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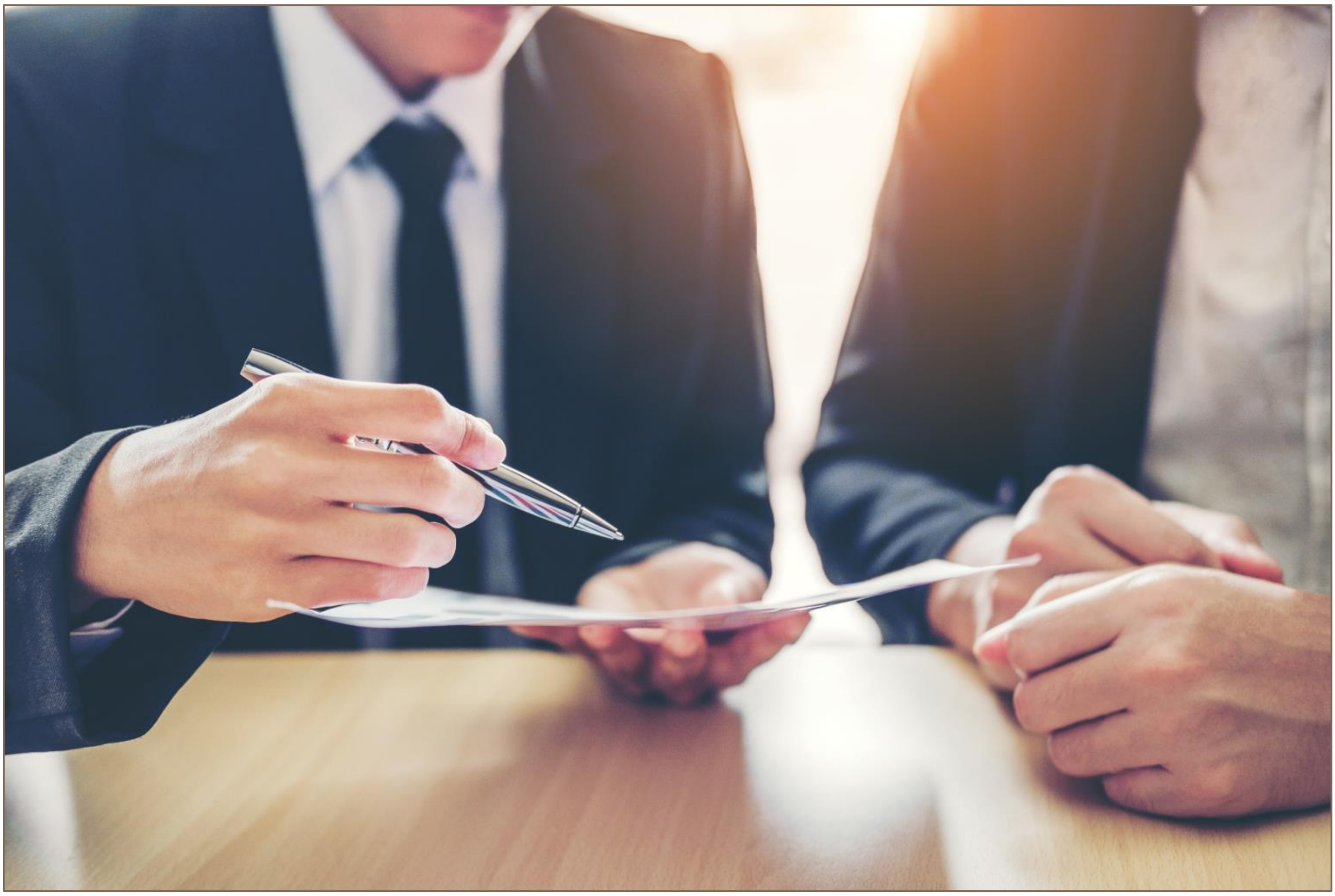
India Market Entry: Legal Provisions



OFFICIAL PROGRAM

PARTNER

INDIA MARKET ENTRY: LEGAL PROVISIONS

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With the ease in FDI norms in Indian economy, today India is among the top five countries where huge investments are made yearly. India remained a preferred investment destination in FY 2020-21 with FDI pouring in amidst global asset shifts towards equities and prospects of quicker recovery in emerging economies: Net FPI inflows recorded an all-time monthly high of US$ 9.8 billion in November 2020, as investors' risk appetite returned. India was the only country among emerging markets to receive equity FII inflows in 2020. During FY 2020-21, total FDI inflow of $58.37 bn, 22% higher as compared to the first 8 months of 2019-20. FDI equity inflows received during April - November 2020 is $43.85 bn which is 37% more compared to April - November 2020 ($32.11 bn)

The present government has moved swiftly in a number of areas to ensure further ease of doing business, but a lot more needs to be accomplished for a sustainable GDP growth of 7-8 percent. There is certainly a big business potential available to be tapped in India, as the country is poised to achieve buoyant growth in the near term due to improving macro-economic indicators, e.g. falling inflation and interest rates, lower current account deficit, improving fiscal deficit, as well as push for further reforms.

The Indian foreign trade is mainly regulated by the Foreign Trade Policy framed by the Ministry of Commerce and Industry (Directorate General of Foreign Trade). Apart from being a critical driver of economic growth, Foreign Direct Investment (FDI) has been a major non-debt financial resource for the economic development of India. Foreign companies invest in India to take advantage of relatively lower wages, special investment privileges like tax exemptions, etc. For a country where foreign investment is being made, it also means achieving technical know-how and generating employment.

The Indian Government's favourable policy regime and robust business environment has ensured that foreign capital keeps flowing into the country. The Government has taken many initiatives in recent years such as relaxing FDI norms across sectors such as defence, PSU oil refineries, telecom, power exchanges, and stock exchanges, among others.

For a Swiss exporter, it may be worthwhile to note that the Indian market has, like many other countries, some unique features, e.g., there is a 'cultural gap' concerning many business practices, such as pragmatic approach towards administrative procedures, importance of "unwritten" information etc.

The Swiss Business Hub India is at the disposal of the Swiss companies, which are intending to do business in India or already doing business in India, for all possible assistance and guidance to help promote their business activities.

2. Customs

Though India has brought down its import duties since the gradual opening up of its economy from 1991 onwards, the same are still high as compared to import duties levied, for example, in other emerging economies of Asia. By gradually dismantling the high import tariff wall, India has not only fulfilled its obligations under the WTO, but is pushing its export industries to be competitive in the international market and preparing its local industries to face foreign competition. The import duty structure in the country remains a complex one. In general, the following four duties/cess are levied on imports (for more information, visit Central Board of Excise and Customs: http://www.cbec.gov.in/)

a) Basic Customs Duty (BCD): The peak rate is fixed at 10% for most of the non-agriculture items, however goods such as food products, liquor, automobiles etc. attract higher duties up to 125%. On the other hand, there are many products (e.g. machinery and equipment) which attract lower duty of 7.5%. BCD is calculated on assessable value (CIF value)
b) Social Welfare Surcharge (SWS): 0-10%. This surcharge applies on BCD
c) Integrated Goods and Services Tax (IGST): 5% to 28% - Luxury items such as consumer durables like AC and Refrigerators, premium cars, cigarettes, aerated drinks, High-end motorcycles, etc. to be levied at the GST rate of 28%. IGST is calculated on CIF+BCD+SWS.

India imposes anti-dumping duties in those cases wherein the domestic industry would be adversely affected owing to unfair trade from abroad.

The import of certain goods is subject to, in addition to Customs formalities, clearance from other government departments, e.g. import of primary agricultural products, food items, medical drugs & implants, second hand machines etc. In such cases, the Customs authorities would clear the import shipment only after submission of 'clearance certificate' from the concerned department.

The government has laid down various schemes for import duty exemptions/concessions, e.g. for notified life-saving drugs, import of machinery at zero duty under the Export Promotion Capital Goods Scheme etc. Some schemes facilitate import of not only the capital goods but also the raw materials and consumables for units operating from the notified export promotion zones. There are also duty exemptions/concessions available under various bilateral/regional/international trade agreements subject to meeting the prescribed rules of origin.

3. Import & Export Regulations

The external trade of India is regulated by the Foreign Trade Policy framed by the Government every five years. Though this policy is announced for a period of five years, the government reviews it every year and makes amendments/new announcements, if considered necessary. This process of revision sometimes causes inconsistency in a policy matter that could impact the business plan of a company, including the one that is already operating in the country. Presently, the said Policy is mainly focused on the promotion of Indian exports. For details, please see the website: http://dgft.gov.in/.

Any Indian resident person/entity who intends to export from or import into India needs to obtain an Importer-Exporter Code (IEC) from the Directorate General of Foreign Trade. The imported goods need compliance with the domestic laws, regulations, technical specifications, environmental and safety norms wherever prescribed and as applicable to locally produced goods.

In order to promote foreign trade, mainly export from India, there are a number of schemes run by the government. For example, Special Economic Zones (http://sezindia.nic.in), which offer a number of incentives, including tax incentives, for setting up export units.

The Free Trade & Warehousing Zones (FTWZ) is a special category of Special Economic Zones with a focus on trading and warehousing. The scheme envisages duty free import of all goods (except prohibited items etc.). Such goods are permitted to be re-sold/re-invoiced or re-exported. Re-export is permitted without any restrictions. These goods are also permitted to be sold in the domestic market on payment of customs duties as applicable on the date of such sale. Packing or re-packing without processing and labeling as per customer or marketing requirements could be undertaken within the FTWZ.

Regulations that are closely monitored by the India customs:

a) EPR (Extended Producer Responsibility)

Extended Producer Responsibility (EPR) relates to the commitment which the manufacturer or producer gives for reverse collection of their non-useable goods. It is the producers' responsibility to initiate the process of recycling such goods. This applies to electronic products, plastics and any other item as may be added to the list. In case of imports, the responsibility of disposal of such waste falls under the purview of the importer and customs seek the EPR status at the time of clearance. As far as the operational requirement is concerned, the waste generators such as brand owners/producers/importers are required to collect back the end of life waste generated through their business. This responsibility is met through waste collection agencies who are recognised as a Producer Responsibility Organisation (PRO).

b) LMA (Legal Metrology Act) – Labelling requirements

Legal metrology Act which was popular known as Weights and Measures Act before 2009, is an act which establishes and enforce standards of weights, measures and provide guidelines that need to be met for product labelling. Articles and devices used in measuring, weighing or wherever labels are mandatorily required to be affixed on the product, need to be registered with the legal metrology act (LMA). This registration is granted for the product which will be stored in a particular warehouse or factory premises. Per product labelling requirements need to be complied as per the statutory requirements as laid down for that product (drugs, foods, etc). Additionally, the labelling requirements as prescribed by the LMA need to be in place, as where customs is interested in the registration certificate of the product with the address details of the importing premises, LMA officers are always in the market looking for non-compliant labels and enforce correction with penalties.

c) Steel Import Monitoring System (SIMS)

In order to import goods under chapter ids 72, 73 and 86, importer need to compulsorily apply for online registration under Steel Import Monitoring System, not earlier than 60th day and not later than 15th day before the expected date of arrival of import consignment. The automatic Registration Number thus granted shall remain valid for a period of 75 days. Without this registration in prior, import in India won't be possible.

d) Foods Safety and Standards Authority of India (FSSAI) provisions

For importing food products, mandatory registration with the Foods Safety and Standard Authority of India (FSSAI) is required. This registration is granted either as a new food product or an existing food product, which is completely based upon the status of registration of food formulation in India. In case of new food product it takes at least one year to get the registration, otherwise FSSAI department takes 3 months to register the existing food product. The product can be registered for 3 years or more and based upon this tenure the Government fee need to be paid.

e) Sanitary Import Permit (SIP) from Animal Husbandry

Import of Dairy food products or animal live stock are allowed only at the sea including Inland Container Depot (ICD)/air ports of Delhi, Chennai, Mumbai, Hyderabad, and Kolkata. At these ports animal quarantine and certification facilities are available. This permit need to be taken before or at the time of arrival of goods at the respective port, which is purely dependent upon the import risk analysis which is conducted by the department of Animal Husbandry and Dairying. SIP is valid for a period of one year or six months depending upon the nature of the product and once issued may be utilised for more than one consignments.

4. Currency Regulations

A visitor to India is allowed to bring in foreign exchange without any upper limit by declaring to Customs authorities on his/her arrival the relevant particulars in the Currency Declaration Form (CDF). The visitor need not give any declaration in the CDF, if the aggregate value of the foreign exchange brought in by him/her in the form of currency notes, bank notes or travellers' cheques does not exceed US$ 10,000 or its equivalent, and/or the value of foreign currency notes does not exceed US$ 5,000 or its equivalent. Such visitor will be permitted by Customs to take out his/her unspent foreign currency provided (i) the amount being taken out does not exceed the amount that he/she had declared to the Customs authorities, in form CDF, on arrival in India, or (ii) the amount being taken out of India in foreign exchange is less than the amount for which a declaration in CDF is required to be made at the time of arrival in India to the Customs authorities.

An Indian resident going abroad can obtain foreign exchange up to USD 2, 50,000 in a financial year for a business trip. For private visits, e.g. for tourism purposes etc., foreign exchange up to an aggregate amount of USD 2,50,000 in any one financial year, irrespective of the number of visits undertaken during the year can be obtained by an Indian resident for visiting abroad, other than to Nepal and Bhutan. Release of foreign exchange exceeding USD 2, 50,000 requires prior permission from Reserve Bank of India (RBI).

Additionally, all resident individuals in India have been permitted under the Liberalised Remittance Scheme (LRS) to freely remit up to USD 250,000 per financial year for any permitted current or capital account transaction.

Permissible current account transactions

The limit of USD 2, 50,000 per Financial Year (FY) for current account transactions includes (e.g. private visit; gift/donation; going abroad on employment; emigration; maintenance of close relatives abroad; business trip; medical treatment abroad; studies abroad).

Permissible capital account transactions

The permissible capital account transactions by an individual under LRS are:

- opening of foreign currency account abroad with a bank
- purchase of property abroad
- setting up Wholly Owned Subsidiaries and Joint Ventures outside India
- extending loans including loans in Indian Rupees to Non-resident Indians (NRIs) who are relatives as defined in Companies Act, 2013
- acquiring both listed and unlisted shares of an overseas company

acquisition of qualification shares of an overseas company for holding the post of Director; acquisition of shares of a foreign company towards professional services rendered or in lieu of Director's remuneration; investment in units of Mutual Funds, Venture Capital Funds, unrated debt securities, promissory notes.

The RBI has permitted the banks dealing in foreign exchange in India to allow remittances without the usual documentation in case the remittance for a current account transaction does not exceed US$ 25,000. The AD bank may also prepare and keep on record dummy form A2, in respect of remittances less than USD 25,000. However, this is subject to a condition that the payment is being made by a cheque drawn on the applicant's bank account or by a demand draft. In such cases a simple letter from resident individual, containing names and address of the applicant, name and address of the beneficiary, amount to be remitted and the purpose of remittance, would be sufficient. For detailed information, please browse the website of the Reserve Bank of India (https://www.rbi.org.in/).

The Indian rupee is fully convertible on the current account, therefore the regulatory framework for the foreign trade transactions is very open and the authorised dealers (include authorised banks) for foreign exchange are generally permitted to conduct the business with minimum interface with the RBI. The Indian rupee is also fully convertible on the capital account for the foreign investors (e.g. FDIs). The repatriation of the investment capital is permissible, except where the original investment was allowed on the specific condition that it would not be repatriated. Furthermore, the repatriation of business profits (dividend/interest) and royalty is also permissible. In the case of sale of shares by a foreigner/non-resident Indian to a resident Indian, the amount can be repatriated subject to fulfilment of certain conditions.

The dissolution/winding up of a company may be either voluntary or at the instance of the National Company Law Tribunal (NCLT). In such cases, the RBI considers the remittance of net proceeds to foreign partners of a dissolved company on a case-by-case basis.

5. Registration Procedure for Products

The Bureau of Indian Standards (BIS) is the central organization responsible to ensure the compliance of various products to the prescribed quality standards. There are some products for which it is mandatory to obtain BIS registration/ certification before these can be marketed in India. More information is given in the following paragraph. More here: http://www.bis.gov.in/

5.1. STANDARDS, TECHNICAL RULES, LABELLING REGULATIONS

BIS operates a product certification scheme for foreign manufacturers. In this scheme, a licence can be granted for any product against an Indian Standard specifying product characteristics, which is amenable to certification. Licence is granted to a foreign manufacturer if the applicant has requisite manufacturing & testing facilities and competent testing personnel, results of preliminary inspection(s) and testing conducted at the manufacturer's premises are satisfactory and it agrees to comply with Scheme of Testing & Inspection (STI) and to pay BIS licence fee as applicable.

There are two important registration with BIS for foreign manufacturer. One is under Compulsory Registration Scheme (CRS) and another is under ISI Marks Scheme. CRS is applicable on products related to electronics, information technology and renewal energy. Whereas there are various kind of products covered under ISI Scheme such as Cement, Electrical Goods, Food and related Products, Auto Accessories, Medical Equipment, Cylinder, Steel & Iron Products, Chemicals & Fertilizers, Cables, AC, Toys, Footwear etc.

For products covered under CRS, initial license is granted for 2 years, which is subject to renewal for 2 to 5 years. Initial license for products covered under ISI Marks Scheme, is granted for 1 year, which is subject to renewal for 1 to 5 years.

Every foreign manufacture applicant needs to nominate an Authorised Indian Representative (AIR) at the time of filing application for product registration with BIS. A liaison office / branch office / subsidiary company / group company of foreign applicant can be appointed as AIR. However, in absence of any such arrangement an Indian individual holding Indian passport can also be appointed as AIR by a foreign manufacture. However, one Indian individual can represent only one foreign applicant. AIR can be changed by the foreign applicant by making written communication with BIS.

The entire process of BIS registration for products covered under CRS takes approximately 2 to 3 months of time. Whereas the time to complete the product registration under ISI scheme of BIS takes approximately 8 to 10 months.

The BIS maintains, through its surveillance operations, a close vigil on the quality of goods certified. Some important links are given below to collect information regarding product registration with BIS:

Website of Bureau of Indian Standards: https://bis.gov.in/

List of products under mandatory registration (ISI):
https://bis.gov.in/index.php/product-certification/products-under-compulsory-certification/scheme-i-mark-scheme/

List of products under CRS:
https://bis.gov.in/index.php/product-certification/products-under-compulsory-certification/scheme-ii-registration-scheme/

The Legal Metrology (Packaged Commodities) Rules, 2011 in India have the provisions for labelling on the packages of the products covered under these rules. Any of the products covered under these rules, when imported into India, shall be subject to compliance of the said provisions before the same is cleared by Customs for home consumption. In particular, all pre-packaged commodities, which are imported into India and are meant for retail sale, shall carry, inter alia, the following declarations on the packages:

- Name and address of the manufacturer and/or importer.
- Generic or common name of the commodity packed.
- Net quantity in terms of standard unit of weights and measures. If the net quantity in the imported package is given in any other unit, its equivalent in terms of standard units shall be declared by the importer.
- Month and year of packing in which the commodity is manufactured or packed or imported.
- Maximum retail sale price at which the commodity in packaged form may be sold to the ultimate consumer.
- Customer care number with name, address, telephone number of the person/office which can be contacted in case of consumer complaints.

Moreover, on the packed food products, the manufacturer has to also specify whether it is vegetarian or non-vegetarian in compliance with the provisions under the Prevention of Food Adulteration Rules. Additionally, the ingredients of a food product, its nutritional values, as well as country of origin shall also be mentioned on the packaging label. The import of food products into India is subjected to sanitary and phytosanitary regulations. The customs clearance of such products takes relatively more time.

Further information can be obtained from the Department of Consumer Affairs of the Government of India (more here: http://fcamin.nic.in/).

6. Taxes

Indian legislation relating to taxes is contained in different Acts relating to the nature of the tax (e.g. Income Tax Act 1961 or Customs Tariff Act 1975). Indian tax rates as well as customs duties are being reviewed and amended, if required, on an annual basis, when the Indian budget is prepared (usually in February/March of each year). The Indian fiscal year runs from April 1 to March 31. India has a broad variety of taxes, especially a diversity of indirect taxes, levied partly by the centre and partly by the states.

A summary of India's income taxes is given herein below, but remember that, for a Swiss company, the Swiss-Indian DTAA is partly offering lower rates than the generally applied tax rates.

6.1. GOODS AND SERVICES TAX

A national single tax system was introduced on 1 July 2017 – Goods and Services Tax (GST). The intent behind introducing GST was, in simple terms, to maximise economic gain and minimise compliance pain. This tax system combines the taxes which were previously levied at the national and state levels. As a result, there is now a single tax system, which is uniform throughout the country across states and union territories.

Indian GST has a dual model in view of the federal structure of the country. Consequently, Centre and States can simultaneously levy GST on taxable supply of goods or services or both which, takes place within a State or Union Territory. GST is a destination-based tax applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof. GST in India comprises of Central Goods and Services Tax (CGST) – levied and collected by Central Government, State Goods and Services Tax (SGST) – levied and collected by State Governments/Union Territories with State Legislatures and Union Territory Goods and Services Tax (UTGST) – levied and collected by Union Territories without State Legislatures, on intra-State supplies of taxable goods and/or services. Inter-State supplies of taxable goods and/or services are subject to Integrated Goods and Services Tax

(IGST). IGST is approximately the sum total of CGST and SGST/UTGST and is levied by Centre on all inter-State supplies.

Four tax rates exist under GST: 5%, 12% 18%, 28%. Products not included under GST ambit yet are alcohol for human consumption, petroleum products (crude oil, petrol, diesel, natural gas, ATF), tobacco, and entertainment tax levied by local bodies. The benefits of GST include reduction in purchase prices for consumer products, free flow of goods and services between various regions across India, simplified tax regime, creation of a common national market, and decrease in illegal transactions.

More information can be found here: http://www.cbec.gov.in/htdocs-cbec/gst/index

6.2. DOUBLE TAXATION

The Swiss-Indian Double Taxation Avoidance Agreement/DTAA defines the specific tax competences and tax rates applicable to Swiss companies doing business in India and vice-versa to Indian companies in Switzerland. As per the protocol signed later on to amend the Swiss Indian DTAA, the current rate of Indian withholding tax on incomes earned by Swiss companies in India are:

Dividend	10%
Interest	10%
Royalty	10%
Technical Service Fee	10%

The withholding taxes rate as specified in DTAA can be applied once the beneficiary entity (the service provider) provides certain documents as under:

1. Tax Residency certificate
2. Self-declaration for No permanent establishment in India
3. Form 10F

If the above documents are not available, then the tax rate would be applicable as per Indian Income tax Act and varies from 10 to 20% plus surcharge and cess (as applicable).

6.3. PERMANENT ACCOUNT NUMBER

As per an amendment made in Indian tax law, every recipient including a non-resident/foreign company, has to furnish a Permanent Account Number (PAN) to the payer in India. If the recipient fails to provide the PAN, withholding tax rate would increase to 20% on aforesaid payments. By obtaining a PAN, Swiss companies can enjoy lower withholding tax rates specified in the bilateral treaty.

Further, as per the provision of the Indian Income tax Act, any person who is entitled to receive any amount on which tax is deductible at source, shall **furnish his PAN** to the deductor, failing which a higher withholding tax of 20% will be applicable.

However, **an exception is carved out** when payment is made **to a non-resident**, in respect of

a. payment of interest on long-term bonds as referred to in section 194LC;
b. interest;
c. royalty;
d. fees for technical services; and
e. payment on transfer of any capital asset

If the non-resident recipient of income does not possess Indian PAN card, it is mandatory for them to obtain TRC from the Tax Authority in their home country, self-declaration for no permanent establishment in India and Form 10F, failing which TDS will apply @ 20% as specified in Income tax provisions.

6.4. PERSONAL INCOME TAXES

Indian residents are taxed at progressive rates (10%, 20% or 30%); the maximum rate of 30% is applicable to an annual income of INR 1 million (i.e. approx. SFr. 15'000) or more. There are different tax slabs defined for different range of incomes. The Indian finance budget 2020 introduced a new optional tax slabs for Indian residents. The new provision states either to pay tax as per the existing slab (after claiming the deductions as allowable) or pay the tax liabilities on income earned at the new reduced rates prescribed under new scheme. The new rates are applicate from April 1st, 2021 and are subject to following conditions:

a. The option shall be exercised every year, in case of individual and HUF who do not have any business income and in other cases (Individual and HUF having business income) the option once exercised shall be valid for that previous year and for subsequent years.
b. The option shall be become invalid if individual and HUF failed to satisfy certain conditions
c. The concessional rate shall be applicable if total income of the individual or HUF is computed without availing the deductions or exemptions as prescribed.
d. For availing the above said income tax rate, the set off of the losses brought forward, depreciation of any earlier year if attributable to any of the points mentioned in Para 3 above, must not be claimed.
e. Set off of losses under the head House Property will not be allowed for claiming the above said rate.
f. The option exercised can be withdrawn only once where it was exercised by individual or HUF having business income
g. Concessional rate shall not be applied unless option is exercised in the form and manner as may be prescribed.

Health and education cess shall be charged at 4% on tax computed in addition to above tax. Additionally, a surcharge of 10% is levied in the case of individual, if the income exceeds INR 5 million but does not exceed INR 10 million, 15% in case income exceeds INR 10 million but does not exceed INR 20 million, 25% in case income exceeds INR 20 million but does not exceed INR 50 million, 37% in case income exceeds 50 million.

India has currently only about 4 percent of its population paying income taxes. The Indian government's efforts at widening the tax base have not been very successful so far.

6.5. PARTNERSHIP (INCLUDING LLP)

The tax rate on partnership firm (including LLP) shall be 30% on the whole of the Income earned by firm or LLP. Surcharge shall be levied @ 12% where the taxable income exceeds INR 10 mn. Marginal relief will continue to be allowed in cases where taxable income is more than INR 10 mn. Health and Education Cess shall continue to be levied @ 4% on the tax computed inclusive of surcharge (wherever applicable) in all cases.

6.6. CORPORATE TAXATION

Corporate taxes are levied as follows:

Table 1: Corporate Taxes

No.	Particulars	Basic tax rates		Surcharge		
		Turnover of Fiscal year <= INR 4000 mn	Turnover of Fiscal year > INR 4000 mn	Total Income up to INR 10 mn	Total Income above INR 10 mn & upto INR 100mn	Total Income above INR 100 mn
1	Domestic Company - Normal tax rate - Minimum Alternate tax	 25% 15%	 30% 15%	 Nil Nil	 7% 7%	 12% 12%
2.	Foreign Company	40%	40%	Nil	2%	5%

Health and Education cess shall continue to be levied @ 4% on the tax computed inclusive of surcharge (wherever applicable) in all cases.

Taxation Law Amendment Act enacted on 12th Dec 2019 inserted a new provision of Income tax Act (Section 115BAA) to provide domestic companies an option to be taxed at the following concessional tax rate on fulfilment of certain conditions:

Table 2: Concessional Tax rate

No.	Particulars	Basic tax rates		Surcharge
		All companies	New manufacturing companies and companies engaged in the business of electricity	
1	Domestic company - Normal tax rate - Minimum alternate tax	 22% Not applicable	 15% Not applicable	 10% Nil

Health and Education cess shall continue to be levied @ 4% on the tax computed inclusive of surcharge (wherever applicable) in all cases.

The concessional tax rate under new provision of the Income Tax Act is applicable subject to the following conditions:

- The company has been set-up and registered on or after the 1 October 2019 and has commenced manufacturing on or before the 31 March 2023
- It is not formed by splitting up or the reconstruction of a business already in existence
- It does not use any machinery or plant previously used for any purpose subject to specified exceptions
- It does not use any building previously used as a hotel or a convention centre in respect of deduction under section 80-ID of the IT Act has been claimed and allowed
- It is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to distribution of, such article or thing manufactured or produced by it
- The company should meet the specified definition of ‘manufacture or production of article or thing’
- The company would not be allowed to claim deductions/incentives/claims as prescribed

- Depreciation other than additional depreciation on new plant or machinery determined in such manner as may be prescribed.

6.7. INDIAN CAPITAL GAIN TAXES

Short-term capital gains are taxed at the normal corporate income tax rates, with some exceptions.

In general, the long-term capital gains are taxed at a basic rate of 10% or 20% depending on the nature of transactions and other conditions prescribed. Alternatively, on listed equity shares, a security transaction tax is levied at a rate of 0.01 - 0.125 per cent (varies according to the type of transaction made at the stock exchange).

Any firm, corporate or individual, which is not resident in India, can obtain advance rulings on any matters relating to Income Tax.

Taxes applicable to expatriates in India - A foreign national in regular employment with an Indian company is liable to pay tax on his/her earnings, wherever received. Any other income is taxable only if received in India. For an expatriate in India, it makes a lot of sense to ask the advice of an Indian tax expert in order to structure his/her earnings in such a way that tax benefits/rebates can be fully availed of.

In accordance with the Swiss-Indian Double Taxation Avoidance Agreement, the remuneration derived by a Swiss resident in respect of employment, services or activities performed in India shall be taxable in Switzerland only, if the Swiss is present in India for a period or periods not exceeding 183 days in the aggregate in any 12-month period, and the remuneration is paid by, or on behalf of an employer who is not resident in India and it is not borne by a permanent establishment which the employer has in India.

Other important changes in Income tax:
- Abolition of dividend distribution tax and bring the dividend in withholding tax net.
- No depreciation on goodwill
- Withholding taxes on higher rate for non-filer of Income tax returns.
- To Improve efficiency of tax administration, a faceless assessments has been introduced
- Reductions in time limits for Issuing any notices for assessment
- Introduction of equalisation levy on non-resident e-commerce operators providing e-commerce supply or services

The detailed information is available at the website of the Income Tax department: http://incometaxindia.gov.in/

6.8. PRODUCTION LINKED INCENTIVE SCHEMES

Production Linked Incentive schemes announced across 13 sectors to boost manufacturing industry.
Production Linked Incentive (PLI) Scheme is an incentivization measure promulgated in order to boost the investment in targeted sectors and increase in production in those targeted sectors. Initially the large scale electronic manufacturers, identified pharma Key Starting Materials (KSMs), Drug Intermediates (DIs), Active Pharmaceutical Ingredients (APIs), bulk drug were brought within the purview of PLI, later on however the budgetary allocation was approved for following sectors also;

1. Advance Chemistry Cell (ACC) Battery
2. Electronic/Technology Products
3. Automobiles & Auto Components
4. Pharmaceuticals drugs
5. Telecom & Networking Products
6. Textile Products: MMF segment and technical textiles
7. Food Products
8. High Efficiency Solar PV Modules

9. White Goods (ACs & LED)
10. Speciality Steel

The scheme envisages direct incentive between defined percentage of the incremental sales depending upon the nature of products.

The PLI scheme would be implemented by the concerned ministries/departments and will be within the overall financial limits prescribed. The final proposals of PLI for individual sectors will be appraised by the Expenditure Finance Committee and approved by the Cabinet. Savings, if any, from one PLI scheme of an approved sector can be utilized to fund that of another approved sector by the Empowered Group of Secretaries.

The PLI scheme the specific sectors is attempted to make Indian manufacturers globally competitive, attract investment in the areas of core competency and cutting-edge technology; ensure efficiencies; create economies of scale; enhance exports and make India an integral part of the global supply chain. The tenure of this scheme is from financial year 2020-21 to financial year 2029-30.

6.9. AUTHORIZED ECONOMIC OPERATOR SCHEME

An AEO is a business entity involved in international movement of goods requiring compliance with provisions of the national Customs law and is approved by or on behalf of national administration in compliance with World Customs Organization (WCO) or equivalent supply chain security standards. The security standards are detailed in World Customs Organisation Safe framework of standards [WCO SAFE FoS], which is the basis of the Indian AEO programme.

AEO programme is a status granted by Customs to reliable/trusted traders who comply with pre-determined criteria offering a high degree of –

- Trade compliance and/or
- Supply chain Security

in respect of their role in the supply chain. The status may entitle them to a higher level of facilitation.

AEO strategic objective:
- Effective Risk Management at entity level
- Improving trade facilitation
- improving supply chain security
- Optimizing revenue collections
- Promoting voluntary compliance
- Effective across the supply chain (Trans-national)

Structure of Indian AEO programme and its benefits:

There is a three-tier programme for importers and exporters i.e. AEO-T1, AEO-T2 and AEO-T3 in the increasing degree of benefits accorded and compliance requirements.

Furthermore, there is single Tier AEO programme for logistics providers, custodians or terminal operators, customs brokers and warehouse operators who are granted the AEO-LO certificate.

The validity of AEO certificate is three years for AEO-T1 and AEO-T2, and five years for AEO-T3 and AEOLO.

Some benefits of AEO Certificates are as under:
- Recognition worldwide as safe, secure and compliant business partners in international trade and get trade facilitation by a foreign Customs administration with whom India enters into a Mutual Recognition Agreement/Arrangement;

- Facility of Direct Port Delivery (DPD) of their import containers and/ or Direct Port Entry (DPE) of their Export Containers;
- Waiver of full or part of the Bank Guarantee requirements, Waiver of Merchant overtime fees;
- Deferred payment of duties;
- Waiver from transactional PCA. Instead Onsite PCA has been provided, the selection of the same shall be based on risk assessment of AEOs;
- Waiver of solvency certification for Customs Brokers;
- A lower risk score in risk analysis systems when profiling;
- Faster disbursal of drawback amount through process eased out vide Circular 18/2017 Customs dated 29.05.2017;
- Fast tracking of refunds and adjudications

7. Procedures for collecting payment

The foreign exchange transactions are regulated under the Foreign Exchange Management Act 1999. Though the Indian rupee is fully convertible on the current account transactions, the Central Government has imposed certain restrictions for these transactions in public interest and in consultation with the Reserve Bank of India.

7.1. IMPORT SHIPMENTS

The authorised dealers are permitted to open letters of credit on behalf of their customers who are known to be participating in the trade. While doing so, they follow normal banking procedures. The letter of credit, in particular, stipulates a condition requiring that the bill of lading should indicate the name and address of the importer in India as well as the authorised dealer opening the credit. Remittances for imports under letters of credit or

7.1.1. Time Limit for Normal Import Payments

In terms of the extant regulations, remittances against imports should be completed not later than six months from the date of shipment, except in cases where amounts are withheld towards guarantee of performance, etc. Further, in view of the disruptions due to outbreak of COVID- 19 pandemic, with effect from May 22, 2020, the time period for completion of remittances against normal imports (except in cases where amounts are withheld towards guarantee of performance etc.) has been extended from six months to twelve months from the date of shipment for such imports made on or before July 31, 2020.

The authorised dealer may permit settlement of import dues delayed due to disputes, financial difficulties, etc. However, interest if any, on such delayed payments, usance bills or overdue interest is payable only for a period of up to three years from the date of shipment and may be permitted in terms of the directions prescribed in master circular issued by Indian central bank (i.e. Reserve Bank of India).

The authorised dealer can consider granting extension of time for settlement of import dues up to a period of six months at a time (maximum up to the period of three years) irrespective of the invoice value for delays on account of disputes about quantity or quality or non-fulfilment of terms of contract; financial difficulties and cases where importer has filed suit against the seller. In cases where sector specific guidelines have been issued by Reserve Bank of India for extension of time (i.e. rough, cut and polished diamonds), the same will be applicable

7.1.2. Advance Remittances

The authorised dealers may allow advance remittances for import of goods without any ceiling subject to the following conditions:
(a) The importer should hold the EC copy of a valid import licence if the goods to be imported are those included in the negative list of imports given in the Foreign Trade Policy.

(b) Remittance is made direct to the supplier.
(c) If the amount of advance remittance exceeds USD 200,000 or its equivalent, a guarantee from an international bank of repute situated outside India or a guarantee of an authorised dealer in India, if such a guarantee is issued against the counter-guarantee of an international bank of repute situated outside India, should be obtained. An unconditional standby L/C from an international bank of repute situated outside India may be accepted in lieu of bank guarantee provided it is irrevocable, non-transferable and lists out full particulars of the transactions and there is a clear provision for prompt payment being received in convertible currency in an approved manner. The validity of the guarantee/letter of credit should cover adequately the period for the purpose of enforcing payment.
(d) Physical import of goods into India should be made within six months (three years in case of capital goods) from the date of remittance and the importer should give an undertaking to furnish documentary evidence of import within fifteen days from the close of the relevant period.
(e) Authorised dealer should ensure that in the event of non-import of goods, the amount of advance remittance is repatriated to India or is utilised for any other purposes for which release of exchange is permissible under the Act, to the satisfaction of the authorised dealer.

The government has liberalised the regulations concerning advanced remittances. In cases where the importer is unable to obtain bank guarantee from overseas suppliers and the authorised dealer (Category-I bank) is satisfied about the track record and bonafides of the importer, the requirement of the bank guarantee / standby letter of credit may not be insisted upon for advance remittance up to US$ 5 million. The government has also authorised the dealers to make such remittances for all admissible current account transactions for import of services up to USD 500,000, without bank guarantee.

7.1.3. Third Party Payment for Import Transactions

Authorized dealers are allowed to make payments to a third party for import of goods, subject to conditions as under:

1. Firm irrevocable purchase order / tripartite agreement should be in place. However, this requirement may not be insisted upon in case where documentary evidence for circumstances leading to third party payments / name of the third party being mentioned in the irrevocable order / invoice has been produced.
2. Authorized dealer should be satisfied with the bonafides of the transactions and should consider the Financial Action Task Force (FATF) Statement before handling the transactions;
3. The Invoice should contain a narration that the related payment has to be made to the (named) third party;
4. Bill of Entry should mention the name of the shipper as also the narration that the related payment has to be made to the (named) third party;
5. Importer should comply with the related extant instructions relating to imports including those on advance payment being made for import of goods.

7.1.4. Postal Imports

Remittances against bills received for collection in respect of imports by post parcel may be made by authorised dealers, provided the goods imported are such as are normally dispatched by post parcel. In these cases, the relative parcel receipts must be produced as evidence of dispatch through the post and an undertaking to submit post parcel wrappers within three months from the date of remittance should be furnished by importers. If the parcel has already been received in India, the parcel wrapper should be produced in support of the remittance application. Where goods to be imported are not of a kind normally imported by post parcel or where authorised dealer is not satisfied about the bona fides of the application, the case should be referred to Reserve Bank for prior approval with full particulars together with relative parcel receipt(s) (or wrapper(s)).

7.1.5. Handling of Import Bills

As a general rule import bills and documents should be received from the banker of the seller by the banker of the buyer in India. Authorised dealers should not, therefore, make remittances where import bills received directly by the importers from the overseas seller, except in the following cases:
- Where the value of import bill does not exceed USD 300,000.
- Import bills received by wholly owned Indian subsidiaries of foreign companies from their principals.
- Import bills received by Status Holder Exporters as defined in the Foreign Trade Policy.

- Import bills received by all limited companies such as public limited, deemed public limited and private limited companies.

At the request of an importer, authorised dealer may receive bills direct from the overseas seller, provided the authorised dealer is fully satisfied about the financial standing/status and track record of the importer. Before extending the facility, authorised dealer should obtain report on the overseas seller from the overseas banker or reputed credit agency.

7.2. EXPORT SHIPMENTS

The amount representing the full export value of the goods exported shall be received through an authorised dealer in the manner specified in the Foreign Exchange Management (Manner of Receipt & Payment) Regulations 2000. Payment for exports could also be received by the exporter, e.g. in the form of bank draft, pay order, banker's or personal cheques, or foreign currency notes/foreign currency travellers' cheques from the buyer during his/her visit to India. Currently, an exporter has 12 months' time to realise for the export shipment. However, the time period may be extended on some valid grounds.

7.2.1. Advance Payments

Exporters may receive advance payments from their overseas buyers. It should, however, be ensured that the shipments made against the advance payments are monitored by the authorised dealer through whom the advance payment is received. The appropriations made against every shipment must be endorsed on the original copy of the inward remittance certificate issued for advance remittance.

7.2.2. Handling of Export Documents

Authorised dealers should normally despatch shipping documents to their overseas branches/ correspondents as expeditiously as possible. Authorised dealers may despatch shipping documents direct to the consignees or their agents resident in the country of final destination of goods in cases where advance payment or an irrevocable letter of credit has been received for the full value of the export shipment and the underlying sale contract/letter of credit provides for despatch of documents direct to the consignee or his agent resident in the country of final destination of goods. Furthermore, an authorised dealer may accede to the request of the exporter, for dispatch of documents by the authorised dealer, for whatever reason, direct to the consignee/agent provided the concerned exporter's track record is good to the satisfaction of the authorised dealer.

The documents may be directly sent by the exporter to the consignee (i) in respect of goods exported against 100 per cent advance remittance, in terms of aforesaid paragraph 'Advance Payments', or (ii) in respect of goods or software the documents of which are accompanied with a declaration by the exporter that they are not more than INR 25,000 and not declared on GR/SDF/PP/SOFTEX (export declaration forms).

7.2.3. Third Party Payment Exports

The RBI has liberalised the procedure relating to payment of export and import considering the evolving international trade practices. With respect to payments for export, the banks may now allow payment to be received from third party subject to certain conditions, including a firm's irrevocable order backed by a tripartite agreement and the exporter should mention the third party remittance in the Export Declaration Form. In relation to import of goods, among other conditions, it shall be required to provide in the narration of the invoice that the related payment has to be made to the third party whose name is also provided in the invoice.

The rules and regulations for foreign exchange transactions have been simplified over the years and are now more relaxed to provide better foreign exchange management structure in the country.

8. Commercial Law

India has a well-established legal system to regulate commercial activities, both in domestic market and in foreign market. Some of the currently enforced commercial laws (many of these have been amended from time to time) are as follows:

- Foreign Trade (Development and Regulation) Act, 1992
- Foreign Exchange Management Act, 1999
- Competition Act 2002
- Sale of Goods Act, 1930
- Negotiable Instruments Act, 1881
- Indian Contract Act, 1872
- Indian Partnership Act, 1932
- Companies Act, 2013
- Arbitration and Conciliation Act, 1996
- The Industrial Disputes Act 1947
- The Contract Labour (Regulation and Abolition) Act 1970
- Drugs and Cosmetics Act, 1940
- Prevention of Food Adulteration Act, 1954
- The Legal Metrology Act, 2009
- Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Board (Voluntary Liquidation Process) Regulation, 2017

And there are various laws to protect intellectual property rights.

However, the legal procedures in the country are very time consuming and a court case could drag on for a number of years before a final judgement is delivered.

9. Setting Up Companies

Foreign companies have several entry possibilities depending on the activities they intend to pursue:

9.1. BRANCH OFFICE

Foreign manufacturing and trading companies, not incorporated in India, but having an India branch office can carry out the following activities:

i. represent the parent company as buying/selling agent
ii. conduct research in which the parent company is engaged
iii. undertake export/import-trading activities
iv. promote technical and financial collaborations between Indian and foreign companies
v. render professional or consultancy services
vi. render services in Information technology and development of software in India
vii. render technical support to the products supplied by the parent/ Group companies
viii. foreign airline/shipping

A branch office is not allowed to carry out manufacturing activities on its own but is permitted to subcontract these to an Indian manufacturer. A branch office established with the approval of RBI, may remit outside India the profit of the branch, net of applicable Indian taxes.

9.2. LIAISON OR REPRESENTATIVE OFFICE

Foreign companies can also set up a representative office to establish a liaison between Indian businesspeople and the overseas parent company. Its role is limited to collecting information about possible market opportunities and providing information about the company and its products to prospective Indian customers. A liaison office can not undertake any commercial activity directly or indirectly, and therefore, cannot earn any income in India.

Foreign companies incorporated outside of India but conducting business in India through a branch or a liaison office also fall within the purview of the Indian Companies Act.

Permitted activities for a liaison office in India:

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

9.3. PROJECT OFFICE

Foreign companies can operate through project offices for undertaking specific contracts or activities such as turnkey projects or installation projects. For execution of the contract so taken, a project office is allowed to enter into sub-contracts.

The RBI has granted a general permission to a foreign entity for setting up a Project Office in India subject to the following conditions:

1) It has secured from an Indian company a contract to execute a project in India, and
2) The project is funded by inward remittance from abroad; or is funded by a bilateral or multilateral international finance agency; or has been cleared by an appropriate authority; or a company or entity in Indian awarding the contract has been granted term loan by a public financial institution or a bank in India for the project.
3) The foreign company is required to furnish a report to the concerned Regional Office of the RBI under whose jurisdiction the Project Office is set up, comprising the required details about the company and the project.

Foreign companies intending to open branch, liaison or project offices first need to apply to the AD Bank through an Authorized Indian Representative having valid PAN and Indian passport in the prescribed format (form FNC). The AD Bank will thereafter, scrutinize all the documents and will forward the application to the Reserve Bank of India (RBI). The RBI in turn will grant its approval subject to the fulfilment of the conditions as may be prescribed in FEMA guidelines. For more details, please refer RBI's master direction at https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10404&fn=5&Mode=0. The government has recently relaxed the approval process for setting up of the branch, liaison and project offices of foreign companies in India.

However, the approval of the government of India is required in the following cases:

- The applicant is a citizen of or is registered/incorporated in Pakistan.
- The applicant is a citizen of or is registered/incorporated in Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong or Macau and the application is for opening a BO/LO/PO in Jammu and Kashmir, North East region and Andaman and Nicobar Islands.
- The principal business of the applicant falls in the four sectors namely Defence, Telecom, Private Security and Information and Broadcasting. However, prior approval of Reserve Bank of India shall not be required in cases where Government approval or license/permission by the concerned Ministry/Regulator has already been granted.
- The applicant is a Non-Government Organisation (NGO), Non-Profit Organisation, Body/ Agency/ Department of a foreign government. However, if such entity is engaged, partly or wholly, in any of the activities covered

under Foreign Contribution (Regulation) Act, 2010 (FCRA), they shall obtain a certificate of registration under the said Act and shall not seek permission under FEMA 22(R).

9.4. FRANCHISING SOLUTION

A growing number of foreign companies, particularly from the hospitality industry, have started operations in India through the franchise route. To evaluate prospective franchisees, foreign firms should use several criteria such as the financial soundness of the party; ability to see-through initial teething problems together; and similarity of values; as well as protection of intellectual property rights.

9.5. WHOLLY OWNED SUBSIDIARY

For foreign investors, there are currently two routes for getting the required permission to set up wholly owned subsidiary in India, namely "automatic route" or "Government approval route". Over the past more than a decade, the Indian government has been gradually liberalising the norms for foreign direct investments, and consequently such investments are now allowed in almost all industries through the "automatic route", with some exceptions.

The new entity needs to be registered with the office of the Registrar of Companies in India, which will issue the certificate of incorporation. A company may either be a private limited company or a public limited company. Private companies are preferred for small group of business people.

A company shall not commence any business or exercise any borrowing powers unless:

- a declaration in e-form 20A is filed by a director within a period of 182 days of the date of incorporation of the company,
- the company has filed with the Registrar a verification of its registered office

For information about the procedure for the incorporation of a company in India, please browse the following web link to the Ministry of Corporate Affairs: http://www.mca.gov.in/

India has passed the legislation to facilitate establishment of Limited Liability Partnerships. This new business form is a hybrid of partnership firm and company and is a separate legal entity with liability being limited to the extent of stake held by a partner. This is quite suitable for professional service providers such as CA/CS firms, legal and advisory firms etc.

9.6. JOINT VENTURE

India does not have a separate law for foreign investment, but it is the stated objective of the Consolidated FDI Policy to invite and to facilitate foreign investments. Foreign investments and returns on them are, in general, fully repatriable. Since the economic reform started in India in 1991, the volume of foreign investments in the country has increased substantially. The government, in order to further promote investment, both domestic and foreign, in the country, has initiated many steps to simplify procedures, rationalise various policies and set up regulatory frameworks, and has offered a number of incentives, especially to the firms engaged in the export business. Consequently, considerable investments have flown into many sectors, e.g. telecommunication, transportation, electrical equipment, information technology, chemicals and pharmaceuticals, and services.

9.6.1. Automatic Route

Foreign investment is 'automatically' allowed in almost all industries, with some exceptions and subject to the notified sectoral policy and foreign equity caps. For investments under this route, the companies do not require any prior approval from the Government.

However, the companies are required to notify the regional office of the RBI as follows:

- In case of receipt of share application money towards allotment of shares in a Company: Reporting in form FCGPR needs to be done within 30 days of allotment of shares.

- In case of transfer of shares of a company: Reporting in form FCTRS needs to be done within 60 days of receipt of consideration
- In case of receipt of consideration by an LLP: Reporting in form FDI LLP(I) needs to be done within 30 days of receipt of consideration
- In case of transfer of capital contribution of an LLP: Reporting in form FDI LLP(II) needs to be done within 60 days of receipt of capital contribution
- In case of External Commercial Borrowings (ECB): Reporting in form ECB 2 needs to be every month within 7 days after closure of month.

Annual Return on Foreign Liabilities and Assets: An Indian company which has received FDI or an LLP which has received investment by way of capital contribution needs to submit form FLA to the Reserve Bank on or before the 15th day of July each year.

9.6.2. Government Approval Route

Foreign investments that do not qualify under the automatic route require prior permission from the government of India. Following are some of the competent authorities for grant of approval for foreign investment for sectors/activities requiring government approval.

Table 3: Government Approval Route

No.	Activity / Sector	Ministry/ Department
1	Mining	Ministry of Mines
2	Civil Aviation	Ministry of Civil Aviation
3	Telecommunication	Department of Telecommunications
4	Trading (Multi Brand Retail Trading and Food Product retail trading)	Department for Promotion of Industry and Internal Trade

Please refer https://dipp.gov.in/policies-rules-and-acts/policies/foreign-direct-investment-policy for consolidated FDI Policy 2020 as introduced by the government of India having details of all sectors/activities requiring government approval.

Further, applications involving investments from an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country {as required in terms of Press Note 3 of 2020 read with Foreign Exchange Management (Non-debt Instruments) Amendment Rules, 2020 dated 22.04.2020} also requires approval from the government of India.

The booklet “Consolidated FDI Policy 2020” available at the website of the Department of Industrial Policy and Promotion: https://dipp.gov.in/policies-rules-and-acts/policies/foreign-direct-investment-policy contains detailed information for foreign investors, including sector-wise guidelines for the foreign direct investments in India.

The potential investors intending to use automatic approval route can access the relevant information and application forms (FCGPR or FCTRS) from the website of the Reserve Bank of India: https://rbi.org.in/Scripts/femaview.aspx?femaid=65

100%-foreign owned companies are allowed in many areas/sectors. Furthermore, wholly owned subsidiaries are also allowed in setting up 100% export-oriented units -EOUs, units in Special Economic Zones (SEZs), companies where proprietary technology is sought to be protected or sophisticated technology is proposed to be brought in. Several Swiss companies do now have 100%-owned companies in India. For information about Swiss companies operating in India, please refer to the Embassy’s publication “Swiss-Indian Trade and Investment Relations 2016”, available on the Embassy’s website: https://www.eda.admin.ch/content/dam/countries/countries-content/india/en/Swiss-Indian%20Trade%20%26%20Invest%20Relations_2016.pdf

Recent approval records show that the Indian Government is also willing to give approvals, on a case-to-case basis, to foreign partners who decide to enhance their equity participation later in the existing Indian ventures within the FDI ceiling, if any (the pre-condition is obviously submission of an agreement with the Indian promoter(s)/ shareholders as well as a board resolution).

To further liberalise the FDI regime in the country, the government permits issue of equity shares to a person resident outside India against lumpsum fee and royalty due for payment, and external commercial borrowing, subject to meeting all applicable tax liabilities and procedures. Furthermore, an Indian company may be permitted to issue equity shares to non-residents against import of capital goods, subject to fulfillment of certain conditions.

9.6.3. Technical Collaborations

Foreign technology/licensing agreements are granted automatic approval under the current Indian policy, i.e. lumpsum payment and/or Royalties on sales in domestic market, foreign markets, as well as royalties on the use of trademark and brand name do not need any approval of the Government of India. However, such payments are subject to Foreign Exchange Management (Current Account Transactions) Rules 2000, as amended from time to time.

Furthermore, the foreign investment through fully convertible preference shares is treated as foreign direct shareholding for the purpose of sectoral caps on foreign investment. The maximum dividend rate on preference shares shall be within the limit prescribed by the Ministry of Finance.

10. Promotion of Investment

In order to promote the foreign direct investments in the country, the Indian government has initiated a number of measures to facilitate smooth entry. the Indian government has set up the Foreign Investment Implementation Authority (FIIA) in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) to facilitate quick implementation of FDI approvals. The FIIA takes, among other measures, initiatives to conduct multi-agency consultations to find solution to problems faced by the foreign investors.

Besides direct investments in India, foreign entities, e.g. Foreign Institutional Investors (FIIs) are also allowed to invest in the primary and secondary capital markets in the country. A FII and each of its sub-accounts can invest up to 10 per cent of the paid-up share capital of an Indian company. FIIs can cumulatively hold up to 24 per cent of the paid-up share capital of a company, and they may increase their holding up to the applicable FDI ceilings in various sectors with the approval of the Board of the investee Indian company. The shareholders of such investee Indian company must also pass a special resolution to approve such an increase.

Switzerland-India bilateral investment treaty (BIT) was signed on 5th April 1997. This has been terminated on 22nd March 2017. India, however, still has 14 active BITs. Information about existing and terminated BITs can be found here: https://dea.gov.in/bipa.

11. Entry conditions, work permits, residence permits, labour law

Swiss nationals travelling to India on business must obtain business visa valid for the duration of their stay in India. Longer term business visas valid for up to 5 years with multiple entries can also be granted to frequent travellers. As per new visa guidelines issued by the Government of India recently, foreign engineers/technicians travelling to India to implement projects/contracts, including installation or repair of machinery, would require employment visa from the Indian diplomatic representations abroad. Indian diplomatic representations also grant employment visas based on a contract between the applicant and the employer and the corresponding appointment letter from India. Generally, all foreign nationals who have visas of duration more than 6 months and also intending to stay for more than six months have to register themselves with the concerned Foreigners Regional Registration Officer (FRRO)/District Foreigners Registration Officer within 14 days of their first arrival in India. Upon this registration, the FRRO/District Foreigners Registration Officer issues the residence permit to a foreign national. The FRRO/District Foreigners Registration Office grants to a foreign national, who resides in India on the basis of employment/business visa, a residence-cum-work permit after the registration formalities are completed.

The employment of labour in the organised sector is regulated by different laws, e.g. Industrial Disputes Act, The Factories Act, Minimum Wages Act, Workmen's Compensation Act, Contract Labour (Regulation and Abolition) Act, and Trade Unions Act. Traditionally, the Indian labour laws were framed keeping in the mind the planned economic development and welfare of labour class. These days, the labour laws in the country are considered to be rigid which make it difficult to close down even a loss-making firm. Though the government has recognised the need to modernise the labour laws, especially the Industrial Disputes Act and Contract Labour Act to facilitate easy closures and layoffs, but the process to bring about changes has been extremely slow so far. Nevertheless, the government has recently eased administrative burden on companies/firms relating to filing of various returns under labour laws.

12. Information Sources

Department of Industrial Policy & Promotion	http://dipp.nic.in
Department of Commerce	http://commerce.nic.in
Directorate General of Foreign Trade	http://dgft.gov.in/
Reserve Bank of India	http://www.rbi.org.in
Central Board of Excise and Customs	http://www.cbec.gov.in
Income Tax Department, Delhi	http://incometaxindia.gov.in/
Department of Consumer Affairs	https://consumeraffairs.nic.in/
Bureau of Indian Standards	https://bis.gov.in/
Ministry of Law and Justice	https://lawmin.gov.in/
Government of India	http://goidirectory.nic.in
Embassy of Switzerland	http://www.eda.admin.ch/newdelhi

Note: Due care and diligence has been taken while preparing this document. However, as part of the information contained herein is based on literature available from the secondary sources and web-links, it is advisable to check for any possible change that might have been introduced in the meantime by a concerned government department/agency.

Switzerland Global Enterprise (S-GE) and the Swiss Business Hub India (SBHI) together with its specialized network of external experts and industry contacts is well placed to assist Swiss and Liechtenstein based companies enter, and expand, their presence in the Indian market. With a dedicated and experienced team of in-house consultants, and a specialized network of local experts, we can provide the following tailor made services:

- Distributor partner search
- Market information
- Product registration
- Online interactions with industry experts and authorities
- Customer analysis
- Competitor mapping
- Virtual store checks
- Virtual fact finding mission

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