited companies, this is Rs. 500,000 [Rupees Five Hundred Thousand]. A Company incorporated in India, where all subscribers to its memorandum are foreign nationals, would still be an Indian Company domiciled in India.

Incorporation begins with seeking approval for the proposed name of the intended company. On obtaining the name approval, the Memorandum and Articles of Association (charter and by-laws) of the Company have to be drawn up.

Memorandum of Association is the charter of the company and it contains the basic conditions on which the company is incorporated. The Memorandum contains the name, the State in which the registered office is to be situated, main objects of the company to be pursued by the company on its incorporation and objects incidental or ancillary to the attainment of the main objects, liability of the members and the authorized capital of the

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company. The main purpose of the memorandum is to state the scope of activities and powers of the company.

Articles of Association of the company contain rules, regulation and bye-laws for the general management of the company. It is compulsory to get the Articles of Associations registered along with the Memorandum of Association in case of a private company. The Articles are subordinate to the Memorandum of Association. Therefore, the Articles should not contain any regulation, which is contrary to provisions of the Memorandum or the Companies Act. The Articles are binding on the members in relation to the company as well as on the company in its relation to members.

At the time of incorporation registration fee based on the Company's authorised share capital has to be paid to the Registrar of Companies (ROC) who then issues a certificate of Incorporation as proof of registration. The incorporation of a company takes approximately 4 to 6 weeks.

A public company has to obtain from ROC a certificate authorising it to commence business that is issued after the company fulfills certain conditions prescribed under the Act.

Companies Act - Provisions

The Companies Act covers various provisions regarding Share Capital, Meetings of Members, Appointment of Directors, Managerial Remuneration and Management of Companies.

The significance of various percentages holdings in company law are

- > 10% : Shareholders can demand investigation or complain against oppression / mismanagement.
- > 25% : can block special resolutions.
- > 51% : can get ordinary resolutions passed with support.
- > 75% : can get special resolutions passed without support.
- > 90% : precludes investigation demand or complaint against oppression / mismanagement.
- > 100% : complete control.

Other Forms of Enterprises

Companies incorporated outside India (which have place of business in India) are termed foreign companies and as a result, the Companies Act, 1956, regulates Liaison, project offices and branches of foreign companies in India.

Application for setting up Liaison Office/ Project Office/ Branch Office has to be submitted to RBI for approval.

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Liaison Office

The role of the liaison office is limited to collecting information about possible market opportunities and providing information about the company and its products to prospective Indian customers. It can promote export / import from/to India and also facilitate technical / financial collaboration between parent company and companies in India. Liaison office cannot undertake any commercial activity directly or indirectly and cannot, therefore, earn any income in India. Approval for establishing a liaison office in India is granted by RBI.

Project Office

Foreign Companies planning to execute specific projects in India can set up temporary project / site offices in India. RBI has now granted general permission to foreign entities to establish Project Offices subject to specified conditions. Such offices cannot undertake or carry on any activity other than the activity relating and incidental to execution of the project. Project Offices may remit outside India the surplus of the project on its completion, general permission for which has been granted by the RBI.

Branch Office

Foreign companies engaged in manufacturing and trading activities abroad are allowed to set up Branch Offices in India for the following purposes:

- 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 parent or overseas group company
- Representing the parent company in India and acting as buying/selling agents in India.
- Rendering services in Information Technology and development of software in India.
- Rendering technical support to the products supplied by the parent/ group companies.
- Foreign airline/shipping company.

Branch Offices established with the approval of RBI, may remit outside India profit of the branch, net of applicable Indian taxes and subject to RBI guidelines. Permission for setting up branch offices is granted by the Reserve Bank of India (RBI).

A branch office on “stand alone basis” in special economic zones can be set up. However, there are certain conditions for setting up the Branch that are as follows:

- Such Branch Offices would be isolated and restricted to the SEZ alone and no business activity / transaction will be allowed outside the SEZs in India, which include branches / subsidiaries of its parent office in India.
- No approval shall be necessary from RBI for a company to establish a branch / unit in SEZs to undertake manufacturing and service activities subject to specified conditions.

8. INDIAN CAPITAL MARKET

The Securities and Exchange Board of India (SEBI) has been established to regulate and promote the development of Indian Securities market in India. It has taken a number of steps to improve the functioning of Stock Exchanges and regulate the conduct of various Intermediaries - Brokers, Merchant Bankers, Underwriters.

SEBI issues detailed guidelines concerning capital markets including for issue of securities by Indian companies, takeovers and disclosures by Indian Companies and investor protection. These guidelines are oriented towards a free market mechanism.

SEBI also regulates the Mutual Fund Industry, portfolio investments by FII's and Venture Capital investment.

Listing requirements on stock exchanges have been modified and the percentage of issued capital that must be offered to the public has been reduced from 60% to 25%. It can also be only 10% subject to meeting certain defined conditions.

A national stock exchange has been set up to provide a stock trading facility to investors by means of an electronic trading system.

The Government of India has also permitted Indian companies to issue equity shares in the form of Global Depository receipts (GDRs), American Depository Receipts (ADRs) and Foreign Currency Convertible Bonds (FCCBs) to international investors.

9. ADVANCE LICENSING SCHEME

- An Advance Licence is issued to allow import of inputs, free of any import duty. Such licences are exempted from payment of basic customs duty, additional customs duty, anti dumping duty and safeguard duty, if any.
- These licences are issued subject to certain conditions [such as fulfillment of a time bound export obligation, positive value addition as per the specified norms etc.] and are not transferable even after completion of export obligation.
- The facility of Advance Licence will also be available where some of the inputs are supplied free of cost to the exporter. In such cases, for calculation of value addition, the notional value of free of cost inputs alongwith value of other duty-free inputs is taken into consideration.
- Advance Licence may be issued for intermediate supply to a manufacturer-exporter for the import of inputs required in the manufacture of goods to be supplied to the ultimate exporter/deemed exporter holding another Advance Licence.
- **Duty Free Replenishment Certificate (DFRC)** is issued to a merchant-exporter or manufacturer exporter for the Import of inputs used in the manufacture of goods without payment of basic customs duty, and special additional duty. However, such inputs shall be subject to the payment of additional customs duty equal to the excise duty at the time of import. Duty Free Replenishment Certificate shall be issued for import of inputs having same quality, technical characteristics and specifications as those used in the end product and as indicated in the shipping bills. DFRC and or the material(s) imported against it shall be freely transferable. The Duty Free Replenishment Certificate is subject to a minimum value addition of 25%.
- **Duty Entitlement Passbook Scheme (DEPB)** For exporters not desirous of going through the licensing route, an optional facility is given under DEPB. The Duty Entitlement Passbook Scheme serves to neutralise the incidence of Customs duty on the import content of the export product by way of grant of duty credit against the export product.
- Under the Duty Entitlement Passbook Scheme (DEPB), an exporter may apply for credit, as a specified percentage of FOB value of exports, made in freely convertible currency. The credit shall be available against such export products and at such rates as may be specified by the Director General of Foreign Trade by way of public notice issued in this behalf, for import of raw materials, intermediates, components, parts, packaging material etc.
- **Transferability** - The DEPB and/or the items imported against it are freely transferable. The transfer of DEPB shall however be for import at the port specified in the DEPB which shall be the port from where exports have been made.
- **Export Oriented Units / Export processing Zones (EPZs) / Electronic Hardware Technology Parks (EHTPs)** - Merchant and manufacture exporters and trading companies including those having foreign equity, export oriented units (EOUs) and units located in Export processing Zones (EPZs) / Electronic Hardware Technology Parks (EHTPs) are recognised as Export houses, Trading houses, Star or Super Star Trading

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House either on the basis of the FOB value or Net Foreign Exchange earned on physical exports and export of services including software exports, realisable in freely convertible currency during the last three licensing years or preceding licensing year, whichever is opted by the exporter, as given below. However, for the purpose of grant of Super Star Trading House status, exports at least in minimum three product groups shall be essential. The export houses specified are entitled to benefits by the Government.

- Special incentives have been announced for Export oriented units and export Processing Zone undertakings.
- **FREE-TRADE ZONES** - The Government has set up a number of export - processing zones that provide facilities for duty -free imports, tax, holidays, exemptions in respect of excise duty and sales tax and other concessions for the manufacture of export items under certain conditions. Also, 100% export- oriented units (EOUs) can be set up outside these zones.

While these units are set upto cater to the export market, they are allowed to sell upto 25% of their production in the domestic tariff area.

Industrial undertakings set up in the export processing zones or as 100% EOUs are exempt from Income Tax for any five consecutive during their first eight years of operation.

10. EXCHANGE CONTROLS

The Government in the last few years has gradually liberalized the exchange control policy. The Foreign Exchange Management Act [FEMA] controls all aspects of exchange control and provides for regulation of the transactions involving foreign exchange. The introduction of FEMA in the year 2000 has liberalised and simplified the procedural and compliance aspects of exchange control and eased the curbs on forex transactions and seeks to promote foreign investment in India.

FEMA virtually provides for full convertibility on capital and current account for non-residents, while it subjects residents to non-convertibility on capital account transactions only.

The Rupee is fully convertible for trade and current account purposes. Except for certain specified restrictions (certain transactions require prior approval of the RBI) foreign currency may be freely purchased for trade and current account purposes.

Permission of Reserve Bank of India is no longer required for buying immovable property for accepting loans/ deposits and for hiring foreign technicians.

Foreign Companies have been permitted to open Liaison and Branch Offices in India. The government has removed all curbs on the use of foreign brand names and trade- marks in the domestic market.

For all approved foreign investments there is freedom for remittances abroad of dividends, royalties and for repatriation of capital, subject to applicable rules and regulations.

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11. INDIVIDUAL TAXATION

Individuals who earn more than a specified amount of annual income are liable to pay Income tax as per Indian Income Tax Act. The tax liability of an individual in India depends upon the individual's residential status. An individual can have any of the following three types of residential status namely

- i) resident and ordinarily resident,
- ii) resident but not ordinarily resident,
- iii) non resident.

An Individual is said to be resident in India if he satisfies either of the following **basic conditions**:

- a) he stays in India for a period of more than 183 days ; or
- b) he stays in India for a period of 60 days or more during the previous year and 365 days or more during the 4 years immediately preceding the previous year.

And, if he satisfies the two following **additional conditions** then an individual becomes resident and ordinarily resident in India.

- a) If he is resident in India for at least 2 out of 10 years immediately preceding the previous; and
- b) He is present in India for at least 730 days during 7 years immediately preceding the previous year.

An individual is said to be non resident if he satisfies none of the basic conditions.

Fiscal Year

Fiscal Year in India runs from 1st April to 31st March every year.

Heads of Income

An Individual's income can be divided under the following head-

- a) Income from Salary,
- b) Income from House Property,
- c) Profits and gains of business or profession
- d) Capital Gain
- e) Income from other Sources.

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Tax Rate

The tax rates are fixed by the annual Finance Act. Tax is levied on the 'total Income' of an individual in accordance with the provisions of the Act which are as follows-

Net Income Range	Income Tax Rates
Up to Rs 1,10,000	Nil
Rs. 1,10,001 to 1,50,000	10% on the balance of the total Income
Rs.1,50,001 to 2,50,000	4,000 plus 20% on the balance income
Rs. 2,50,000 to 10,00,0000	24,000 plus 30% on the balance income

If an individual's net income exceeds Rs One Million, there is a surcharge of 10% on the total Income, there is also cess of 3% on the total tax and surcharge thereon.

However in case the assessee is female or a senior citizen, (who is at least sixty five years of age), the basis exemption limit of Rs.110000 will become Rs.145000 and Rs.195000 respectively thus reducing the effective tax rates.

Fringe Benefit Tax

The Finance Act, 2005 has imposed a new tax known as Fringe Benefit Tax (FBT) on the employer on the value of benefits provided or deemed to be provided to the employees with effect from 1st April 2005. These benefits / perquisites will not be taxed in the hands of the employees. The tax so paid by the employer cannot be recovered from the employee

Investment income

Dividend is tax free in the hands of the shareholders in India. Interest Income is taxable in the hands of the shareholders as per the rates mentioned above.

Capital gains

The income earned by an individual from its investments in India could possibly be in the nature of short term capital gain arising from the transfer of a short-term capital asset or long term capital gain arising from the transfer of long term capital asset.

For these purposes a short- term capital asset would ordinarily mean a capital asset held by the transferor of such asset for not more than thirty-six months immediately preceding the date of its transfer. In the case of a share held in a company or any other security listed in a recognised stock exchange in India, a capital asset held for not more than twelve months by the transferor would qualify as a short -term capital asset. Any capital asset has been held by the transferor for more than the foresaid period would qualify as a long-term capital asset.

Income by way of short -term capital gain earned would be subject to tax at the rate of 11.33% (10.30% if total income is less than 10 millions in the case of a company or a partnership firm or 1 million in the case of individual or HUF) provided such short -term

DOING BUSINESS IN INDIA

capital gains arise from the transfer of qualifying securities. Any other short-term capital gain earned will be chargeable to tax at the normal rate for individuals as stated in Table above.

In case of Long term capital gains a deduction for cost inflation index (CFI) is available whereby the cost of assets sold are adjusted in the same proportion as CFI for the year in which asset is sold bears to the CFI in which the asset was acquired. These are declared by the authorities every year. Income earned by way of long- term capital gains would be chargeable to tax at the rate of 22.66% Long term capital gains arising on transfer of securities are subjected to tax at different rates. Income earned by way of long term capital gain from the transfer of qualifying securities would be exempt from long term capital gains tax and only a securities transaction tax will be payable on such transaction. In case of other securities if the costs of inflation indexation benefits are taken the gains would be subjected to tax at a normal rate of 22.66%. In case no indexation benefits are taken then these would be taxed @ 11.33%.

Wealth Tax

Wealth Tax is leviable on individuals only in respect of specified non productive assets. Debts incurred for acquiring the specified assets are deductible in arriving at net taxable wealth. Net wealth upto Rs. 1.5 million is exempt from wealth and net wealth in excess of this amount is taxable at a flat rate of 1 %.

Double tax treaties

Double Taxation Avoidance agreements with over 65 countries resulting in a stable and relatively lower tax cost for foreign companies doing business in India.

Indirect Tax

Several types of Indirect taxes and duties are levied by the various authorities in India like VAT, Excise, Custom, Service Taxes etc. Among these, Service Tax which has been recently introduced is the effect of massive growth in service sector and is increasingly becoming a significant source of revenue to the government.

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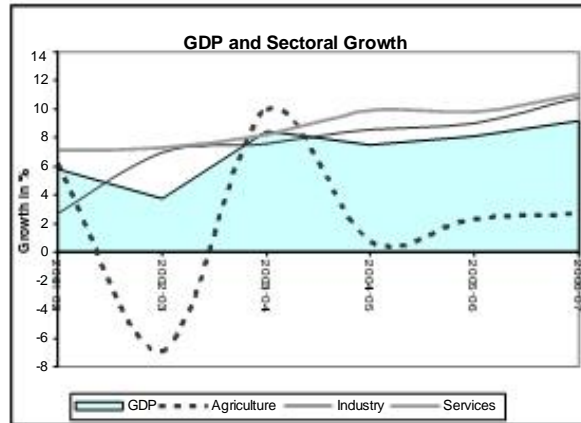
12. INDIA - IN BRIEF

INDIA AT A GLANCE

- World's largest democracy
- 4th Largest economy on PPP basis and 10th most industrial economy
- Second largest pool of trained scientific talent in the world.

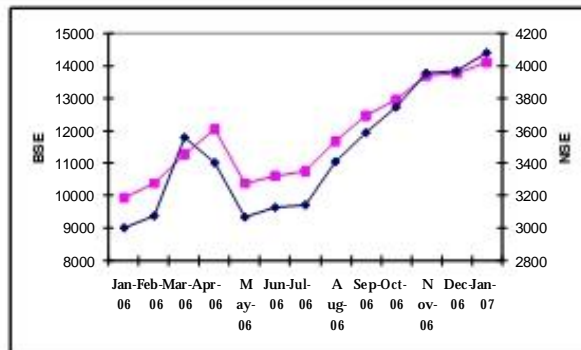
Overall Growth

As per advance estimates, the annual economic growth (real GDP growth) during 2006-07 is expected to be 9.2% as compared to 8.1% in 2005-06, largely owing to sharp rise investments, modest inflation and continuous growth in the industrial sector.



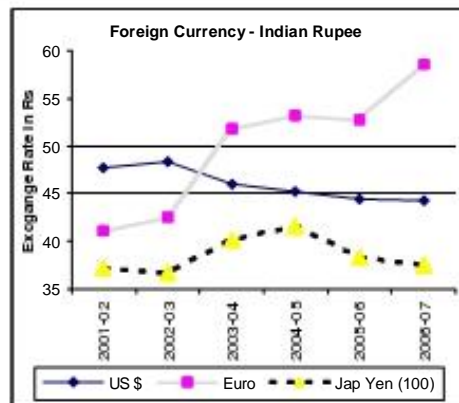
Capital Markets

The return on the BSE Sensex was a 46.7% during 2006 in comparison to return of 42.33% in 2005. The Nifty index rose by 39.8% during 2006. The pickup in the stock indices could be attributed to impressive growth in the profitability of Indian corporate, overall growth in the economy and other global factors.



Exchange Rate

At the end of the first ten months of 2007, the Rupee appreciated by around 11.1% against the US dollar. The Rupee appreciated against the other major currencies (i.e. the Euro, Pound Sterling and the Japanese Yen) during the same period by 2.595 , 6.40% and 7.87% respectively.



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Time Zone

India is five and half hours ahead of the Greenwich Mean Time (GMT). The normal business hour is from 9.30 AM to 5.30 PM.

Geography

India is located at Latitudes 8° 4' and 37°6' north and longitudes 68° 7' and 97°25' east.

In area, India is the largest country in South Asia and the seventh largest in the world. India, a peninsula, is a natural sub-continent flanked by the Himalayas in the north, the Arabian Sea in the West, the Bay of Bengal in the east and the Indian Ocean in the South. The Andaman and the Nicobar Islands in the Bay of Bengal and the Lakshadweep Islands in the Arabian Sea are part of the territory of India.

Language

India has 16 officially recognized languages of which Hindi is the official language of the Republic. English is extensively used and understandable almost all over India.

Population

India is the 2nd most populous country in the world, with over 1 billion peoples, which is about 16% of the world population. 23 cities have a population of over a million. Mumbai, the largest city in India has a population over 12.6 million.

Literacy Rate in India is 65% with a vast degree of regional variation.

Climate

Due to the enormity of the country and differences of altitude, there are various climatic zones in the country. However India has mainly three seasons during the year which are as follows:

Rainy	:	mid -June to mid-October
Winter	:	mid-October to mid-March
Summer	:	mid-March to mid-June

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Political Set-Up

India is the largest democracy in the world and has adopted a Parliamentary System of Government with a federal structure. The Central Government at Delhi has exclusive jurisdiction over all matters of national interest and comprise of a council of ministers headed by the Prime Minister. The country is administratively divided into 29 states and 6 union territories. The state Government has primary responsibility for matters like law and order, education, health and agriculture. The parliament comprises of 2 houses, the lower house is known as Lok Sabha and the upper house is known as the Rajya Sabha.

Education

Education in India is of International Standard. There are International standards of schools, colleges, universities in India. Various types of scholarships, loan facilities are also provided. Government has also introduced an employment exchange programs all over the country to facilitate the recruitment of deserving candidates into various sectors.

Literacy Rate in India is 65% with a vast degree of regional variation.

Working conditions

Working environment in India is very congenial. Anybody coming in India to take-up the employment needs a valid passport along with visa application form completed and signed along with the necessary formalities of work permit.

The working week is usually from Monday to Friday, 9:30 a.m to 5:30 p.m., Saturday until 2:00 p.m. However, in some offices, there is five days office in a week.

Currency and Banking

The Indian rupee (INR) is the country's currency. Transactions on Capital account are still regulated but since 1.03.93 the rupee is convertible on current account.

The exchange rates with some of the world's major trading currencies as on 31st October 2007 are as follows:-

US Dollar	39.32
Euro	56.75
Pound Sterling	81.35
Japanese Yen	34.28

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The country's banking system is monitored and controlled by the Reserve Bank of India. The primary functions of the RBI are issuance of currency and regulations and supervision of Indian banks and banking. The commercial banking system in India is fully developed and consists of over 275 commercial banks and most of large banks are state owned. Private and foreign banks also have active participation in the Indian Banking sector.

Judiciary

India has a well established and independent judiciary system. The Supreme Court of India is the highest court of appeal at New Delhi. High Courts in the states, along with supplementary district courts enforce the fundamental rights of citizens that are guaranteed by the Constitution.

Transport

All modes of public and private transport are usually available across all over the places in India at reasonable rates.

Accommodation

India is a part of a global trend advancing towards urbanization. So, in effect, International standard living accommodation can be easily rented or purchased by foreigners in major cities in India.

Health & Health care

Generally, health standards are extremely good in India. Health awareness is the prime consideration to ensure efficiency and productivity of human resources in any country. Government and private bodies have set up various hospitals and private nursing homes to the take due care of the patient. These hospitals provide international standard facilities at competitive costs. Various types of medical insurances are also available in India. Moreover, medical insurance for employees and their families are also provided by the employer through a group insurance or for an each individual.

Media

Media is widely spread and is operated both by government and private organisations. It has got all sources of media from Radio Stations to TV station in the form of All India Radio (AIR), Doordarshan News, Press Information Bureau providing 24 hours service and offering Global news through Satellite Link.

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ANNEXURE - 1

SECTOR SPECIFIC GUIDELINES FOR FOREIGN DIRECT INVESTMENT

Sector	Sectoral Cap [%]	Particulars
Airlines	49	<p>In the domestic Airlines Sector</p> <ul style="list-style-type: none"> FDI upto 49% permitted under domestic route subject to no direct or indirect equity participation by foreign airlines. 100% investment by NRIs
Airports - <ul style="list-style-type: none"> Greenfield Projects Existing Projects 	100	<p>FDI upto 100% is permitted under the Automatic route.</p> <p>FDI ceiling has been increased to 100% from 74% earlier. However, FDI beyond 74% to require FIPB approval.</p>
Atomic Energy	-	<p>The following three activities are permitted to receive FDI/NRI investments through FIPB</p> <ul style="list-style-type: none"> Mining and mineral separation Value addition per se to the products of (a) above Integrated activities (comprising of both (a) and (b) above. <p>The following FDI participation is permitted:</p> <ul style="list-style-type: none"> Upto 74% in both pure value addition and integrated projects. For pure value addition projects as well as integrated projects with value addition upto any intermediate stage, FDI is permitted upto 74% through joint venture companies with Central/State PSUs in which equity holding of at least one PSU is not less than 26%. In exceptional cases, FDI beyond 74% will be permitted subject to clearance of the Atomic Energy Commission before FIPB approval.
Agriculture	-	No FDI / NRI investment is permitted.
Alcohol - Distillation & Brewing	100	FDI upto 100% under the Automatic route is permitted in respect of distillation and brewing of potable alcohol subject to license by appropriate authority.
Advertising and Films	100	Automatic approval for film financing, production, distribution, exhibition, marketing and associated activities relating to film industry.

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Sector	Sectoral Cap [%]	Particulars
Asset Reconstruction Companies (ARCs)	49	FDI (other than FIIs) upto 49% of equity capital of ARCs (registered with RBI) with FIPB approval is permitted. Where any individual investment exceeds 10% of the equity, compliance with provision of section 3(3)(f) of securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 which provides that the sponsor, is not a holding company of the securitisation or reconstruction company, or, does not otherwise hold any controlling interest in such securitisation or reconstruction company.
Banking	49	Automatic, but subject to RBI guidelines
Banks - Private Sector	74	<ul style="list-style-type: none"> • Under Automatic Route • This Includes investment by FIIs under Portfolio Investment Scheme, NRIs, and shares acquired prior to September 16 2003 by OCBs, and will continue to include IPOs, Private Placements, GDRs / ADRs and acquisition of shares from existing shareholders. • At least 26% of paid up capital will have to be held by residents [except a wholly owned subsidiary of a foreign bank] and aggregate foreign investment from all sources will be upto a maximum of 74%.
Banks - Subsidiary of Foreign Banks	100	<ul style="list-style-type: none"> • Foreign banks are permitted to either have branches or subsidiaries, not both. • Foreign banks regulated by a banking supervisory authority in the home country and meeting Reserve Bank's licensing criteria will be allowed to hold 100% paid up capital to enable them to set up a wholly-owned subsidiary in India.
Broadcasting	100	<ul style="list-style-type: none"> • TV Software Production 100% foreign investment allowed subject to: (i) all future laws on broadcasting and no claim of any privilege or protection by virtue of approval accorded, and (ii) not undertaking any broadcasting from Indian soil without Government approval
	26	<ul style="list-style-type: none"> • Up-linking a News & Current Affairs TV Channel FDI upto 49% with prior FIPB approval is permitted; the 49% ceiling includes investments by FIIs also.
	100	<ul style="list-style-type: none"> • Up-linking a Non-News & Current Affairs TV

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Sector	Sectoral Cap [%]	Particulars
		<p>Channel</p> <p>FDI upto 26% with prior FIPB approval including investments by FIIs also is permitted subject to specified conditions.</p> <p>FDI upto 100% with prior FIPB approval is permitted.</p>
	49	<ul style="list-style-type: none"> • Setting up hardware facilities, such as uplinking, HUB, etc. <p>FDI upto 49% with FIPB approval with FDI component not to exceed 20% is permitted; the 49% ceiling include investments by FIIs also.</p> <p>As regards satellite broadcasting, all TV channels irrespective of management control to uplink from India provided they undertake to comply with the broadcast (programme and advertising) code</p>
	49	<ul style="list-style-type: none"> • Cable Network <p>Foreign investment allowed upto 49% (inclusive of both FDI and portfolio investment) of paid up share capital. Companies with minimum 51% of paid up share capital held by Indian citizens are eligible under the Cable Television Network Rules (1994) to provide cable TV services</p> <p>FDI upto 20% with FIPB approval is permitted; the 20% ceiling includes investments by NRIs, PIO investments and portfolio investments.</p>
	49	<ul style="list-style-type: none"> • Direct-to-Home <p>FDI upto 49% with FIPB approval is permitted; the 49% ceiling include investments by FIIs also.</p>
	-	<ul style="list-style-type: none"> • Terrestrial TV <p>No private operator is allowed in terrestrial TV transmission</p>
	20	<ul style="list-style-type: none"> • Terrestrial Broadcasting FM <p>The licensee shall be a company registered in India under the Companies Act. All share holding should be held by Indians except for the limited portfolio investment by FII/NRI/PIO subject to such ceiling as may be decided from time to time. Company shall have no direct investment by foreign entities and NRIs. As of now, the foreign investment is permissible to the extent of 20% portfolio investment</p>
	20	<ul style="list-style-type: none"> • FM Radio

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Sector	Sectoral Cap [%]	Particulars
		The investment is subject to guidelines issued by the Ministry of Information & Broadcasting
Courier Services	100	Permitted with prior approval of Government subject to existing laws and excluding distribution of letters
Coffee & Rubber	100	FDI upto 100% under the Automatic route is permitted for processing and warehousing.
Coal and Lignite	100	<ul style="list-style-type: none"> • Private Indian companies setting up or operating power projects as well as coal or lignite mines for captive consumption are allowed FDI upto 100%. • 100% FDI is allowed for setting up coal processing plants subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing. • FDI ceiling under the Automatic route increased to 100% from 74% earlier, for captive consumption by power projects and iron & steel, cement production and other eligible activities permitted under the Coal Mines (Nationalization) Act, 1973. • In all the above cases, FDI is allowed upto 50% under the automatic route. However, in case of PSU the investment shall not exceed 49%.
Defence	26	FDI is permissible upto 26 %, subject to licensing and security requirements with prior Government approval
Drugs and Pharmaceuticals	100	Permitted under automatic route. FDI proposals for the manufacture of licensable drugs and pharmaceuticals and bulk drugs produced by recombinant DNA technology and specific cell/tissue targeted formulations will require prior Government approval.
Establishment and operation of satellite	74	FDI upto 74% is permitted with prior Government approval
Hotels and Tourism	100	Automatic Route
Insurance	26	FDI upto 26% in the Insurance sector is allowed on the automatic route subject to obtaining license from Insurance Regulatory and Development Authority (IRDA)
Integrated Townships	100	FDI permissible with prior Government approval for development of integrated townships including housing, commercial premises, hotels, resorts, city and regional level urban infrastructure facilities. Profits can be

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Sector	Sectoral Cap [%]	Particulars
		<p>repatriated after three years and the project size has to be minimum of 25 acres.</p> <p>Foreign companies should bring in upfront at least US \$ 10 mn as paid up capital and US \$ 5 mn in case of joint ventures involving an Indian partner. Detailed guidelines have been notified.</p>
Investing companies in infrastructure / Service sector	-	In respect of the companies in infrastructure/service sector, where there is a prescribed cap for foreign investment, only the direct investment will be considered for the prescribed cap and foreign investment in an investing company will not be set off against this cap provided the foreign direct investment in such investing company does not exceed 49% and the management of the investing company is with the Indian owners. The automatic route is not available.
Investing in Infrastructure Companies in securities Markets, namely stock exchanges, depositories, and clearing corporations	26	<p>Foreign Investment upto 49% is allowed in these companies with a separate FDI cap of 26% and FII cap of 23%.</p> <p>FDI is allowed with specific prior approval of FIPB and FII will be allowed only through purchases in the secondary market.</p> <p>No foreign investor including person acting in concert, will hold more than 5% of the equity in these companies.</p>
Mass Rapid Transport Systems	100	Permitted under automatic route in all metropolitan cities, including associated commercial development of real estate
Manufacturing	100	<p>FDI upto 100% under the Automatic route is extended to manufacturing activities requiring Industrial License under the Industries (Development & Regulation) Act, 1951 and are located within 25 kms of the Standard Urban Area limits.</p> <p>FDI upto 100% under the Automatic route is permitted for manufacturing industrial explosives /hazardous chemicals.</p> <p>FDI upto 100% with FIPB approval is permitted for manufacturing Cigars & Cigarettes.</p>
Mining	74-100	<ul style="list-style-type: none"> • For exploration and mining of diamonds and precious stones Automatic approval subject to the Mines & Minerals (Development & Regulation) Act, 1957. • For exploration and mining of gold and silver and minerals other than diamonds and precious stones,

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Sector	Sectoral Cap [%]	Particulars
		<p>metallurgy and processing FDI is allowed upto 100% under automatic route.</p> <ul style="list-style-type: none"> • Press Note No. 18 (1998 series) dated 14.12.98 and Press Note No. 1 of 2005 dated 12.01.05 would not be applicable for setting up 100% owned subsidiaries in so far as the mining sector is concerned, subject to a declaration from the applicant that he has no existing joint venture for the same area and / or the particular mineral.
Non-Banking Financial Companies		<ul style="list-style-type: none"> • FDI/NRI investments allowed in the following activities shall be as per levels indicated below: <ol style="list-style-type: none"> i) Merchant banking ii) Underwriting iii) Portfolio Management Services iv) Investment Advisory Services v) Financial Consultancy vi) Stock Broking vii) Asset Management viii) Venture Capital ix) Custodial Services x) Factoring xi) Credit Reference Agencies xii) Credit rating Agencies xiii) Leasing & Finance xiv) Housing Finance xv) Forex Broking xvi) Credit card business xvii) Money changing Business xviii) Micro Credit xix) Rural Credit(b) • Minimum Capitalisation Norms for fund based NBFCs: <ol style="list-style-type: none"> i) For FDI upto 51% - US\$ 0.5 mn to be brought upfront ii) For FDI above 51% and upto 75% - US \$ 5 million to be brought upfront iii) For FDI above 75% and up to 100% - US \$ 50

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Sector	Sectoral Cap [%]	Particulars
		<p>million out of which US \$ 7.5 million to be brought upfront and the balance in 24 months</p> <ul style="list-style-type: none"> • Minimum capitalisation norms for non-fund based activities of US \$ 0.5 million is applicable in respect of all permitted non-fund based NBFCs with foreign investment • Foreign investors can set up 100% operating subsidiaries without the condition to disinvest a minimum of 25% of its equity to Indian entities, subject to bringing in US\$ 50 million as above (without any restriction on number of operating subsidiaries without bringing in additional capital)) • Joint Venture operating NBFC's that have 75% or less than 75% foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities, subject to the subsidiaries also complying with the applicable minimum capital inflow as above • FDI in the NBFC sector is put on automatic route subject to compliance with guidelines of the Reserve Bank of India. RBI would issue appropriate guidelines in this regard
Petroleum (other than Refining)		<ul style="list-style-type: none"> • Under the exploration policy, FDI upto 100% is allowed for exploration in small and medium sized fields under Automatic Route. This is subject to Government policy on private participation in oil exploration and in the discovered field of national oil companies. • FDI in Petroleum product marketing is permitted upto 100% under automatic route subject to regulatory framework in the oil marketing sector. • FDI in petroleum product marketing is permitted upto 100% subject to government policy and regulation. • 100% wholly owned subsidiary is permitted for investment / Financing. • For actual trading and marketing, minimum 26% Indian equity is required over 5 years. • FDI upto 100% under the Automatic route is permissible in respect of laying of Natural Gas/ LNG pipelines, market study & formulation and Investment financing in the Petroleum & Natural Gas sector. • FDI ceiling is increased to 100% under the

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Sector	Sectoral Cap [%]	Particulars
		Automatic route for setting up infrastructure relating to marketing in Petroleum & Natural Gas sector. The investment is subject to sectoral regulations issued by the Ministry of Petroleum & Natural Gas.
Petroleum Refining		<ul style="list-style-type: none"> • FDI is permitted upto 26% in case of public sector units(PSUs). PSUs will hold 26% and balance 48% by public. Automatic route is not available. • In case of private Indian companies, FDI is permitted upto 100% under automatic route.
Power	100	Upto 100% FDI allowed in respect of projects relating to electricity generation, transmission and distribution, other than atomic reactor power plants. There is no limit on the project cost and quantum of foreign direct investment.
Power Trading	100	FDI upto 100% under the Automatic route is now permitted subject to compliance with the Regulations under the Electricity Act, 2003.
Pollution Control and Management	100	FDI upto 100% in both manufacture of pollution control equipment and consultancy for integration of pollution control systems is permitted on the automatic route.
Print Media	26	<p>FDI upto 100% in publishing scientific / technical and specialty magazines / periodicals and journals subject to prior approval of Central Government and the applicable legal framework and guidelines issued in this regard by Ministry of Information and Broadcasting.</p> <p>FDI and portfolio investment within the composite ceiling of 26% is permitted with prior FIPB approval in publication of newspaper and periodicals dealing with news and current affairs.</p> <p>Subject to prior approval of the Central Government and the following conditions :</p> <ul style="list-style-type: none"> • FDI will be allowed only where the new entity is a company registered with the Registrar of Companies under the provisions of the Companies Act, 1956. • equity held by the largest Indian shareholder should be at least 51% of the total equity, excluding the equity held by Public Sector Banks and Public Financial Institutions • While calculating the 26% FDI in the equity of the New Entity, the foreign holding component, if any, in the equity of the Indian shareholder companies of the New Entity will be duly reckoned on pro rata basis so as to arrive at the total foreign holding in

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Sector	Sectoral Cap [%]	Particulars
		<p>the New Entity.</p> <ul style="list-style-type: none"> At least 50% of the FDI will have to be inducted by issue of fresh equity. The balance, viz. upto 50% of the FDI, may be inducted through transfer of existing equity.
Roads and Highways, Ports and harbours	100	FDI upto 100% under automatic route is permitted in projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours.
Satellites	74	For establishment and operation FDI upto 74% with prior FIPB approval is permitted.
Telecommunications	74	<ul style="list-style-type: none"> In Basic and cellular, Unified Access Services, National / International Long Distance, V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS) and other value added telecom services FDI is limited to 74% subject to licensing and security requirements. FIPB approval required beyond 49%. The 74% ceiling includes but is not limited to investment by FIIs, NRIs, FCCBs, ADRs, GDRs, convertible preference shares and proportionate foreign investment in Indian promoters/investment companies including their holding companies etc. Resident Indians would need to hold at least 26% at all times. 100 % investment allowed with some conditions in ISPs not providing gateways (both for satellite and submarine cables), Infrastructure Providers providing dark fiber (IP category I) , Electronic mail and Voice mail 74 % investment permitted [proposal for FDI beyond 49% with prior Government approval] for ISPs providing gateways, Radio Paging and end-to-end bandwidth, subject to licensing and security requirements No equity cap is applicable to manufacturing activities.
Townships, housing, built-up infrastructure and construction development projects	100	FDI upto 100% under the Automatic route in townships, housing, built-up infrastructure and construction development projects including but not limited to, housing, commercial premises, resorts, educational institutions, recreational facilities, city and regional level infrastructure is permitted, subject to certain investment

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Sector	Sectoral Cap [%]	Particulars
		criteria and technical/ legal specifications.
Trading	100	FDI upto 100% under automatic route is permitted in respect of cash and carry wholesale trading and export trading.
	51	FDI upto 51% with prior FIPB approval in retail trade of 'Single Brand products' is allowed subject to specified conditions.
	51	<p>Trading is permitted under automatic route with FDI upto 51% provided it is primarily export activities, and the undertaking is an export house/trading house/super trading house/star trading house. However, under the FIPB route:-</p> <p>I. 100% FDI is permitted in case of trading companies for the following activities:</p> <ul style="list-style-type: none"> • bulk imports with ex-port / ex-bonded warehouse sales; • other import of goods or services provided at least 75% is for procurement and sale of goods and services among the companies of the same group and not for third party use or onward transfer/distribution/sales. <p>II. The following kinds of trading are also permitted, subject to provisions of EXIM Policy:</p> <ul style="list-style-type: none"> • Companies for providing after sales services (that is not trading per se) • Domestic trading of products of JVs is permitted at the wholesale level for such trading companies who wish to market manufactured products on behalf of their joint ventures in which they have equity participation in India. • Trading of hi-tech items/items requiring specialised after sales service • Trading of items for social sector • Trading of hi-tech, medical and diagnostic items. • Trading of items sourced from the small scale sector under which, based on technology provided and laid down quality specifications, a company can market that item under its brand name. • Domestic sourcing of products for exports. • Test marketing of such items for which a company has approval for manufacture provided

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Sector	Sectoral Cap [%]	Particulars
		<p>such test marketing facility will be for a period of two years, and investment in setting up manufacturing facilities commences simultaneously with test marketing.</p> <ul style="list-style-type: none"> • FDI upto 100% permitted for e-commerce activities subject to the condition that such companies would divest 26% of their equity in favour of the Indian public in five years, if these companies are listed in other parts of the world. Such companies would engage only in business to business (B2B) e-commerce and not in retail trading. • FDI is not permitted in retail trading activity.
Venture Capital Fund and Venture Capital Company	-	Offshore Venture Capital Funds/Companies are allowed to invest in domestic venture capital undertaking as well as other companies through the automatic route, subject only to SEBI regulations and sector specific caps on FDI.
Others	100	FDI upto 100% under the Automatic route is permitted in respect of Floriculture, Horticulture, Development of Seeds, Animal Husbandry, Pisciculture, Aqua-culture, cultivation of vegetables, mushrooms under controlled conditions and services related to agro and allied sectors.

ANNEXURE - 2

ILLUSTRATIVE LIST OF SECTORS UNDER AUTOMATIC ROUTE FOR FDI UPTO 100%

- Most manufacturing activities
- Non-banking financial services
- Drugs and pharmaceuticals that do not attract compulsory licensing or involve use of recombinant DNA technology
- Food processing
- Electronic hardware
- Software development
- Film industry
- Advertising
- Hospitals
- Private oil refineries
- Pollution control and management
- Exploration and mining of minerals other than diamonds and precious stones
- Management consultancy
- Venture capital funds/companies
- Setting up/development of industrial park/model town/SEZ
- Petroleum Products Pipeline
- **Infrastructure Sectors**
 - Electricity Generation (except Atomic energy)
 - Electricity Transmission & Distribution
 - Mass Rapid Transport System
 - Roads & Highways / Toll Roads
 - Ports & Harbours
 - Hotel & Tourism
 - Townships, Housing, Built-up Infrastructure and Construction Development Project

ANNEXURE - 3

LIST OF ACTIVITIES FOR WHICH FDI IS PROHIBITED

1. Arms and ammunition.
2. Atomic Energy.
3. Railway Transport.
4. Coal and lignite.
5. Mining of iron, manganese, chrome, gypsum, sulphur, gold, diamonds, copper, zinc.
6. Retail Trading (except single branded product retailing)
7. Lottery Business
8. Gambling and Betting
9. Agriculture (excluding Floriculture, Horticulture, Development of seeds, Animal Husbandry, Pisciculture and cultivation of vegetables etc. under controlled conditions and services related to agro and allied sectors) and Plantations (other than tea plantations)

ANNEXURE - 4

LIST OF INDUSTRIES RESERVED FOR THE PUBLIC SECTOR

1. Atomic Energy
2. Railway Transport

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ANNEXURE - 5

TAX RATES OF CERTAIN ITEMS AS PER DOUBLE TAXATION AVOIDANCE AGREEMENT

Country	Dividends (%)	Interest (%)	Royalties (%)
Australia	15	15	15
Austria	20	20	30
Bangladesh	15	10	10
Belarus	15	10	15
Belgium	15	15	20
Brazil	15	15	15
Bulgaria	15	15	20
Canada	25	15	15
China	10	10	10
Cyprus	15	10	15
Czechoslovakia	20	15	30
Czech Republic	10	10	10
Denmark	20	15	20
Egypt	20	20	30
Finland	15	10	20
France	10	15	10/20
Germany	10	10	10
Greece	20	20	30
Hungary	15	15	30
Indonesia	15	10	15
Israel	10	10	10
Italy	20	15	20
Japan	15	15	20
Jordan	10	10	20
Kazakhstan	10	10	10
Kenya	15	15	20
Korea	20	15	15
Kyrgyzstan	10	10	15
Libya	20	20	30
Malaysia	20	20	30
Malta	15	10	15

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Country	Dividends (%)	Interest (%)	Royalties (%)
Mauritius	15	20	15
Mongolia	15	15	15
Morocco	10	10	10
Namibia	10	10	10
Nepal	15	15	15
Netherlands	10	10	10
New Zealand	15	10	10
Norway	15	15	30
Oman	12.5	10	15
Philippines	20	15	15
Poland	15	15	22.5
Portugal	15	10	10
Qatar	10	10	10
Romania	20	15	22.5
Russian Federation	10	10	10
Singapore	15	15	15
South Africa	10	10	10
Spain	15	15	20
Sri Lanka	15	10	10
Sweden	10	10	10
Switzerland	15	15	20
Syria	0	7.5	10
Tanzania	15	12.5	20
Thailand	20	20	15
Trinidad and Tobago	10	10	10
Turkey	15	15	15
Turkmenistan	10	10	10
United Arab Emirates	15	12.5	10
United Kingdom	15	15	15
United States	20	15	15
Uzbekistan	15	15	15
Vietnam	10	10	10
Zambia	15	10	10

DOING BUSINESS IN INDIA

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