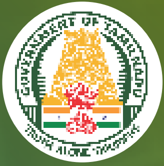

# Tamil Nadu Global Investors Meet 2015

Investors' Handbook

# Glossary

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|---|---|
| GDP | Gross Domestic Product |
| FDI | Foreign Direct Investment |
| IMF | International Monetary Fund |
| GoI | Government of India |
| DIPP | Department of Industrial Policy & Promotion |
| RBI | Reserve Bank of India |
| SEZ | Special Economic Zone |
| IT | Information Technology |
| ITeS | IT enabled services |
| FTWZ | Free trade warehousing zone |
| VAT | Value added tax |
| STCG | Short term capital gains |
| LTCG | Long term capital gains |
| GST | Goods and services tax |
| CST | Central sales tax |
| CVD | Countervailing duty |
| EC | Education cess |
| SHEC | Secondary and higher education cess |
| CENVAT | Central value added tax |
| PAN | Permanent account number |
| MAT | Minimum alternate tax |
| DDT | Dividend distribution tax |
| JV | Joint venture |
| CCEA | Cabinet committee of external affairs |
| IFI | Indirect Foreign Investments |
| MGI | McKinsey Global Institute |
| STPI | Software Technology Parks of India |
| CAGR | Compound annual growth rate |
| FIPB | Foreign Investment Promotion Board |
| LLP | Limited liability partnership |
| FEMA | Foreign Exchange Management Act |
| PCPIR | Petroleum, Chemicals & Petrochemicals Investment Region |

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# Foreign investment in India – investment process

## A. Foreign direct investment into India

Under the current Government of India framework, FDI is permitted by all categories (of investors) and in all sectors except the following:

- Activities and sectors not open to private sector investment e.g. Atomic energy and Railway Transport [except mass rapid transport systems (MRTSs)]
- Lotteries, gambling and betting
- Agriculture (excluding floriculture, horticulture, apiculture, seed development, animal husbandry, pisciculture, aquaculture and cultivation of vegetables, mushrooms, etc. under controlled conditions and services related to agro and allied sectors)
- Plantations (excluding tea plantations)
- Real estate business (except construction development projects) or construction of farmhouses
- Chit funds, nidhi companies or trading in transferable development rights
- Manufacturing of cigars, cheroots, cigarillos and cigarettes, tobacco and tobacco substitutes

FIs can be made in other sectors under the following:

- Approval route, i.e. by the government through the Foreign Investment Promotion Board (FIPB) under the Ministry of Finance or Department of Industrial Policy and Promotion (DIPP) under the Ministry of Commerce and Industry or both
- Automatic route, i.e. no prior approvals from regulatory authorities but only post facto intimations to RBI through Authorized Bankers

### 1. Approval route

A prior approval from the FIPB or the DIPP is required in cases of FI where the project does not qualify for the automatic route. The following cases will fall under this category:

- Specified sectors which require FIPB approval for FDI or for FDI beyond a prescribed sectoral cap

- Issue of shares for consideration other than cash i.e. issue of shares against import of capital goods/machinery /equipment and pre-operative/pre-incorporation expenses subject to compliance with certain stated conditions [except for capitalization of an external commercial borrowing (ECB) due for repayment and interest on such an ECB, as well as technical knowhow fee or royalties due for payment]
- Investments by citizens and companies of Bangladesh or Pakistan
- Investments in warrants and partly paid shares
- Investment in an Indian company engaged only in downstream investment activities for holding purposes or which does not have any operations or any downstream investments. Additionally, a company which fulfils the criteria prescribed under the core investment companies (CICs) guidelines issued by the RBI will have to comply with the norms prescribed therein

The decision of the FIPB or DIPP is normally conveyed within four to six weeks from the date of submission of an application. A proposal for foreign investment is decided on a case-to-case basis on the merits of the case and according to the prescribed sectoral policy. Generally, preference is given to projects in high-priority industries and the infrastructure sector, those with export potential, large-scale employment opportunities, links with the agro sector, social relevance, or those relating to the infusion of capital and induction of technology. Foreign investment proposals under the FIPB route involving a total foreign equity inflow of more than 12 billion INR must be placed before the Cabinet Committee of External Affairs (CCEA) for further consideration. Where an entity has an earlier FIPB or CCEA approval for an activity/ sector or sectoral caps, additional foreign investment in such an entity does not require prior approval from the FIPB or the CCEA, where subsequent to the earlier approval:

- Either the activity or the sector, had been placed under the automatic route; or
- Sectoral caps had been removed or increased (provided that such additional investment along with the original investment is within the current sectoral caps

## 2. Automatic route

Generally, except in the cases mentioned above, all other cases of foreign investment fall under the automatic route and do not require prior approval of the FIPB or DIPP

## 3. Computation of FDI

The Indian government had issued guidelines to calculate total FDI in an Indian company where sectoral caps apply. As per this policy, the total FDI in an Indian company will comprise the following:

- Direct investment by a foreign investor
    - Indirect Foreign Investments (IFIs) through an Indian company owned or controlled by non-residents. Here 'owned' means more than 50% shareholding and 'control' means right to appoint a majority of the

directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements. Further, for the computation of IFI, 'FI will include all types of investments, i.e., FDI, investment by FIIs (holding as on 31 March), NRIs, ADRs, GDRs, foreign currency convertible bonds (FCCBs), convertible preference shares and convertible currency debentures regardless of whether the said investments have been made under Schedule 1, 2, 3 or 6 of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations.

Broadly, the principle emerging under this policy aspect is that in case an Indian company is owned and controlled beneficially by resident Indian citizens (RICs), any downstream investment made will be considered as domestic investment and not counted towards foreign investment caps. Further, any downstream investments made by an Indian company owned or controlled by non-residents would also be required to comply with sectoral caps and conditionalities. In this regard, RBI has issued circular incorporating the downstream investment policy guidelines issued by DIPP in 2009. Further, a statutory auditor would need to certify whether downstream investment is in compliance with the FDI Policy and FEMA provisions.

## 4. Foreign venture capital permitted to acquire securities under private arrangement

Foreign Venture Capital Investors (FVCIs) can invest in eligible securities (equity, equity linked instruments, debt, debt instruments, debentures of an IVCU or VCF, units of schemes or funds set up by a VCF) by private arrangement or purchase from a third party subject to compliance with certain conditions.

## 5. Foreign investment by qualified foreign investors

Qualified foreign investors (QFIs) are non- resident investors other than SEBI-registered FIIs and SEBI-registered FVCIs who meet the KYC requirements of SEBI.

QFIs from FATF compliant jurisdictions and resident in a country that is a signatory to IOSCO's MoU or a signatory of a bilateral MoU with SEBI have been permitted to invest in equity shares of listed Indian companies or equity shares of Indian companies offered to the public in India through SEBI-registered depository participants (DPs) or SEBI-registered brokers within an individual cap of 5 and 10% in aggregate of the paid-up capital of listed companies or both. Further, QFIs can also purchase rupee denominated units of equity schemes of domestic mutual funds (MFs) on a repatriation basis and eligible corporate debt instruments, viz. listed non-convertible debentures (NCDs), listed bonds of Indian companies, listed units of MF debt schemes and 'to be listed' corporate bonds directly from the issuer or through a registered stockbroker on a recognized stock exchange in India. QFIs are also permitted to acquire non-convertible debentures or bonds issued by NBFCs categorized as infrastructure finance companies (IFCs).

## 6. Foreign investment by qualified foreign investors

FDI up to 100% is permitted with prior government approval in limited liability partnerships engaged in sectors or activities currently eligible for 100% FDI under the automatic route. Such sectors/activities should

not have any sectoral or other FDI linked conditions. Some of the conditions, subject to which FDI in LLP would be permitted, are as follows:

- Only cash contribution is permissible for FDI in LLPs
- LLPs with FDI are not allowed to make downstream investments
- LLP cannot raise ECB
- FIIs and FVCIs cannot invest in LLPs

## 7. Investment through share acquisition

Non-resident investors can acquire shares of an existing Indian company subject to compliance with sectoral conditions. Stock acquisition is permitted after a resolution to this effect has been passed by the board of directors of the company whose shares are being acquired. The acquisition will need to comply with valuation guidelines prescribed by RBI or SEBI from time to time. Prior FIPB approval is required in all cases where either the control or ownership of the Indian company, engaged in a sector where FDI caps apply, is transferred to or acquired by a nonresident entity.

Acquisition by way of share swap is also permitted with prior FIPB approval and is subject to valuation guidelines. Prior approval of the RBI is no longer required for the following cases of share acquisitions:

- Acquisition of existing equity by residents from non-residents where the share price falls outside the prescribed valuation norms but complies with the pricing prescribed under SEBI regulations or guidelines
- Acquisition of equity by non-residents from residents under the following cases:
  - Where the requisite approval of the FIPB has been obtained
  - Where prescribed pricing guidelines are not met but comply with SEBI pricing guidelines
  - Where the investee company is in the financial services sector

## 8. Valuation norms

Issue of shares to non-residents or transfers from resident to nonresidents is subject to valuation guidelines as set out below:

- In case of transfer of shares from resident to non-resident, the consideration cannot be less than the amount determined as per discounted cash flow method in case of unlisted shares. However, if shares are listed, then the consideration price cannot be less than the price at which preferential allotment of shares can be made under SEBI guidelines
    - In relation to a transfer of shares of an Indian company (listed or unlisted) from a non-resident to resident, the price cannot exceed the above mentioned price

- Where non-residents (including NRIs) are making investments in an Indian company, by way of subscription to its Memorandum of Association, such investments may be made at face value subject to their eligibility to invest under the FDI scheme.

In relation to a transfer of shares of an Indian company (listed or unlisted) from a non- resident to resident, the price may not be more than the minimum price at which the transfer of shares can be made.

## 9. Investment by foreign institutional investors (FIIs)

A registered FII may, through the SEBI, apply to the RBI for permission to purchase the shares and convertible debentures of an Indian company under the portfolio investment scheme. FIIs are permitted by the RBI to purchase the shares or convertible debentures of an Indian company through registered brokers on recognized stock exchanges in India. They are also permitted to purchase the shares or convertible debentures of an Indian company through private placement or arrangement. The total holding by each FII and SEBI approved sub-account of FII cannot exceed 10% of the total paid-up equity capital or 10% of the paid-up value of each series of convertible debentures issued by an Indian company. Further, the total holdings of all FIIs or sub-accounts of FIIs added together cannot exceed 24% of the paid-up equity capital or the paid-up value of each series of convertible debentures. The limit of 24% may be increased to the specified sectoral cap or statutory ceiling, as applicable, by the concerned Indian company by passing a board of directors' resolution, followed by the permission of the shareholders through a special resolution to that effect and immediate intimation to the RBI.

FIIs can now invest in the primary issues of NCDs or bonds only if their listing is committed to be done within 15 days of such an investment. FIIs can also subscribe to unlisted bonds or NCDs in case the issuing company is an infrastructure company.

## 10. FDI in major sectors in India

India ranks among the most attractive destinations for FDI in the world. Indian markets have the potential and offer prospects of higher profitability and a favorable regulatory regime to attract investors. A summary of FDI in key sectors is as follows:

| Sector | FDI summary |
|---|---|
| Agriculture and allied activities | Not permitted, except under following circumstances:<br>• FDI up to 100% under automatic route is permitted in floriculture, horticulture, development and production of seeds and planting material, animal husbandry, pisciculture, aquaculture, cultivation of vegetables and mushrooms under controlled conditions and services related to agro and allied sectors. Certain conditions apply for companies dealing with development of transgenic seeds and vegetables<br>• In tea sector (including tea plantations), FDI up to 100% is permitted under the approval route<br>• FDI up to 100% is permitted under automatic route for coffee and rubber processing and warehousing |
| Asset reconstruction companies | • Foreign investment by way of FDI and FII is permitted up to 100% (up to 49% under automatic route and beyond 49% with prior FIPB approval) in an ARC registered with the RBI. While FIIs can invest in ARCs, total shareholding of an individual FII shall not exceed 10% of the paid-up capital. Further, SEBI registered FIIs can invest in security receipts (SRs) issued by RBI registered ARCs up to 74% of each tranche of scheme of SRs. All investments in ARCs will be subject to provisions of section 3(3) (f) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) |
| Banking | • Public sector banks: FDI and portfolio investment is restricted to 20% with a prior FIPB approval<br>• Private sector banks: FDI up to 74% allowed (up to 49% under the automatic route, and beyond 49% and up to 74% under the FIPB approval route). Voting rights per shareholder are restricted to 26%. Please note that within the permissible FDI ceiling, there are separate limits for FII or NRI investment under the portfolio investment scheme. A foreign bank may operate in India only through one of the following three channels: |

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| | o A branch or branches<br>o A wholly-owned subsidiary<br>o A subsidiary with an aggregate FI of maximum 74% |
| Broadcasting | • Teleports (setting-up of up-linking hubs or teleports), direct to-home, cable networks [Multi System Operators (MSOs) operating at a national, State or district level and undertaking up-gradation of networks towards digitalization and addressability], mobile TV and head end-in-the-sky(HITS) broadcasting services: FDI is permitted up to 74% (up to 49% under automatic route and beyond 49% and up to 74% under approval route).<br>• Cable network [other MSOs not undertaking up-gradation of networks towards digitalization and addressability and local cable operators (LCOs)]: FI is permitted up to 49% under the automatic route.<br>• Terrestrial broadcasting FM (FM radio): FDI is permitted up to 26% under the approval route.<br>• Up-linking TV channels: FDI up to 26% is permitted under the approval route for the up-linking of a news and current affairs TV channel. 100% FDI is permitted under the approval route for up-linking a non-news or current affairs TV channel.<br>• Downlinking of TV channels: 100% FDI is permitted with prior Government approval |
| Civil aviation and airports | • FDI up to 49% is permitted for scheduled air transport services and domestic scheduled passenger airlines under the automatic route. NRI investment is permitted up to 100% under the automatic route<br>• For non-scheduled air transport services, non-scheduled airlines and cargo airlines, FDI is permitted up to 74% (up to 49% under the automatic route and beyond that with FIPB approval). NRI investment is permitted up to 100% under the automatic route<br>• Foreign airlines have been permitted to invest in the capital of Indian companies operating scheduled and non-scheduled air transport services to the limit of 49% of their paid-up capital, subject to specified conditions<br>• 100% FDI is permitted under the automatic route for maintenance and repair organizations, flying training institutes and technical training institutions<br>• FDI up to 74% is permitted for ground-handling services subject to sectoral regulations and security clearances<br>• FDI up to 49% is permitted under the automatic route and between 49 and 74% under the approval route. However, NRI investment up to 100% is permitted under the automatic route. |

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| | • FDI up to 100% is permitted under the automatic route for helicopter and sea-plane services.<br>• Foreign airlines can participate in the equity of companies operating cargo airlines, helicopter services and seaplane services.<br>• 100% FDI is permitted under the automatic route for green field investments in airports. With respect to existing airports, FDI up to 100% is permitted, up to 74% under the automatic route and up to 100% with prior FIPB approval. |
| Coal and lignite | • FDI is permitted up to 100% under the automatic route in coal and lignite mining for the captive consumption by power projects, iron and steel, cement units and other eligible activities, subject to the provisions of the Coal Mines (Nationalization Act), 1973<br>• A company setting up coal processing plants FDI up to 100% is permitted under the automatic route subject to the condition that it will not conduct coal mining and will supply the washed or sized coal to parties supplying raw coal or coal processing plants, instead of selling it in the open market. |
| Commodity exchanges | Composite foreign investment (CFI) (FDI plus FII) up to 49% is permitted with prior FIPB approval.<br>However, FIIs are permitted to invest up to 23% without government approval and restricted to secondary market purchases. FDI investment is capped at 26%. No foreign investor or entity including those acting in concert may hold more than 5% equity.<br>The Union Cabinet has approved the proposal to permit FI in this sector under the automatic route However, an official press note implementing the decision is awaited. |
| Credit information companies | CFI in credit information companies is permitted up to 49%, subject to the following conditions:<br>• Prior approval of the Indian government and regulatory clearance from the RBI<br>• Investment by registered FIIs permitted up to 24% (within the overall limit of 49%) only in listed credit information companies<br>• Foreign investment subject to the Credit Information Companies (Regulation) Act, 2005<br>The Union Cabinet has approved the proposal to permit FI (FDI+FII) up to 74% in this sector under the automatic route |
| Courier services | FDI up to 100% is permitted under the automatic route in companies undertaking courier business |

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| Defense | FDI in this sector is permitted up to 26% subject to prior FIPB approval and compliance with security and licensing requirements and guidelines issued by the Ministry of Defense. However, proposals beyond 26% may be considered on case-to case basis by the Cabinet Committee on Security. One of the basis for approval for such cases will be to see if the proposal brings in State of the art and technology. These are likely to result in increased access to modern and state-of-the-art technology in the country. Additionally, the Indian company will need to comply with the condition that the largest Indian shareholder will hold at least 51% of its share capital.<br>According to the guidelines for the production of arms and ammunition, the management of the Applicant Company or partnership should be in Indian hands, and the majority of the board as well as the chief executive should be a resident Indian. Further, there is a three-year lock-in period for the transfer of equity from one foreign investor to another. |
| Insurance | FDI in the insurance sector is permitted up to 49% under the automatic route, subject to obtaining a license from the Insurance Regulatory and Development Authority (IRDA) |
| Micro and small enterprises | FDI in an MSE for the manufacture of items reserved under the small-scale sector is permitted, subject to compliance with the applicable sectoral policy.<br>However, any industrial undertaking which is not an MSE and is engaged in manufacturing items reserved for the MSE sector, will require FIPB approval when FI is more than 24%. Such an undertaking will also require an industrial license under the Industries (Development and Regulation) Act, 1951. This license prescribes the export of a minimum of 50% of the new or additional annual production of the MSE reserved items to be achieved within a maximum period of three years. |
| Mining | • FDI is allowed up to 100% under the automatic route for activities such as the exploration and mining of metals and non-metal ores, including gold and silver, minerals, diamonds and precious stones<br>• FDI up to 100% is permitted with prior government approval for the mining and mineral separation of titanium-bearing minerals and ores, its value addition and integrated activities. It is subject to sectoral regulations and the conditions of the Mines and Minerals (Development and Regulation) Act, 1957 |
| Non-banking financial services | 100% FDI is only allowed in the following activities under the automatic route subject to the minimum capitalization norms indicated below:<br>• Merchant banking<br>• Underwriting |

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| | • Portfolio management services<br>• Investment advisory services<br>• Financial consultancy<br>• Stock broking<br>• Asset management<br>• Venture capital<br>• Custodian services<br>• Factoring<br>• Credit rating agencies<br>• Leasing and finance (this will cover only finance lease)<br>• Housing finance<br>• Forex broking<br>• Credit card business<br>• Money changing business<br>• Micro credit<br>• Rural credit |
| Minimum capitalization norms (foreign equity): Fund-based activities | For Non-Banking Financial Companies (NBFCs), investment would be subject to following the minimum capitalization norms.<br>• USD 0.5 million for foreign capital up to 51% to be brought upfront<br>• USD 5 million for foreign capital more than 51% and up to 75% to be brought upfront<br>• USD 50 million for foreign capital more than 75% out of which US$ 7.5 million to be brought up front and the balance in 24 months |
| Minimum capitalization norms (foreign equity): Non-fund based activities | For non-banking financial companies (NBFCS) the minimum capitalization norm has been fixed at 0.5 million USD. The prescribed minimum capital is required to be brought upfront.<br>The following activities are classified as non-fund-based activities:<br>• Investment advisory services<br>• Financial consultancy<br>• Forex broking<br>• Money changing<br>• Credit rating<br>A non-fund based NBFC is prohibited from setting up subsidiary for any other activity and neither can it participate in the equity of an NBFC holding or operating company. |

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| Petroleum | **Other than refining**<br>100% FDI is permitted under the automatic route in the following, subject to the existing policy and regulatory framework in the petroleum sector:<br>• Exploration activities of oil and natural gas fields<br>• Infrastructure related to marketing of petroleum products and natural gas<br>• Petroleum products and natural gas marketing<br>• Petroleum product and natural gas pipelines<br>• LNG re-gasification infrastructure<br>• Market studies and formulation in the petroleum sector<br>**Refining**<br>In the case of PSUs, FDI is permitted up to a maximum of 49% with automatic route. In the case of private Indian companies, FDI up to 100% is permitted under the automatic route. |
| Power exchange | FDI up to 49% is permissible in power exchange under the automatic route (with FDI up to 26% and FII investment up to 23%). FII investment is restricted to the secondary market. No non-resident investor or entity including the persons acting in concert can hold more than 5% of the equity. |
| Print media | • Publication of newspapers, periodicals and Indian editions of foreign magazines in news and current affairs: Foreign investment including FDI, NRI, PIO and FII investment, is permitted up to 26% with prior FIPB approval.<br>• Publishing and printing of scientific and technical magazines, specialty journals and periodicals: FDI is permitted up to 100% with prior FIPB approval.<br>• Publication of facsimile editions of foreign newspapers: FDI up to 100% with prior FIPB approval is permitted, provided it is by the owner of the original newspapers whose facsimile edition is proposed to be published in India. These sub-sectors need to comply with terms and conditions as may be prescribed by the Ministry of Information and Broadcasting. In addition, in the above sub-sectors where FDI is limited to 49%, the Indian company needs to comply with the single largest Indian shareholder condition |
| Construction development projects | FDI up to 100% under the automatic route is permitted in the following:<br>• Construction-development projects (including but not restricted to housing, commercial premises, resorts, educational institutions, recreational facilities, city and regional level infrastructure, and townships) subject to certain conditions:<br>– minimum area to be developed |

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| | – minimum capitalization of 10 million USD for a wholly owned subsidiary and 5 million USD for a JV with an Indian partner<br>– original investment i.e. the entire amount brought in as FDI with a minimum three-year lock-in from the date of receipt of each FDI instalment or from the date of completion of minimum capitalization, whichever is later<br>– development of at least 50% of each project must be completed within 5 years of obtaining all statutory clearances<br>Investment by NRIs is not subject to the conditions applicable in the case of construction development projects.<br>Investment in SEZs, hotels, hospitals, industrial parks (satisfying prescribed conditions), the education sector and old-age homes is also exempt from the above requirement. |
| Industrial parks | FDI up to 100% is permitted under the automatic route subject to the fulfillment of prescribed conditions. “Industrial activity” has been defined to mean manufacturing; electricity; gas and water supply; post and telecommunications; software publishing, consultancy and supply; data processing, database activities and distribution of electronic content; other computer related activities; basic and applied R&D on biotechnology, pharmaceutical sciences and life sciences, natural sciences and engineering; business and management consultancy activities; and architectural, engineering and other technical activities. Further, the conditions applicable to construction development activities would not be applicable provided the following conditions are complied with:<br>• Industrial park comprises of at least 10 units and no single unit occupies more than 50% of allocable area<br>• At least 66% of the total allocable area is allocated to industrial activity |
| Satellites: establishment and operations | FDI up to 74% is permitted with prior FIPB approval subject to sectoral guidelines of the Department of Space or the Indian Space Research Organization (ISRO) |
| Security exchanges in private sector | FDI up to 49% is permitted under approval route |
| Stock exchanges, depositories, clearing corporations | Foreign investment up to 49% (FDI cap at 26% and FII cap at 23%) is permitted under automatic route. FIIs are allowed only through purchases in the secondary market |

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| Pharmaceuticals | 100% FDI is permitted in existing pharmaceutical companies with prior FIPB approval. With respect to the green field investments, 100% FDI is permitted under the automatic route |
| Telecommunications | FDI up to 100% is permitted. FDI up to 49% is under automatic route, and beyond 49% on a prior FIPB approval in the telecom services including Telecom infrastructure Providers Category-I, viz. Basic, Cellular, United Access Services, Unified License (Access services), Unified License, National/International Long Distance, Commercial V-Sat, Public Mobile Radio Trunked services, Global Mobile Personal Communications Services, All types of ISP licenses, Voice Mail/Audiotex/UMS, Resale of IPLC, Mobile Number Portability services, Infrastructure Provider Category I (providing dark fibre, right of way, duct space, tower) except other Service Providers F subject to observance of licensing and security conditions by licensee as well as investors as notified by the Department of Telecommunication from time to time. |
| Trading | 100% FDI is permitted under the automatic route for trading companies engaged in the following activities:<br>• Cash-and-carry wholesale trading and wholesale trading subject to operational guidelines<br>• Operational guidelines for wholesale trading<br>• Single brand retail trading<br>• Multi brand retail trading |

# Entry options

A foreign company looking to set up operations in India can consider the following options:

## A. Operating as an Indian company

### 1. Wholly owned subsidiary company

A foreign company can set up a wholly owned subsidiary company in India to carry out its activities. Such a subsidiary is treated as an Indian resident and an Indian company for all Indian regulations (including income tax, Foreign Exchange Management Act,1999 and the Companies Act), despite being 100% foreign-owned. At least two members, for a private limited company, and seven members, for a public limited company, are mandatory. Activities of such a company need to comply with the provisions of the FDI policy.

### 2. Joint venture with an Indian partner (equity participation)

Although a wholly owned subsidiary has proven to be the preferred option, foreign companies have also begun operations in India by forming strategic alliances with Indian partners. The trend is to choose a partner in the same area of activity or who brings synergy to the foreign investor's plans for India. Sometimes joint ventures are also necessitated due to restrictions on foreign ownership in certain sectors. The FI guidelines for investment in an Indian company have already been discussed in the previous section.

### 3. Limited liability partnership (LLP)

LLP is a new form of business structure in India. It combines the advantages of a company, such as being a separate legal entity having perpetual succession, with the benefits of organizational flexibility associated with a partnership. At least two partners are required to form an LLP and they have limited liability. An LLP, with less compliance levels is comparatively easier to manage than a company form of organization. Further, an LLP is not subject to mandatory requirements applicable to a company with regard to provision of depreciation and transfer to reserves prior to distribution of profits (though Companies Act 2013 makes it voluntary for a company to transfer to reserves prior to distribution of profits, this would be applicable once it gets notified). As mentioned in the previous section, the FDI policy for LLPs has been notified making this a possible viable entity form for Indian business operations of foreign investors.

The operational guidelines with respect to compliances to be undertaken with respect to FDI in an LLP are likely to be notified soon by the RBI.

# B. Operating as a foreign company

## 1. Liaison office

Setting up a liaison or representative office is a common practice for foreign companies seeking to enter the Indian market. The role of these offices is limited to collecting information about the market and providing information about the company and its products to prospective Indian customers. These offices act as listening and transmission posts and provide information between the foreign company and its Indian customers. A liaison office is not allowed to undertake anything other than liaison activities in India and cannot, therefore, earn any income in India, under the terms of approval granted by the RBI. Additionally, one would need registration with Registrar of companies and reporting of details of Liaison office is required with Director General of Police under whose jurisdiction the LO is established.

## 2. Project office

Foreign companies planning to execute specific projects in India can set up temporary project and site offices here for this purpose. The RBI has granted general permission to a foreign entity for setting up a project office in India, subject to the fulfillment of conditions. The foreign entity needs only to provide a report to the jurisdictional regional office of the RBI giving the particulars of the project or contract. Additionally, one would need to report the details of project office with Director General of Police under whose jurisdiction the PO is established.

## 3. Branch office

Foreign companies engaged in manufacturing and trading activities abroad can set up branch offices in India for the following purposes, with the prior approval of the RBI:

- Export and import of goods
- Professional or consultancy services
- Research work in which the parent company is engaged to promote technical or financial collaboration between Indian companies and the parent company
- Representing the parent company in India and acting as a buying or selling agent in India
- IT and software development services in India
- Technical support for products supplied by the parent or group companies
- Acting as a foreign airline or shipping company

In general, manufacturing activity cannot be undertaken through a branch office. However, foreign companies can establish a branch office or unit for manufacturing in an SEZ subject to the fulfilment of certain conditions.

# Exchange control regulations

Foreign exchange transactions are regulated under the Foreign Exchange Management Act, 1999 (FEMA). Under the FEMA, foreign exchange transactions are divided into two broad categories: current account transactions and capital account transactions. Transactions that alter the assets or liabilities outside India of a person resident in India or, in India, of a person resident outside India, are classified as capital account transactions. All other transactions are considered current account transactions. The Indian rupee is fully convertible for current account transactions, subject to a negative list of transactions which are either prohibited or which require prior approval. An Indian company with FI is treated equally with other locally incorporated companies. Similarly, a foreign-invested Indian company is also treated equally with other locally incorporated companies. Accordingly, the exchange control laws and regulations for residents apply to Indian companies with FI.

## A. Current account transactions

Foreign nationals or Indian citizens who are not permanently residing in India and have been deputed by a foreign company to its office, branch, subsidiary or JV in India are allowed to make recurring remittances abroad for family maintenance of up to 100% of their net salary. Further, up to 100% of the salary of a foreign national or Indian citizen deputed by a foreign company to its Indian office, branch, subsidiary or JV can be paid abroad by the foreign company, subject to the foreign national or Indian citizen paying applicable taxes in India. Prior approval of the RBI is required for acquiring foreign currency for the following purposes:

- Holiday travel over 10,000 USD per person p.a.
- Gift over 5,000 USD or donation over 5,000 USD per remitter or donor p.a.
- Business travel over 25,000 USD per person per visit
- Foreign studies as per the estimate of the institution or 100,000 USD per academic year, whichever is higher
- Consultancy services procured from abroad of over 1,000,000 USD per project (10,000,000 USD in case of infrastructure projects)
- Reimbursement of pre-incorporation expenses over the higher of 100,000 USD and 5% of investment brought into India

Certain specified remittances are prohibited:

- Remittances out of lottery winnings
- Remittance of income from racing, riding, etc. or any other hobby
    - Remittance for the purchase of lottery tickets, banned or prescribed magazines, football pools, sweepstakes, etc

- Payment of commission on exports made towards equity investments in joint ventures or wholly owned subsidiaries abroad of Indian companies
- Payment of commission on exports under the rupee state credit route except commission up to 10% of invoice value of exports of tea and tobacco
- Payment related to 'call back services' of telephones
- Remittance of dividend by any company to which the requirement of dividend balancing is applicable
- Remittances of interest income of funds held in a nonresident special rupee (account) scheme

## B. Capital account transactions

Capital account transactions can be undertaken only to the extent permitted. The RBI has prescribed a list of capital account transactions, which include the following:

- Investments overseas by residents
- Borrowing or lending in foreign exchange
- Export or import of currency
- Transfer or acquisition of immovable property in or outside India liberalized remittance scheme for resident individuals

Under the regulations of the Foreign Exchange Management Act, 1999, resident individuals are permitted to remit up to 75,000 USD per financial year for any permitted current or capital account transaction, or a combination of both, subject to specified terms and conditions under the LRS Scheme in addition to specific limits provided under current account transaction rules. Acquisition of immovable property outside India (directly or indirectly) under LRS scheme would not be allowed.

In addition to above, the RBI has permitted eligible resident individuals to access the LRS window to acquire/set up overseas JV/WOS (which is an operating company) outside India for bona fide business activities by making remittance under the LRS within the limit of USD 75,000 with effect from August 5, 2013.

In addition, with respect to overseas investments in a joint venture, the limit of financial commitment is now 100% of net worth of the Indian entity as on the last audited balance sheet date. Investment beyond this cap requires prior permission from Reserve Bank of India.

All other transactions otherwise not permissible under FEMA and those in the nature of remittances for margins or margin calls to overseas exchanges or overseas counterparties are not allowed under the scheme.

## C. Miscellaneous repatriation of capital

Foreign capital invested in India is generally repatriable, along with capital appreciation, if any, after the payment of taxes due, provided the investment was on a repatriation basis.

## D. Acquisition of immovable property in India

Generally, foreigners are not permitted to acquire immovable property except in cases of inheritance, acquisition on lease for period not exceeding 5 years and, where the property is required for the business of the Indian branch, office or subsidiary of the foreign entity. NRIs or PIOs are permitted to acquire immovable properties (except agricultural land, plantation property and farmhouse.

## E. Royalties and technical know-how fees

Indian companies can make payment for trademark or technology royalties without any restrictions under the automatic route.

## F. Dividends

Dividends are freely repatriable after the payment of dividend distribution tax by the Indian company declaring the dividend. RBI permission is not necessary for a dividend affecting a remittance, subject to specified compliance requirements.

## G. Remittances by branch or project office

No prior approval is required for remitting profits earned by the Indian branches of foreign companies (other than banks) to their head offices outside India. Remittances of the winding up proceeds of a branch office of a foreign company in India are permitted subject to the authorized dealer's approval. Remittances of winding-up proceeds of a project office of a foreign company in India are permitted under the automatic route subject to the fulfillment of the compliance requirements.

# Direct Taxation in India

## A. Corporate tax rates

| Company | Rate |
|---|---|
| Domestic company | 30%<br>(plus applicable surcharge and cess) |
| Foreign company | 40%<br>(plus applicable surcharge and cess) |

## B. Dividend distribution tax

Indian companies distributing or declaring dividends are liable to pay DDT at 15% (plus 10% surcharge, 2% education cess, and 1% secondary and higher education cess). This tax is payable on declaration, distribution, or payment, whichever is earlier, and it is in addition to the income-tax payable on business profits. Special economic zone (SEZ) developers and units in an SEZ are liable to pay DDT at 15% (plus 10% surcharge, 2% education cess, and 1% secondary and higher education cess) with effect from 1 June 2011. A holding company does not have to pay DDT on dividends paid to its shareholders to the extent that it has received dividends from its Indian or foreign subsidiary company on which DDT has been paid by the respective subsidiary. However, the benefit will not be available if the holding company is itself a subsidiary of another company

## C. Tax on buyback of shares

An additional tax is payable on transaction involving the buyback of shares by unlisted companies from its shareholders. A tax at 20% (plus 10% surcharge, 2% education cess and 1% secondary and higher secondary education cess) is payable by the company on the difference between consideration paid on buyback and the issue price of shares. The buyback consideration received would be tax-exempt in the hands of the receiver. No tax credit would be allowed in case of such taxes paid either to the company or to the shareholder.

## D. Minimum alternate tax (MAT)

To bring zero tax companies under the tax net, MAT at 18.5%, plus applicable surcharge and education cess, of the book profits is levied on companies whose tax payable under normal income tax provisions is less than 18.5% of adjusted book profits. MAT is also applicable to SEZ developers and units in a SEZ with effect from financial year (FY) 2011-12. The current effective rates are as follows:

| Company | Where taxable income exceeds INR 10 million (USD 170,000)* | Other cases* |
|---|---|---|
| Domestic company | 18.5% | 18.5% |
| Foreign company | 18.5% | 18.5% |

* Applicable surcharge and education cess will also be levied on the above tax rates.

The credit of tax paid under MAT provisions is allowed against the tax liability which arises in the subsequent 10 years under the normal provisions of the Income-tax Act. Unadjusted MAT credit can be carried forward till the 10th year, following the year in which the credit arises.

## E. Alternate minimum tax on all persons other than companies

MAT provisions (which were applicable only to companies) were extended to limited liability partnerships (LLPs) with effect from FY 2011-12 in the modified form of alternate minimum tax (AMT). AMT provisions have now been further extended to all other assessees with effect from FY 2012-13. AMT will be applicable at the rate of 18.5% on the adjusted total income (as per income-tax provisions) rather than the adjusted book profits as is the case for companies. Like companies, AMT credit will be available to LLPs and other assessees for the period of 10 years.

## F. Capital gains

| Particulars | | Tax rates* | |
|---|---|---|---|
| | | Resident | Non-resident |
| a. | Short-term capital assets-listed equity shares and units of equity-oriented funds which have been charged to securities transaction tax (STT) | 15% | 15% |
| b. | Long-term capital assets-listed equity shares in a company or unit of an equity-oriented fund which have been charged to STT | Exempt | Exempt |
| c. | Long-term capital assets-listed securities (other than (b) above | 10% | 10% |
| d. | Other long term capital assets[1] | 20% | 20% |
| e. | Long-term capital gains arising to a non-resident (not being a company) or a foreign company – from transfer of unlisted securities | NA | 10% (No indexation benefit) |

* Applicable surcharge and education cess will also be levied on the above tax rates.

[1] Indexation of cost of acquisition and improvement of a long-term capital asset of any nature (other than debentures or bond other than capital indexed bonds issued by the government) is available to residents. However, the benefit of indexation will not be available to non-residents on long term capital assets being shares or debentures of an Indian company acquired in foreign currency. Securities, including equity shares in a company or unit of an equity-oriented fund, which have not been charged to STT, may be taxed at 10% (plus applicable surcharge and education cess) without providing indexation benefit to the taxpayer

## G. Computation of total income: General

All income that accrues or arises or is deemed to accrue or arise or is received or deemed to be received in India is taxable in the hands of a non-resident taxpayer subject to the benefit of the double taxation avoidance agreement (DTAA) with the taxpayer's country of residence.

- Taxable income is computed for a uniform accounting year, i.e., the fiscal year from 1 April to 31 March
- The taxable income is called 'total income', computed after adding certain disallowances, such as loss on the sale of assets and the reduction of certain allowances or benefits from the profits

## H. Depreciation

Depreciation is allowed separately at the following rates for computing taxable income:

In the case of a new asset, depreciation for the whole year is allowed only if the asset is put to use for 180 days or more during the fiscal year. Otherwise, depreciation is allowed at only half the prescribed rate.

| Particulars | Rate |
|---|---|
| Factory building | 10% |
| Furniture and fittings | 10% |
| Plant and machinery (general) | 15% |
| Computers (including software) | 60% |
| Motorcars, other than those used in a business of running them on hire | 15% |
| Intangible assets (such as know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of a similar nature) | 25% |
| Windmill | 15% |
| For certain priority items, such as energy-saving devices and pollution control equipment, depreciation is allowed at higher rates. Undertakings engaged in the business of generation or generation and distribution of power have the option of claiming tax depreciation at the above rates or on a straight line basis at rates prescribed in the Income-tax Rules, 1962. | The rates vary from 1.95 to 33.40%. |

In addition, 20% depreciation on the actual cost of a new plant or machinery acquired and installed after 31 March 2005 is allowed to a taxpayer engaged in the manufacture or production of any product or generation or distribution of power in the year in which such a new plant or machinery is acquired and installed. Undertakings engaged in the generation and distribution of power can be claimed as tax depreciation at the above rates or on a straight-line basis at rates prescribed in the Income-tax Rules, 1962. The rates vary from 1.95 to 33.40%.

## I. Investment allowance

Investment allowance benefit is allowed for companies engaged in the business of manufacture of any article. The benefit of deduction is allowed for investment made in the 'new' plant and machinery acquired and installed during FY 2013-14 and 2014-15. The aggregate investment during these years should be more than 1 billion INR. A deduction of 15% of the value of the investment made is allowed. The assets have to be held for more than five years. If the asset is sold before the period, the investment benefit claimed will be reversed in the year of sale. Investment in a new plant and machinery will not include assets such as plant or machinery used earlier in or outside India, any plant or machinery installed in any office premises or in residential accommodation (or guesthouse), any office appliances (including computers or computer software), vehicle, ship or aircraft.

## J. Taxation of the know-how fee in the hands of foreign companies

Under domestic tax law, royalties or technical fees payable to non-residents with a permanent establishment in India are taxed on a net basis. In contrast, they are taxed on a gross basis in the case of non-residents without a permanent establishment in the country. The following tax rates apply:

- W.e.f, 1 April 2013, the applicable rate is 25% for royalty and fee for technical services

Surcharge and education cess, as applicable, will also be levied. If the applicable DTAA provides for a rate lower than the above, the same would become applicable.

## K. Taxing dividends received from overseas group companies

From FY 2011-12, dividends received by Indian companies from specified foreign companies will be taxed at a concessional rate of 15%, this has been further extended to FY 2013-14. However, no expenditure will be deductible while computing this income. 'Specified foreign company' refers to the Indian company that holds 26% or more in nominal value of the equity share capital.

## L. Double tax avoidance agreements

The DTAAs override the provisions of the Indian Income-tax Act to the extent that they are more beneficial to the assessee. India has signed DTAAs with 89 countries so far.

For obtaining DTAA benefit, it will be necessary for a nonresident assessee to furnish a certificate of it being a resident of that country, obtained by the assessee from the government of that country. The government had earlier prescribed the particulars to be contained in the TRC. However, the requirement of obtaining TRC containing prescribed particulars has been removed with effect from FY 2012-13. Particulars as may be prescribed can be provided separately, through supporting documents. The 2013 Budget has amended the provisions to provide that the TRC produced by a resident of a contracting state will be accepted as his or her residential evidence.

## M. Royalty payments

The expression 'royalty' is defined as consideration received or receivable for transfer of all or any right for

certain property or information. However, there were the following controversies with regard to meaning, characterization, scope and taxability of royalty:

- Whether consideration for use of computer software is royalty or not
- Whether the right, property or information has to be used directly by the payer or is to be located in India or control or possession of it has to be with the payer
- The meaning of the term process, etc.

In order to eliminate the above controversies, the definition of royalty provided under the domestic tax laws has been amended and clarified retrospectively with e effect from 01 June 1976. It has been clarified that the consideration for use or right to use of computer software is 'royalty' and that transfer of all or any rights in respect of any right, property or information includes transfer of all or any right for use or right to use a computer software (including granting of a license) irrespective of the medium through which such a right is transferred. It has also been clarified that royalty includes consideration for any right, property or information, whether or not the following conditions apply:

- The possession or control of such a right, property or information is with the payer
- Such a right, property or information is used directly by the payer
- The location of such a right, property or information is in India

Further, it has also been clarified that the term 'process' includes transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fiber or by any other similar technology, whether or not such a process is secret.

## N. Wealth tax

Wealth tax is charged on net wealth as on 31 March every year (referred to as the valuation date). It is charged both on individuals as well as companies at the rate of 1% of the amount by which the 'net wealth' exceeds 3 million INR. The term 'net wealth' broadly represents the excess value of certain assets over the debts concerned. Assets include guest houses and residences, motorcars, jewelry, bullion, utensils of gold and silver, yachts, boats, aircraft, urban land and cash. A debt is an obligation to pay a certain sum of money incurred in relation to any assets that are included in 'net wealth'.

## O. Gift tax

There is no gift tax liability in India. Any sum of money exceeding or immovable property whose stamp duty value exceeds or any immovable property whose fair market value exceeds 50,000 INR received without consideration by an individual from any person will be subject to tax as 'income from other sources'. This will not apply to any sum of money received from the following:

- Relative (spouse, brother, sister, brother or sister of the spouse or any lineal ascendants or descendants)
- On the occasion of marriage of the individual
- Under a will or by way of inheritance
- In the death expectation of the donor

# Indirect Taxation in India

## A. Customs duty

Customs duty is levied by the central government on goods imported into and exported from India, though the list of goods on which export duty is levied is limited. The rate of customs duty applicable to a product to be imported or exported depends on its classification under the Customs Tariff Act, 1975 (CTA).

The customs tariff of India is aligned up to a six-digit level with the internationally recognized Harmonized Commodity Description and Coding System of tariff nomenclature (HSN) provided by the World Customs Organization.

Customs duty is levied on the transaction value of the imported or exported goods. While the general principles adopted for the valuation of goods in India are in conformity with the World Trade Organization (WTO) agreement on customs valuation, the central government has established independent customs valuation rules applicable to the export and import of goods.

India does not have one uniform element of customs duty, and the duty applicable to any product is composed of a number of components. The types of customs duties applicable are as follows:

- Basic customs duty (BCD) is the basic component of customs duty levied at the effective rate notified under the First Schedule to the CTA and applied to the landed value of the goods (i.e. the CIF value of the goods plus landing charges at 1%). The peak rate of BCD is currently set at 10% for all goods other than agricultural and other specified products. However, the government has the power to exempt specific goods, wholly or in part, from the levy of custom duties. In addition, preferential or concessional rates of duty are available under various bilateral and multilateral trade agreements that India has entered into with other countries
- The countervailing duty (CVD) is equivalent to, and is charged in lieu of, the excise duty applicable on like goods manufactured in India. CVD is calculated on the landed value of goods and the applicable BCD. However, the CVD on specific consumer goods intended for retail sale is calculated on the basis of the maximum retail price (MRP) printed on their packs after allowing specified abatements. The general rate of excise duty is currently 12% and consequently so is the rate of CVD
- Education cess (EC) at 2% and secondary and higher education cess (SHEC) at 1% are also levied on the aggregate customs duties
- Additional duty of customs (ADC) at 4% is charged in addition to the above duties on imports, subject to certain exceptions. ADC is calculated on the aggregate of the assessable value of imported goods, the total customs duties (i.e. BCD and CVD) and the applicable EC and SHEC

BCD, EC and SHEC levied on aggregate customs duties are a cost on any import transaction. The duty incidence arising on account of all other components may be set off or refunded, subject to prescribed conditions. Where goods are imported for the purposes of manufacture, the Indian manufacturer may take credit for the CVD and ADCpaid at the time of import to set it off against the output excise duty. In the case of service providers, CVD credit is available to set off against the output service tax. The central government has exempted specific consumer goods imported for retail sale in India, from levy of ADC, subject to the fulfillment of conditions.

Similarly, the government allows a refund for the ADC paid on specified goods imported for the purpose of trading in India, subject to the fulfillment of the conditions prescribed under the governing notifications and circulars issued in this regard.

## B. CENVAT (excise duty)

Central value added tax (CENVAT), commonly referred to as excise duty, is a tax levied by the central government on the manufacture or production of movable and marketable goods in India.

The rate of excise duty levied on the goods depends on the classification of the goods under the excise tariff, which is primarily based on the HSN classification adopted so as to achieve conformity with the customs tariff. The standard rate of excise duty for non-petroleum products is 12%. In addition, Education Cess (EC) at 2% and Secondary and higher education at 1% are applicable on aggregate excise duties. Thus, the effective rate of excise duty is 12.36%.

The excise duty on most consumer goods intended for retail sale is chargeable on the basis of the MRP printed on the goods packaging. However, abatements are admissible at rates ranging from 15 to 55% of the MRP for charging excise duty. Goods other than those covered by an MRP-based assessment are generally chargeable to duty on the transaction value sold to an independent buyer. In addition, the central government has the power to fix tariff values for charging ad valorem duties on goods.

The excise duty operates as a pure value added tax (VAT), with full set-off of input tax credits in computing and discharging the tax liabilities on the output side. The input tax credit comprises excise duty on indigenously sourced inputs and capital goods, the CVD and ADC portion of customs duty on imported material and service tax on input services, with the exception of certain exclusion that have been provided under CENVAT credit rules in this relation.

There are different product, industry and geographical area specific exemptions available under CENVAT, which present excellent business opportunities to manufacturers in India.

## C. Service tax

The service tax was first introduced in India in the year 1994 with a relatively limited number of services under its ambit. Since then, the list of services has been expanded year on year. In 2012, keeping in with the large number of different service categories and the resultant classification issues, a new concept of service taxation based on a negative list of services was introduced. In this new system of taxation, all services are taxable but for the services mentioned in the negative list.

Generally, it is the service provider who is liable to pay the service tax. However, for some specified services, such as transport of goods by road, sponsorship, import of services, etc. the obligation to pay service tax rests with the service receiver instead. In certain cases, this obligation has been divided between the receiver and the provider in a specified proportion.

The existing rate of service tax is 12%. In addition, EC of 2% and SHEC of 1% of the service tax are levied on taxable services. Thus, the effective rate of service tax is 12.36%.

There is a simple online procedure prescribed for the service provider and receiver to register under service tax. The service provider or receiver rendering services from multiple locations within India has been given an option to take either a centralized registration for all locations or opt for separate registration for different locations. Similar to excise duty, service tax is also a pure value added tax. Since both service tax as well as excise duty are federal levies, cross input tax credit has also been allowed. The scheme of input tax credit under service tax has been integrated under CENVAT credit rules and the benefits available to manufacturers have also being extended to the service provider.

The valuation methodology adopted under service tax is based on the gross value charged by the service provider. In certain circumstances, the value is derived as per specified valuation rules.

Service tax is a consumption-based tax. The peculiar nature of services makes it difficult sometimes to determine the origin and place of consumption of services or the time of completion and rendition of services. This aspect of service taxation in India has progressed tremendously in recent times. Introduction of Point of Taxation Rules, 2011, Place of Provision of Services Rules, 2012 along with the introduction of taxable or non-taxable territory under the negative list based service taxation regime has simplified the process of determination of time and place of rendition and completion of service.

In addition to the negative list of services, there are certain services such as education, infrastructure projects like development of roads and bridges, healthcare, sponsorship of sports events, etc. which are specifically made exempt from the levy of service tax. There is an abatement scheme for valuation of certain specific service such as transportation, financial leasing, renting, etc. and the rate of exemption varies from 10 to 70% of the taxable value. Export of services are completely tax neutral and benefits such as refund of input tax credit and rebate of duty payments are also available.

## D. Sales tax

The sale of movable goods in India is chargeable to tax at the Federal or State level. The Indian regulatory framework has granted power to State legislatures to levy tax on goods sold within that State. On the other hand, all goods sold in the course of interstate trade are subject to the federal sales tax i.e. central sales tax (CST).

CST is levied at the rate applicable on such goods under the VAT law of the originating state. Where goods are bought and sold by registered dealers for trading or for use as inputs in the manufacture of other goods or specified activities (such as mining or telecommunication networks), the rate of CST would be 2%, provided an appropriate declaration form (Form C in this case) is issued by the purchasing dealer to the selling dealer.

Inter-state procurement on which CST is charged in the originating State is not eligible for input tax credit in the destination State.

## E. Value Added Tax

State-level sales tax was replaced by VAT with effect from 1 April, 2005 in most Indian States. At present, all the Indian States have transitioned to the VAT regime.

Under this regime, the VAT paid on goods purchased within the State is eligible for VAT credit. The input VAT credit can be utilized against the VAT or CST payable on the sale of goods. This ensures that the cascading

effect of taxes is avoided and that only the value addition is taxed. Currently, there is no VAT on goods imported into India. Exports are zero rated. This means that while exports are not charged to VAT, the purchaser of inputs used in the manufacture of export goods or goods purchased for exports can claim a refund of the VAT charged on the goods.

In reference to the importance of each commodity with respect to the trade of goods in the State, varying tariff rates are assigned to different commodities. General tariff rates prevalent in the State VAT laws could vary from 1% to up to 20%. Apart from this, all those goods which are not covered under any of the tariff rates would be chargeable to the residual rate, which may vary from 12.5 to 15.5%.

Turnover thresholds have been prescribed so as to keep small traders out of the ambit of VAT. Small traders can also opt to pay tax under composition scheme, at a lower rate, levied in lieu of VAT.

## F. Octroi duty or entry tax

Entry tax is on entry of specified goods into the State from outside the State for use, consumption or sale therein. Entry tax continues to exist under the VAT regime, though in certain States it has been made Vatable and can be set off against the output VAT liability in the State.

Entry tax is levied on purchase value, which is defined as the amount of the valuable consideration paid or payable by a person for the purchase of any goods. The value of the specified goods can be ascertained from the original invoice for purchase of such goods.

Octroi is a municipal tax levied at the time of the entry of specified goods into the limits of the municipal corporation. Thus, octroi can be levied if there is movement of goods from one city to another in the same state, in the event the cities fall under the jurisdiction of two different municipal corporations.

## G. Goods and services tax (GST)

In 2006, the central government took a major step towards the transition to a national integrated GST. Implementation of the GST will be a historical reform in India as it will subsume CVD, excise duties, service tax, CST, State VAT and some other State levies.

At present, a dual-rate GST model is envisaged whereby the tax rate will be converged to one standardized rate of 16% on goods and services within three years of implementation.

Under the proposed dual GST model, a central GST as well as a State GST will be levied on the taxable value of a transaction of supply of goods and services. Both the centre and the State will legislate, levy and administer the central GST and the State GST, respectively.

Once implemented, GST will create a single, unified Indian market and will diminish the multiple layers of indirect taxation that prevail in India at present. GST is also seen as a reform in administration of indirect taxation and will definitely be favorable for trade. Considering the various issues pending for discussion between State and Central government, GST is not expected to be roll out before April 2015.

## H. Stamp duty

Stamp duty is levied at various rates on documents such as bills of exchange, promissory notes, insurance policies, contracts effecting transfer of shares, debentures and conveyances for transfer of immovable property.

## I. Research and development cess

Research and redevelopment cess of 5% is levied on all payments made for the import of technology. The term ‘technology’ includes import of designs, drawings, publications and services of technical personnel.

# Industrial infrastructure development initiatives by Government of India

## A. Special Economic Zones

**"The objectives of SEZs include making available goods and services free of taxes and duties supported by integrated infrastructure for export production, quick approval mechanisms, and a package of incentives to attract foreign and domestic investments for promoting exports."**

An SEZ is a specifically delineated, duty-free area notified as such by the Ministry of Commerce and Industry under the Special Economic Zones Act, 2005 (SEZ Act). The zone is considered to be outside the customs territory of India for the purposes of carrying out authorised activities. An SEZ is deemed to be a port, ICD, land station and land customs station under the provision of the Customs Act, 1962.

The SEZ Act, 2005 and SEZ Rules, 2006, which came into force with effect from 10 February 2006, govern the development of SEZs. The SEZ Act provides the umbrella legal framework for all important legal and regulatory aspects of SEZ development as well as for units operating in these SEZs. An important salient feature of the SEZ Act is that it has an overriding effect over other laws. The scope of the SEZ Act includes the following:

- Establishment of SEZs and units
- Fiscal regime for developers and units
- Requirements, obligations and entitlements
- Single-window clearance mechanism
- Granting of license to industrial undertakings to be established in an SEZ
- Establishment of administrative authority for SEZs set up by the Government of India
- Special courts and single enforcement agency to ensure speedy trials
- According to the Ministry of Commerce and Industry, SEZs can be set up by private developers, central or State Governments, or jointly by any two or more of the above on contiguous, vacant land

## 1. Amendments to SEZ Rules, 2006

The Department of Commerce amended the SEZ Rules on 18 April 2013 and announced a series of measures in the annual supplement (2013-14) to Foreign Trade Policy 2009-14. Key changes proposed include reduction in minimum land area requirements for multi-product and sector-specific SEZs, doing away with minimum area requirements for IT/ITeS SEZs, graded scale for minimum land area criteria, sector broad-banding, issues on vacancy of land and exit policy for SEZ units.

The SEZ Rules, 2006 (the Rules) were amended in August 2013. The key amendments carried out in the SEZ Rules were:

- Expansion of the definition of a 'sector' by addition of a provision
- Reduction of minimum contiguous land area requirement by half
- Allowing addition of a 'sector' to a sector-specific SEZ or a service in a port/ airport subject to higher contiguous land parcel being available
- Extending duty benefits to cases where additions are proposed to existing non-operational structures; and
- Introduction of new Rule 74A permitting transferring ownership of SEZ unit assets subject to a few conditions

## 2. Fiscal benefits to the developer or co-developer

**a) Income tax incentives**

- Hundred per cent tax deduction for 10 years out of 15 years, beginning with the year in which the SEZ is notified by the Government
- Exemption from dividend distribution tax discontinued with effect from 1 June 2011
- Exemption from minimum alternate tax discontinued from FY 2011-12. Accordingly, the SEZ developer or co-developer will henceforth be required to pay MAT

**b) Indirect tax incentives**

- Exemption from customs duty on import of capital goods and raw material into the SEZ for authorized operations
- Exemption from excise duty on local procurement of capital goods and raw materials
- Exemption from CST on inter-state purchases subject to submission of statutory declaration Form I
- Exemption from payment of service tax on the input services wholly consumed in the SEZ unit for authorized operations and refund mechanism for service tax paid wholly or partially consumed outside the SEZ for authorised operations.

In addition, goods sold from DTA units to the SEZ unit will attain the status of physical exports. In light of this, the sale of goods to an SEZ unit will be regarded as exports and the DTA unit will be eligible for export benefits:

- Exemption from ADC in lieu of sales tax or VAT on goods supplied to an SEZ unit
    - Exemption from VAT as per VAT legislation
    - Exemption from payment of stamp duty as per State Government policy

## 3. Who should set up an SEZ unit

Export-oriented entrepreneurs, manufacturers and service providers (including IT and ITeS providers, BPOs, contract manufacturers, etc.) have huge growth potential in Indian SEZs. Electronic hardware, software manufacturers and telecom equipment manufacturers/suppliers can also set up units in SEZs for supply to the domestic market.

## 4. FDI Policy and relevance to SEZ

Hundred per cent FDI is permitted under the automatic route for SEZ development. For units in SEZs, the FDI policy of the Government of India will apply. Approval to units proposing to avail FDI is granted by the Board of Approvals, Ministry of Commerce and Industry in line with the FDI policy. No separate approval is required from FIPB.

## 5. No minimum export obligation

- There is no obligation on units to export goods or services from an SEZ unit
- However, SEZ units have to be positive net foreign exchange earners at the end of five years calculated cumulatively
- There is no limit on DTA sales provided full import duty is paid
- The supply of IT hardware, software and telecom equipment to domestic markets, as well as the supply of goods and services to other SEZ, EOU and STPI units are counted towards export earnings

## 6. Fiscal benefits to an SEZ unit

- Fifteen-year graded income-tax deduction on export profits beginning with the year in which the unit begins to manufacture, produce or provide services: Hundred per cent for the initial five years, fifty percent for the next five years and up to fifty percent for the remaining five years, equivalent to profits ploughed back for re-investment
- Tax deduction only for physical exports
- Exemption from MAT has been discontinued with effect from FY 2011-12. Accordingly, SEZ units will henceforth be required to pay MAT.
- Indirect tax benefits are similar to those applicable to a SEZ developer /co-developer
- Exemption from payment of electricity duty
- Exemption from payment of stamp duty (as per State Government policy)

## 7. Liberal exchange control norms

- Hundred per cent export earnings maintainable in foreign exchange in special foreign currency account with minimal restrictions on business payments outside India
- Period for export realization is 12 months from the date of export
- Branches of foreign company is eligible for carrying out manufacturing activities in SEZ

## B. Free trade and warehousing zone (FTWZ)

- FTWZ is a special category of the SEZ governed by the SEZ Act, 2005 and SEZ Rules, 2006, mainly for trading, warehousing and other related activities thereto
- To be used as 'international trading hubs'
- Deemed to be a foreign territory
- A key link in logistic and global supply chains, servicing both India and the globe
- Fiscal benefits such as customs duty deferment: Imported goods can be stored for five years without payment of customs duty, interest or penalty
- Administrative benefits such as reduction in customs clearance time, transportation facility, etc.
- Support facilities such as banking and information system for cargo tracking
- High quality infrastructure

### 1. How to set up an FTWZ

**a) Trading unit**

A company can become a trading unit in an FTWZ for the purposes of trading and warehousing and other authorized operations. The company will be required to obtain requisite approval from the jurisdictional Development Commissioner/ Unit Approval Committee for setting up a unit in a FTWZ.

**b) Service unit**

A company can avail the services of a third party which is a unit in an FTWZ for trading and warehousing and other authorized operations. Trading entities, importers and exporters, 3PLs, CHAs, freight forwarders, shipping lines, manufacturers, etc. can become units in an FTWZ. Units are required to execute a bond cum- legal undertaking for import and warehousing of goods inside the FTWZ.

### 2. Activities permitted within an FTWZ

The following activities are permitted in a FTWZ:

- Unit can carry FTWZ to DTA and DTA to FTWZ transactions
- Unit can hold goods on account of a foreign or a DTA supplier and buyer
- Warehousing can be undertaken on behalf of foreign or domestic clients
- Can carry out trading, with or without labeling
- Can carry out packaging and repacking without any processing
    - Re-sale, re-invoice or re-export of goods
    - Other value optimization services

## C. Industrial Corridors

A major contributor to India's fast-paced growth has been the Indian government's increased emphasis on industrial infrastructure and connectivity across the country. With an aim to promote enhanced and integrated economic development in India, the Government of India plans to develop several economic or industrial corridors.

The "economic or industrial corridor" concept has been significantly instrumental in effectively promoting economic integration of various regions across the world. The Industrial Corridors would comprise of a state of- the-art logistical gateways which include modern port facilities and airports capable of facilitating rapid entry and exit of cargo through the corridor along with efficient and effective transportation infrastructure network such as modern expressways, high speed railway transportation networks and freight corridors that connect major industrial agglomerations. High quality energy infrastructure to ensure good and regular power supply to industrial areas situated along the Corridor as well as other support infrastructure like assured industrial water supply and Special Economic Zones and other industrial infrastructure alongside the route is critical for the success of an industrial corridor.

1.1. Planned industrial corridors in India

Industrial Corridor is thus intended to facilitate development of a well-planned and efficient industrial base served by world-class connectivity infrastructure. The availability of world class infrastructure along the Corridor shall also ensure increased private investments in manufacturing and industrial activity in India. Attracting more private companies, in particular, 2nd or 3rd tier manufacturing companies of existing manufacturing companies will be effective to strengthen global competitiveness of local manufacturers, which may result in regional development. The exhibit indicates the current industrial corridors being developed in India.

## D. Other tax incentive schemes

Tax incentives provided by allowing a 100% deduction on any capital expenditure (other than on land, goodwill and financial instruments) is available to the following types of businesses:

- Setting up and operating a cold chain facility on or after 1 April 2009
- Setting up and operating a warehousing facility for storage of agricultural produce on or after 1 April 2009
- Laying and operating a cross-country natural gas, crude, petroleum oil pipeline for distribution, including storage facilities being an integral part of such a network commencing operations on or after 1 April 2007
- Building and operating, anywhere in India, a two-star hotel or above category commencing operations on or after 1 April 2010
- Building and operating, anywhere in India, a hospital with at least 100 beds commencing operations on or after 1 April 2010
- Developing and building a housing project under a scheme for slum redevelopment or rehabilitation commencing operations on or after 1 April 2010

- Developing and building a housing project under a notified scheme of affordable housing framed by the central or a State government commencing operations on or after 1 April 2011
- Fertilizer production in a new plant or in newly installed capacity in an existing plant commencing operations on or after 1 April 2011
- Setting up and operating an inland container depot or a container freight station notified or approved under the customs act 1962, on or after 1 April 2012
- Bee-keeping and production of honey and beeswax on or after 1 April 2012
- Setting up and operating a warehouse facility for storage of sugar on or after 1 April 2012

In case of certain specified businesses commencing operations on or after 1 April 2012 such as cold chain facility, warehousing for agricultural produce, hospital with at least 100 beds, a notified affordable housing project and production of fertilizer, the deduction is 150% of capital expenditure incurred on or after 1 April 2012.

## E. PCPIR

The petroleum, chemicals and petrochemicals sectors in India are well established and have recorded a steady growth over the years. These sectors are major contributors to India's economic growth and regional development. Government of India has over the years taken many positive steps drive growth of the industry and put it on the global map. In a similar initiative, the Government of India notified the Petroleum, Chemicals and Petrochemical Investment Regions (PCPIR) policy in 2007 to provide a major fillip to the refining, petrochemicals and chemical industries in the country.

The PCPIR policy aims to ensure planned development of industrial hubs focused on the petroleum, chemical and petrochemical sectors with an integrated and sustainable approach in order to extract synergies for world class manufacturing, research and development. It is envisaged that the PCPIRs will help in promoting investment in the sector and making India a key hub for both domestic and international markets. Government intends to provide a transparent and investor friendly policy and facility regime in order to attract major investments from both Indian and foreign investors. The PCPIRs would reap the benefits of co-siting, networking and greater efficiency through the use of common infrastructure and support services. PCPIR would have high-class infrastructure and will provide a conducive environment for setting up businesses. This would thus result in a boost to manufacturing, augmentation of exports and generation of employment. PCPIR would help in paving way for inclusive growth in region, sector and economy. A PCPIR would be a specifically delineated investment region with an area of around 250 square kilometres planned for the establishment of manufacturing facilities for domestic and export led production of petroleum, chemicals & petrochemicals, along with the associated services and infrastructure. A PCPIR consists of a processing and a non-processing area. The processing area would occupy a minimum of 40% of the total area, i.e. about 100 square kilometers. It includes the manufacturing facilities, along with associated logistics and other services, and required infrastructure. The non-processing area would hence occupy a maximum of 60% of the total area, i.e. about 150 square kilometers and would include residential, commercial and other social and institutional infrastructure.

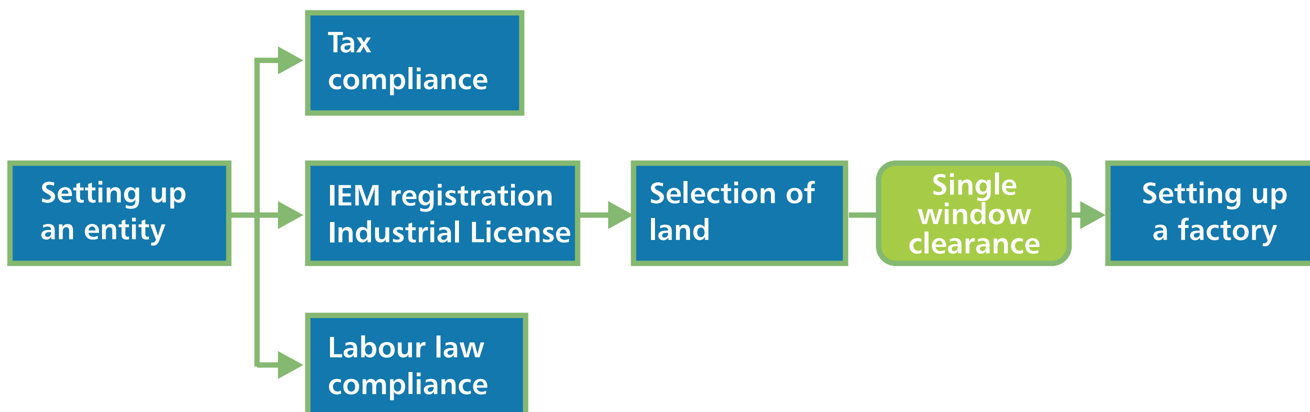
a) **Features of PCPIR**

- A specifically delineated investment region
- Area of about 250 square kilometers
- Planned for setting up of manufacturing facilities for domestic and export led production of petroleum, chemicals & petrochemicals, along with the associated services and infrastructure
- A combination of production units, public utilities, logistics, environmental protection mechanisms, residential areas and administrative services
- It may include one or more Special Economic Zones (SEZ), Industrial Parks, Free Trade & Warehousing Zones, Export Oriented Units, or Growth Centers
- The PCPIR could cover existing settlements/industries & estates/ services and would therefore benefit from and be complementary to the region. The concerned State government may not acquire the entire area comprising the PCPIR, but it will notify the same.
- Each PCPIR would have a refinery/ petrochemical feedstock company as an anchor tenant
- Internal infrastructure will be built and managed by a Developer, or a group of Co-developers
- External linkages including Rail, Road (National Highways), Ports, Airports, and Telecom, will be provided by Government of India and the concerned State government
- The users of PCPIR infrastructure will pay for its use, except to the extent that the government supports the service through budgetary resources

**1.2. Planned industrial corridors in India**

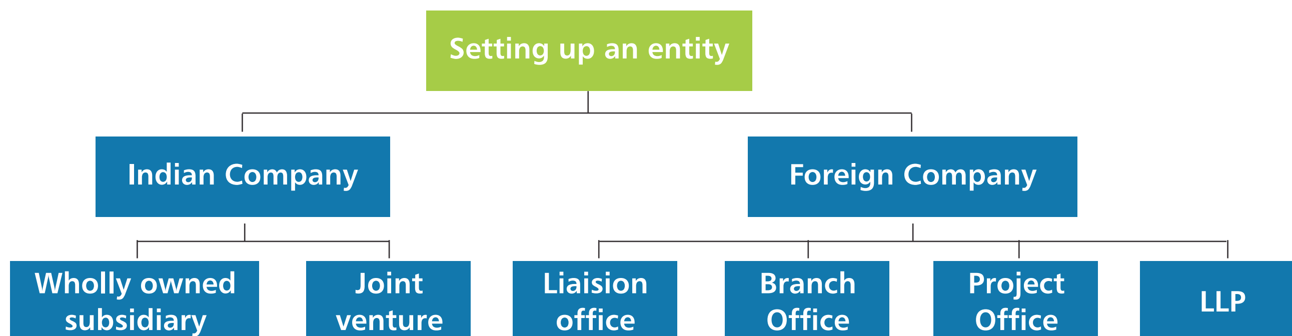
# Regulatory process

A snapshot of the regulatory process involved in establishing a factory/manufacturing unit and starting operation is summarized in the exhibit below:




## A. Setting up an entity

The initial step to be taken is setting up an entity in Tamil Nadu. Investors may select the most suitable option to their business.



## • Setting up an Indian Company

The flow of incorporation of an Indian company and subsequent compliances for setting up a private limited is as below. Government of India has announced new Company Act, 2013. A newly incorporated company is required to follow provisions as per the Act.

| Step | Process Flow* | Time frame |
|---|---|---|
| 1 | Obtaining DIN (Director Identification Number) and DSC (Digital Signature Certificate) for Directors | 10 days |
| 2 | Obtaining confirmation for Name of the new company | 14 days |
| 3 | Filing of prescribed documents of share holders | X |
| 4 | payment of duties and fees | X |
| 5 | Obtaining Incorporation Certificate | X + 14 days |
| 6 | Opening bank account | 14 days |
| 7 | Remittance of share capital by parents company | Y |
| 8 | Report to RBI on recipient of share capital within 30 days | Within 30 days from Y |
| 9 | Allotment of shares | Z |
| 10 | Report to RBI on the allotment of shares | Within 30 days from Z |

Note* : in case of automatic route

### Basic documents Required

- ✓ Form INC-1 (name approval)
- ✓ Form INC-7 (incorporation)
- ✓ Form INC-22 (Corporate Secretary registration)
- ✓ Form DIR-12 (Director registration )
- ✓ Form FC-GPR (report of share allotment to RBI)
- ✓ Director's ID proof
- ✓ Director's resident proof
- ✓ Memorandum of Association & Article of Association of the new company
- ✓ Memorandum of Association & Article of Association of the parent companies

Further details are available at http://www.mca.gov.in/

## • Setting up a Foreign Company

Setting up Liaison Office, Branch Office, Project Office is followed by the similar process as below.

| Step | Process Flow* | Time frame |
|---|---|---|
| 1 | Intimation to RBI | 15 days |
| 2 | Filing Form FC-1 with RoC | 7 days |
| 3 | Obtaining Certificate of Establishment of Place of Business | 10 days |

Note* : in case of automatic route

### Basic documents required

- ✓ Form FC-1
- ✓ Memorandum of Association & Article of Association of HQ
- ✓ Financial statements for the past 3 years
- ✓ Certificate of Incorporation of HQ
- ✓ List of details of Directors

Further details are available at http://www.rbi.org.in/home.aspx

## • Setting up LLP

LLP is incorporated under LLP Act. The flow is as below.

| Step | Process Flow* | Time frame |
|---|---|---|
| 1 | Name reservation | 14 days |
| 2 | Application for incorporation | X |
| 3 | Filing LLP agreement | Within 30days from X |

### Basic documents required

- ✓ eForm1 (name reservation)
- ✓ eForm 2 (incorporation)
- ✓ eForm 3 (LLP agreement)

Further details are available at http://www.mca.gov.in/LLP/

## B. Industrial Entrepreneurs’ Memorandum and Industrial License – eBiz project by Government of India

To start a business in India and set up an industrial unit, investors need to obtain industrial license or file IEM (Industrial Entrepreneurs Memorandum).

Through the eBiz initiative launched on 16 August, 2014, Process of applying for Industrial License (IL) and IEM has been made online and this service is now available to entrepreneurs on 24x7 basis at the eBiz website, without human interface. This will lead to ease of filing applications and online payment of service charges and ensure that no entrepreneur has to come to the Ministry to file his/her application or make payment.

### • Industrial license

Licensing is done under Industries (Development & Regulation) Act 1951. Post 1991 de-licensing, presently only five industries are under compulsory licensing:

- Electronic aerospace and defense equipment
- Industrial explosives including detonating fuses, safety fuses, gun powder, nitrocellulose and matches
- Cigars and cigarettes of tobacco and manufactured tobacco substitutes (Fresh Licenses are not being granted for manufacture of this item on health grounds since 1999)
- Specified hazardous chemicals i.e (i) hydrocyanic acid and its derivatives (ii) Phosgene and its derivatives and (iii) Isocyanates & disocyanates of hydrocarbon not elsewhere specified (example methyl Isocyanate)
- Distillation and brewing of alcoholic drinks
- In addition to above, a non-MSME unit manufacturing items reserved for MSME needs an Industrial License

### • IEM submission

All industrial undertakings exempt from the requirements of industrial licensing, including existing units undertaking substantial expansion, are required to file information in the prescribed form for IEM, i.e. “Form IEM”(Part ‘A’), with the Secretariat of Industrial Assistance (SIA), Department of Industrial Policy and Promotion (DIPP), Government of India, and obtain an acknowledgement.

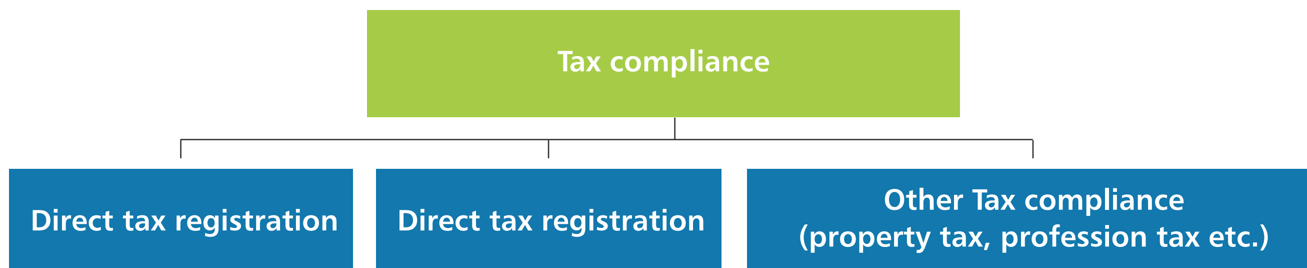
All Industrial undertakings also need to file information in Part 'B' of the Memorandum at the time of commencement of commercial production.

| Basic documents required | |
|---|---|
| **Industrial License** | **IEM** |
| ✓ Form FC-IL | ✓ Form IEM |
| ✓ Certificate of Incorporation | ✓ Certificate of Incorporation |
| ✓ Memorandum of Association & Article of Association | ✓ Memorandum of Association & Article of Association |
| ✓ Board Resolution Certificate | ✓ Resolution from Board of Director |

Further details are available at https://www.ebiz.gov.in/.

## C. Tax compliance

Once the entity has been established, tax related compliance needs to be completed to commence business. Below is the list of registration required at the initial stage.




| Direct Tax | Time frame |
|---|---|
| • obtaining PAN (Permanent Account Number) | 10 days |
| • obtaining TAN (Tax Deduction Account Number) | 10 days |

### Basic documents required

✓ Form 49A (PAN application)

✓ Form 49B (TAN application)

| Indirect Tax (as per business model) | Time frame |
|---|---|
| • VAT/CST registration | 15 days |
| • Excise Duty registration | 30 days |
| • IEC (Importer Exporter Code) registration | 15 days |
| • Service Tax registration | 10 days |

## Basic documents required

### VAT/CST registration

- ✓ Form A
- ✓ Form E
- ✓ Form 5
- ✓ Certified copy of Certificate of establishment of place of business of the company
- ✓ Certified copy of PAN card of the company
- ✓ Certified copy of lease deed of the office space of the company
- ✓ Certified copy of list of directors of the company
- ✓ Certified copy of the address proofs of the directors of the company
- ✓ Certified copy of Board resolution authorizing the person to sign and file the CST & VAT registration application with its enclosures
- ✓ Certified copy of the address proof of authorized signatory
- ✓ Introduction letters from two existing dealers
- ✓ Four copies of passport size photographs of the directors and the authorized signatory
- ✓ Self-addressed envelope with postal stamp affixed for Rs.30
- ✓ Demand Draft for Rs.500/-in your favour towards registration fee
- ✓ Excise Duty registration

### IEC registration

- ✓ form ANF 3A
- ✓ PAN copy
- ✓ Bank account details

- ✓ List of Directors with address, Father's name, Email address and Telephone No
- ✓ Bank draft INR 1000/- – Registration fees
- ✓ 2 passport size photograph of the applicant and directors to be attested by banker after affixing in the IE code application
- ✓ Bank certificate declaring that an account has been maintained with them
- ✓ Name of the Authorized Signatory, Designation, Residential Address, Telephone and E-mail Address
- ✓ Self-certified copy of Memorandum and Articles of Association
- ✓ Extract of the Board Resolution for the Authorized Signatory to sign the Application
- ✓ Lease deed / title deeds for the address for which registration need to be obtained

**Service Tax registration**

- ✓ Form ST-1
- ✓ Certified Copy of PAN with PAN allotment letter
- ✓ MOA & AOA
- ✓ Certified copy of list of directors of the company with PAN and address proofs
- ✓ Certified copy of Board resolution authorizing a board member or employee to sign and file registration application under Service Tax law
- ✓ Certified copy of the address proof of the authorized signatory
- ✓ Rental agreement for proof of address
- ✓ Acknowledgment of on-line filing

# D. Investment facilitation framework in Tamil Nadu

## 1. Selection of the Land

At the outset, the investors need to identify the land for setting up units. **Tamil Nadu Industrial Guidance & Export Promotion Bureau (GUIDANCE)** is the first contact point for investors for land identification. It provides the necessary information on land availability including infrastructure availability, incentive package etc. as per investors' requirements.

There are several options investors may consider for selection of the land in Tamil Nadu, as detailed in subsequent sections overleaf

## a) Process for Land allotment from Industrial Park

Tamil Nadu offers well developed network of industrial parks. Different types of industrial parks have been set up by nodal Government agencies or by joint ventures with collaboration with private players.

SIPCOT (State Industries Promotion Corporation of Tamil Nadu Limited) is a State owned Financial and Development Institution which develops industrial complexes by providing basic and comprehensive infrastructure facilities for the industries to set up their units. SIPCOT has so far developed 20 Industrial Complexes in 12 districts.

TIDCO (Tamil Nadu Industrial Development Corporation Limited) is another undertaking of Government. TIDCO facilities investment in large industries and promotes several joint ventures for manufacturing products. TANSIDCO (Tamil Nadu Small Industries Development Corporation Limited) promotes Small Scale industries by developing Industrial estates with infrastructure facilities and provision of work sheds and plots.

| Step | Process Flow | Time frame |
|---|---|---|
| 1 | Application for Land Allotment | X+1 day |
| 2 | Approval | X+30 days * |
| 3 | Plot deposit to be paid | Within 90 days from the date of allotment letter |
| 4 | Lease deed to be executed and registered | Within 15 days from the date of payment of plot deposit |
| 5 | Possession of plot should be taken | Within 15 days from the date of execution of lease deed |
| 6 | Construction of Factory building should be commenced | Within 6 months from the date of allotment order |
| 7 | Construction should get completed | Within 24 months from the date of allotment order |
| 8 | Commencement of trial/Commercial production | Within 30 months |

Note:

1. * If the application is submitted along with full details as required, the allotment could be made within a 10 days period.
2. All the incentives offered by Govt. of Tamil Nadu as per the G.O. in effect and a location is maintained and serviced by SIPCOT throughout is available for starting the units.

Basic documents required*

- ✓ Application Form
- ✓ Brief Project Report mentioning the Promoters background, Raw materials, Product process, etc.,
- ✓ Certificate of Incorporation and Memorandum and Articles of Association for Private / Public Limited / Joint Sector Companies.
- ✓ Partnership deed and firm's registration certificate for partnership firm.
- ✓ Industrial License / SIA acknowledgement / FIPB approval ( in case of foreign investment) for Medium and Major Industries.
- ✓ SSI Provisional / Permanent certificate issued by DIC for SSI if available.
- ✓ Rough building layout indicating the factory, office, godown, open space, future expansion, etc.
- ✓ Proof for Term Loan sanction if available
- ✓ Latest annual report / Profit and Loss account in case of existing companies / firms.
- ✓ DD / Pay order / Cheque (Local bank) for initial deposit and processing fee as mentioned in serial number 13 of application
- ✓ The Plot is given on long term lease for 99 years and renewable for future period of 99 years

Note* : in case of application for SIPCOT

## b) Further details are available at http://www.sipcot.com/index1.htmlProcess flow for land allotment in SEZ

Special Economic Zone (SEZ) is a specifically delineated duty free enclave and shall be deemed to be foreign territory for the purposes of trade operations and duties and tariffs. Investors can enjoy various tax exemptions and other incentives under SEZ. Units may be set up in SEZ for manufacturing of goods and services with certain conditions.

Consolidated application form enables investors to obtain required facility and registration listed below,

1. Setting up of units in Special Economic Zone;
2. Annual permission for sub-contracting;
3. Allotment of Importer Exporter Code Number;
4. Allotment of land/industrial sheds in the Special Economic Zone;
5. Water Connection;
6. Registration-cum-Membership Certificate;
7. Small Scale Industries Registration;

8. Registration with Central Pollution Control Board;
9. Power connection;
10. Building approval plan;
11. Sales Tax registration;
12. Approval from Inspectorate of factories;
13. Pollution control clearance, wherever required;
14. Any other approval as may be required from the State Government

| Step | Process Flow | Time frame |
|---|---|---|
| 1 | Applications to be filed with the Development Commissioner concerned | 1 day |
| 2 | Interview of the promoter by the Approval Committee | Within 10 days after the application is scrutinized |
| 3 | Letter of Permission (LOP) is issued by the Zone Administration | Within 2 weeks after the Interview |
| 4 | Registration –cum-Membership Certificate (RCMC) should be obtained | Within 2 days of the approval |
| 5 | Legal undertaking in the prescribed form to be executed by the applicant | Within 1 week from the date of obtaining the RCMC |
| 6 | Green Card will be issued to the unit by the Zone Administration | On request by the applicant |

Basic documents Required

- ✓ Form F
- ✓ Memorandum of Association & Article of Association
- ✓ Certificate of Incorporation

## c) Private Land

In case investors purchase private land, these are the check lists investors may look at;

- ✓ Encumbrance of the land
- ✓ Land use classification
- ✓ Availability of infrastructure (water, power, skill labour, connectivity..)

## d) Process flow for land allotment as EoU

EoU (Export Oriented Unit) scheme provide an internationally competitive duty free environment. An EoU can be set up by any investor manufacturing goods and rendering services, expect for trading activities. EoU unit is required to achieve only positive Net Foreign Exchange (NFE) over a period of 5 years.

| Step | Process Flow | Time frame |
|---|---|---|
| 1 | Applications to be filed with the Development Commissioner concerned | X+1 day |
| 2 | Interview of the promoter by the Approval Committee | Within 10 days after the application is scrutinized |
| 3 | Development commissioner to approve the case by issuing Letter of Permission (LOP) | Within 2 weeks after the Interview |
| 4 | Registration –cum-Membership Certificate (RCMC) should be obtained | Within 2 days of the approval |
| 5 | Legal undertaking in the prescribed form to be executed by the applicant | Within 1 week from the date of obtaining the RCMC |
| 6 | Green Card will be issued to the unit by the Zone Administration | On request by the applicant |
| 7 | The unit has to secure approval for its wiring and electrical plan from the Electrical authorities | Within 3 weeks from the date of approval |
| 8 | To secure power allocation and wiring approval from the State Electricity Board | Within 3 weeks from the date of approval |
| 9 | The industrial water supply is undertaken | Within 2 weeks from the date of approval |
| 10 | In case there are effluents or emissions the unit has to secure approval form the Pollution Control Board | 2 weeks prior to the date of commencement of actual production |

### Basic documents Required

- ✓ Appendix 14-1A
- ✓ Memorandum of Association & Article of Association
- ✓ Certificate of Incorporation

## 2. Setting up a Factory - Single window mechanism

The State Government realizes the complexity involved in getting clearances / infrastructure support from individual statutory authorities/agencies, as well as the need for different documentation/forms to set up a factory. To avoid such procedural delays, Government of Tamil Nadu has established an effective **Single Window System** to accord all such pre project clearances at the State Government level. Tamil Nadu Industrial

Guidance & Export Promotion Bureau acts as a nodal agency to stream line and coordinate the approval process.

In order to provide a structured clearance and approval mechanism for all types of projects, and to avoid procedural delays, the State Government has constituted an Inter-Departmental Committee chaired by the Industries Secretary to examine requests which are not strictly as per the published policy of the State Government requiring certain relaxations. Based on the discussions at the Committee with all concerned departments, the Government of Tamil Nadu gives final approvals for the project. A Committee chaired by the Chief Secretary, Government of Tamil Nadu has been constituted to monitor the clearances given for all the projects by the various wings of the Government.

The following approvals are covered under the single window process:

**Single Window Clearances**

- Planning permission from Directorate of Town & Country Planning (DTCP)
- Fire service clearance
- Environmental clearance from Tamil Nadu Pollution Control Board (TNPCB)
- Water Supply from Tamil Nadu Water Supply and Drainage(TWAD) Board
- Power supply from Tamil Nadu Electricity Board (TNEB)
- Electrical safety certificate from Chief Electrical Inspector (CEI)
- Registration under Factories Act
- Registration under Boilers Act

The Single Window Fee is as below;

| Projects | Single Window fee |
|---|---|
| Projects with investment between USD 1.6 million to 8.3 million | USD 5,000 |
| Projects with investment between USD 8.3 million to 16.6 millionRs.50 – 100 Crores | USD 8,333 |
| Projects with investment between USD 16.6 million to 50 million | USD 16,666 |
| Projects with investment between USD 50 million to 166.6 million | USD 25,000 |
| Projects with investment above USD 166.6 million | USD 33,333 |

**Guidance Bureau has facilitated over 190 project proposals with a cumulative investment of USD 10 billion till date, through single window facilitation**

## Basic documents required

- ✓ Single window form, along with
  - – Copy of lease deed
  - – Memorandum and Articles of Association
  - – Copy of certificate of Incorporation
  - – List of Board of Directors
- ✓ 20-25 slide Power Point material for project presentation
- ✓ Excerpts of Board Resolution for authorized signatory
- ✓ FIPB Approval / RBI approval
- ✓ Project write up.
- ✓ Manufacturing process & flow chart
- ✓ List of machinery with Horse Power details

**If the land is not part of SIPCOT / TIDCO / SIDCO layout**

- Land use reclassification certificate from the DTCP
- Encumbrance certificate 13 years (one month prior to date of application)
- Documents from Tahsildar 1) FMB / Town survey sketch, 2) Patta / Chitta / Town survey land records (TSLR), 3) A register abstract

✓If access gained from approved layouts, roads registered gift deed copy with notary public attestation along with layout plan

- ✓ If access gained from other than layouts, details of FMB sketch / Town survey map, adangal, copy of A register
- ✓ Certificate from Architects
- ✓ Seizmic and stability certificate from Architects
- ✓ Write up on Air Conditioning
- ✓ Write up on Rain Water Harvesting / dimensions of rain water harvesting pond
- ✓ Building wise ventilation statement
- ✓ Fire protection and mitigation plans – A write up.
- ✓ Building wise fire protection arrangements
- ✓ DG Sets Acoustic measures & Diesel storage – a write up
- ✓ Labour Welfare and Safety Measures – A detailed write up
- ✓ Energy Conservation measures
- ✓ A write up on CSR (Corporate Social Responsibilities) Activities carried out
- ✓ Form I & II (3 copies to be submitted separately)
- ✓ Pollution Control Measures
- ✓ Proposal for Sewage Treatment Plant
- ✓ Certificate from Electrical Contractor. This must include HT & LT questionnaire, copy of license, copy of the agreement between the company and contractor, Xerox copy of the challan (for payment towards scrutiny fee)
- ✓ Checklist from DTCP
- ✓ A legal undertaking (Rs.20/- stamp paper) that your building height will not exceed 15.0 Metres height
- ✓ A legal undertaking (Rs.20/- stamp paper) that you will undertake to pay the I & A charges
- ✓ Index of Drawings (Civil, Electrical and Fire)
- ✓ 12 sets of Civil Drawings. The site plan should contain provisions of a) RWH Provisions, b) Transformer yard and c) Solar water heating provisions. The building plan should indicate no. of workers and installation power.
- ✓ 6 sets of Fire Drawings along with site plan
- ✓ 6 sets of Electrical Drawings. These electrical drawings should be signed by the Occupier as well as the Electrical Contractor

Further details are available at http://www.investinginTamil Nadu.com/index.php.

## a) Planning permission

The Town and Country Planning Act 1971 under section 2(b) of 49 requires that anyone who wants to develop any land or building should take a planning permission before commencement of the development work. Directorate of Town and Country Planning approves on layout and building plan. In case of issue of planning permission is retained with Local Planning Authority, building license or any other license should be issued by local body only after planning permission is issued by Local Planning Authority.

### Basic documents required

- ✓ Land allotment letter from SIPCOT / documents of site ownership
- ✓ Building Plan with a certificate from accredited Architect certifying that the building conforms to the building plan rules of Tamil Nadu
- ✓ Sketch for drawings
- ✓ Seismic Certificate and Stability Certificate from accredited Architect
- ✓ If the ridge height of the project is 14.9 Metres, then an undertaking from the Architect (in Rs.20 stamp paper) that the height of the building will not exceed 14.9 Metres

Further details are available at http://www.tn.gov.in/tcp/.

## b) Fire service clearance

Investors are required to obtain NOC (Non Objection Certificate) for getting planning permission and subsequently fire license from Fire and Rescue Service Department. Investors need to provide details of fire safety measures undertaken in the building, including Fire alarm, Hydrant layout etc.

| Step | Process Flow | Time frame |
|---|---|---|
| 1 | Application for a Fire License should be made to the Divisional Fire Officer, located in the Head Quarters of every district | As per prescribed format – On having all the prescribed documents |
| 2 | The Fire License will be issued by the Divisional Fire Officer to the application direct | within 15 days from the date of presenting the application |

Basic documents required

- ✓ One separate fire drawing of whole site without scale (but mention area)
- ✓ Separate colour code should be indicated to Hydrants, Sprinklers, Smoke detectors and extinguishers
    - ✓ Mention Nos. of Hydrants, sprinkler heads, detectors and extinguishers

Further details are available at http://www.tnfrs.tn.nic.in/.

## c) Environmental clearance

The Tamil Nadu Pollution Control Board has introduced an online application and tracking mechanism for all pollution control related approvals. For further details, visit

www.tnocmms.nic.in/OCMMS

- **Consent to Establish**

Investors need to apply for Consent to Establish from TNPCB (Tamil Nadu Pollution Control) as per The Water (Prevention and Control of Pollution) Act, 1974 and The Air (Prevention and Control of Pollution) Act, 1981. In case industries fall under 39 categories as prescribed in EIA Notification 2006, industries have to obtain environmental clearance from MoEF (Ministry of Environment and Forest, Government of India) / SEIAA (State Environmental Impact Assessment Authority, Government of Tamil Nadu). TNPCB will issue consent only for establishment to the projects which attracts EIA Notification 2006, only on receipt of environment clearance from MoEF/SEIAA and after satisfying the citing criteria and all other requirements. The list of 39 industries which require prior environmental clearance is listed in Appendix 1 A.

Further, other regulations such as Hazardous Wastes (Management, Handling & Trans-boundary Movement) Rules 2008 and E-waste Management and handling rules 2011 may be applicable depending on industries.

| Step | Process Flow* | Time frame |
|---|---|---|
| 1 | Form along with enclosures to be filed with the District officer concerned, Tamil Nadu Pollution Control Board (now Online filing is recognized) | One day |
| 2 | Processing of Application | One week from the date of Application |
| 3 | Inspection by the authorities of TNPCB | Within one week from the processing |
| 4 | Application clearance post inspection | Within one week from Inspection |
| 5 | Issue of Certificate | Within ten days of application clearance |

Note : *in case the industry does not require environmental clearance

- **Consent to Operate**

Investors need to apply for Operate two months in advance of the commissioning of the operation.

| Step | Process Flow | Time frame |
|---|---|---|
| 1 | Form along with enclosures to be filed with the District officer concerned, Tamil Nadu Pollution Control Board (now Online filing is recognized) | Two months in advance of |
| 2 | Processing of Application | One week from the date of Application |
| 3 | Inspection by the District Engineer | Within one week from the processing |
| 4 | Application clearance post inspection | Within one week from Inspection |
| 5 | Issue of Consent | Within ten days of application clearance |

## Basic documents required

- ✓ Form I (Air Act application form)
- ✓ Form II (Water Act application form)
- ✓ EIA Study report (for projects which require EIA Study as per Environment policy)

Further details are available at http://www.tnpcb.gov.in/.

## d) Obtaining power supply

- **Obtaining TNEB power supply**

TANGEDCO (Tamil Nadu Generation and Distribution Corporation Ltd) is the nodal agency for power supply. Investors need to file application to TANGEDCO to obtain HT (high tension voltage) connection and LT (Low tension voltage) connection.

As per the Electricity Act, TANGEDCO has become one of the two subsidiaries of TNEB (Tamil Nadu Electricity Board). TNEB is now a holding company which has two subsidiaries; TANGEDCO and TANRANSCO ( Tamil Nadu Transmission Corporation Ltd.) .

## Basic documents required

- ✓ Resolution of Board meeting for authentication to sign the EB application with the specimen signature attested by a Director whose name should be available in MoA
- ✓ Site plan with marking of metering point with security arrangement
- ✓ An undertaking that (i) the company agrees to provide the metering point as per Board norms (within 30 mtrs of main gate) and that (ii) the company agree to abide by the terms & conditions of power supply

- **Electrical Safety Certificate**

Investors are required to obtain Electrical Safety Certificate from Chief Electrical Inspector (CEI) for new electrical Installations, depending on the voltage class and capacity of the proposed additions or alternations.

## Basic documents required

- ✓ Schematic & sectional drawings signed by the Electrical Contractor
- ✓ Site plan
- ✓ Transformer Structure, Sub Station, Power House Layout, earthing arrangements
- ✓ Single Line Electrical Schematic Layouts for Transformer, generator, switch boards, etc.
    - ✓ Physical layouts of factory showing location of motors, switchboards, etc.
    - ✓ Name, address, telephone number of Chairman / Managing Director / Directors and Authorized signatory with a copy of the Memorandum and Articles of Association
    - ✓ Fire fighting measures should also be shown in the electrical drawings

| Step | Process Flow | Time frame |
|---|---|---|
| 1 | Consent letter from the owner of the premises if the intending consumer is not the owner | 1 day |
| 2 | Apply for your Domestic or commercial service connection in the prescribed form | 1 day |
| 3 | A notice will be sent to the intending consumer to meet the divisional Engineer | Within 1 week of application |
| 4 | Engineer to agree on the position of the point of supply/ space for fixing the meter at a convenient place in the ground floor with easy accessibility for inspection | Within 3 days of notice |
| 5 | Advice Slip/notice/Letter will be issued indicating the prescribed charges payable | Within 3 days after the inspection is completed |
| 6 | After completion of the wiring, notice must be sent to the Engineer by the intending consumer (printed test report) | Within 1 week from the date of completion |
| 7 | notice will be sent to the intending consumer to avail supply | Within 2 days of receiving the printed test report |

Further details are available at http://www.tangedco.gov.in/index1.php?tempno=1.

## e) Obtaining sewer and water connections

In Tamil Nadu, the water and sewer connections are generally provided by the concerned corporations, municipalities, Town Panchayats and Village Panchayats except in Chennai City, where they are provided by Chennai Metro Water Supply and Sewerage Board (CMWSSB). Sewer and Water connection charges can be calculated by the applicant themselves based on the built up area and category of the building as per prescribed in the application form.

| Step | Process Flow | Time frame |
|---|---|---|
| 1 | Filled-up Application with necessary enclosures should be submitted only at the Registration counter functioning at Head Office of CMWSSB, No.1, Pumping Station Road, Chintadripet, Chennai - 600 002. for Chennai City and for other areas, the respective local body offices | One day |
| 2 | Sewer and Water connection charges can be calculated by the applicant themselves based on the built up area and category of the building | NA |

| 3 | The official in charge in the Registration Counter will recommend to the bank by endorsing the applicant's filled up challan to accept the connection charges from the applicant whose application is found to be in order | Within 1 week on receipt of the application |
|---|---|---|
| 4 | Remittance of Connection Charges | Within 10 days of receiving the recommendation |
| 5 | Registration of Application | Within 1 week of remitting the connection charges |
| 6 | An acknowledgement slip recording the registration No., date etc. will be issued to the applicant | Within 3 days |
| 7 | Sanctioning of application - On receipt of registered application. Area Engineer will sanction the service connection | Within 7 days from the date of registration |
| 8 | Effecting water and sewer connections | Service connection shall be effected within 30 days from the date of registration |

Further details are available at http://www.chennaimetrowater.com/index.htm.

## f) Registration under Factories Act, 1948

Building plan and plant machinery layout needs to be complied as per Factories Act, 1948. Investors need to apply for registration and grant of license to verify health, safety & welfare of workers. The license will be issued after inspection of a factory by Directorate of Industrial Safety and Health.

| Step | Process Flow | Time frame |
|---|---|---|
| 1 | Form along with enclosures to be filed with Jurisdictional factory inspector | One day |
| 2 | All such applications are scrutinized at the level of district Dy. Chief Inspector of Factories | Within 2 weeks of making application |
| 3 | Passing off the application to the factory Inspector for Inspection | Within 2 weeks of completion of scrutiny |
| 4 | The factory premises is inspected by the Chief Inspector of Factories or by Dy. Chief Inspector of Factories or Inspector of Factories | Within 3 weeks or stipulated time by the inspecting authority |
| 5 | Grant of Factory License | Within 2 to 3 months |

Note: The License is valid upto 31st December of the year in which it has been granted.

### Basic documents required

- ✓ Signature of Occupier should be obtained in all the drawings
- ✓ A write up on labour welfare and labour safety measures
- ✓ Detailed information needs to be given if the project involves use of hazardous / inflammable chemicals
- ✓ Sufficient number of exits (at a travel distance of not more than 30 metre from the work spot must be provided)
- ✓ Plans of mezzanine floor Office
- ✓ Plan of location of the machineries should be provided in 1:100 scale
- ✓ Installation details pertaining to compressor and utility pump and cooling tower
- ✓ E.O.T. Cranes should be provided with the safety provisions as prescribed in the rule 55A (4A) of the Tamil Nadu Factories Rules, 1950
- ✓ Canteen as per the standards prescribed in the rules 65 & 66 of the Tamil Nadu Factories Rules, 1950
- ✓ The detailed plan of the store shed and location of the same

## g) Registration under Boilers Act, 1923

The Tamil Nadu Directorate is the enforcing authority of the Boilers Act, 1923, for the safe operation of the boilers. Investors are required to provide full details of boilers as prescribed form for registration.

Further details are available at http://www.boilers.tn.gov.in/index.html.

## E. Labor Law compliance

There are various legislations under Labour Law in India. The list below is the illustrative list of Acts which may applicable for investors to set up a factory. Investors are required to register or comply the prescribed provisions of each Acts, and draft company policy.

| Name of the Act | Regulation |
|---|---|
| **The Tamil Nadu Shops and Establishment Act, 1947** | The provides for the opening and closing hours of shops and establishments and provision of weekly holiday with wages. |
| **The Contract Labour (Regulation and Abolition) Act, 1970** | This Act regulates the employment of contract labour and abolishes the system of contract labour in certain circumstances. |
| **The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979** | This Act regulates the employment of interstate migrant workers and to provide for regulation of their conditions of service. |
| **The Industrial Employment (Standing Orders) Act, 1946** | The Act requires employers of industrial establishments to define conditions of employment of 16 workers. |
| **The Trade Unions Act, 1926** | The Act provides for the registration of trade unions and lays down the law relating to registration of trade unions. |
| **The Payment of Gratuity Act, 1972** | The Act provides for the payment of gratuity to the employees. Gratuity is paid to an employee on 17 superannuation / retirement or resignation, if he / she has put in a continuous service for a period of not less than five years. |
| **The Payment of Bonus Act, 1965** | The Act provides for the payment of bonus to persons employed, on the basis of profit or production or productivity. |
| **The Equal Remuneration Act, 1976** | The Act provides for the payment of equal remuneration to men and women workers and for the prevention of discrimination on the ground of sex against women in recruitment for employment and in payment of salary to women employees. |
| **The Minimum Wages Act, 1948** | The Minimum Wages Act, 1948 provides for fixing minimum rates of wages in certain employments appended as schedule to Act. |
| **The Employees' Compensation Act, 1923** | The Act provides for compensation to workers in the event of death or loss of earning capacity due to accidents in the course of their employment. |
| **Industrial Disputes Act, 1947** | The Act specifies the matters for an industrial tribunal. |

# Institutional support for investors

## A. Key investment facilitators

- **Guidance Bureau (Tamil Nadu Industrial Guidance & Export Promotion Bureau)**

Tamil Nadu Industrial Guidance & Export Promotion Bureau, shortly called as "Guidance Bureau", was started by the State Government in the year 1992. The primary objective of Guidance Bureau is to attract major industrial projects into Tamil Nadu and to provide Single Window facilitation to such projects.

Guidance Bureau is the first point of contact for investors. Guidance Bureau is mandated to provide all necessary information with prospective investors and act as the facilitator for Single Window Mechanism. Guidance Bureau is the "Documentation and Clearance Center" to accept common application form for obtaining all pre-project state-level approvals and infrastructure support.

**Functions of Guidance Bureau**

- ❑ First point of contact for investors – single window facilitation office
- ❑ The designated investment promotion office
- ❑ Single point of contact for investors
- ❑ Single Window facilitation to get State-level approvals

**Since inception, during the period 1992 - April 2014, Guidance Bureau successfully attracted 290 major investment proposals with an aggregate investment exceeding USD 20 billion**. This includes a number of projects of Fortune 500 companies like FORD, Hyundai, Daimler, Nissan, Renault, BMW, Michelin, DELL, Flextronics, Foxconn, Visteon, Delphi, Samsung, Sanmina-SCI, BASF, Bosch, etc.

Some major investment proposals successfully attracted by Guidance Bureau are:

| | Company | Products | Investment USD million | Location |
|---|---|---|---|---|
| 1 | Hyundai Motor India South Korea (3 MoUs) | Cars | 1733 | Irungattukottai Industrial Park |
| 2 | Renault and Nissan (including expansion) | Cars | 1417 | Oragadam Industrial park |

|  | Company | Products | Investment USD million | Location |
|---|---|---|---|---|
| 3 | Michelin Tyres | Tyres | 667 | Thervoykandigai Industrial Park |
| 4 | Indo Rama Group | PTA, PET and Synthetic fibres | 750 | Ennore & Coimbatore |
| 5 | Ford, USA | Cars | 700 | Maraimalai Nagar |
| 6 | Ashok Leyland – Nissan | Commercial Vehicles | 689 | Industrial Park, Pillaipakkam |
| 7 | Harsha Group | Fibre glass, float glass, | 683 | SIPCOT Thervoykandigai Industrial Park |
| 8 | Daimler India Commercial Vehicles Pvt Ltd | Commercial Vehicles | 667 | SIPCOT Industrial Park, Oragadam |
| 9 | Ascendas Integrated Industrial Park | Integrated industrial park | 583 | Chennai |
| 10 | ADD Industrial Park | Textile and industrial park | 517 | Coimbatore |
| 11 | BGR Energy Group | Turbines, generators and boilers | 388 | Kancheepuram District |
| 12 | Apollo Tyres | Tyres | 350 | Oragadam Industrial park |
| 13 | Moser Baer | Photovoltaic cells | 333 | Oragadam Hi Tech SEZ |
| 14 | J.K Tyre & Industries | Tyres | 250 | Sriperumpudur |
| 15 | India Yamaha Motor Company Limited | Two Wheelers | 250 | Vallam Vadagal Industrial Park |

**Single window facilitation**

At present, investors setting up industrial projects will have to obtain the following pre - project clearances:-

- Planning Permission
- Fire Service clearance
- Environmental Clearance from TNPCB
- Water supply
- Power supply from TNEB
- Electrical Safety Certificate from CEIG
- Approval under Factories Act
- Registration under Boilers Act

Industrial projects seeking Single Window clearance will have to fill up the Common Application Form (including TNPCB forms as annexure) and file with Guidance Bureau, the designated Documentation 85 Clearance Centre (DCC).

Guidance Bureau receives the common application form duly filled in from the investors. After scrutiny, Guidance Bureau forwards the application form along with the fees payable to the concerned agencies with a request to process 86 offer within 15 days, their remarks / objections, if any, to give the approval. The Single Window Nodal Officers' Screening Committee meeting will be held to scrutinize the application form to check the legal compliance of all parameters of all statutory agencies by the proposed project. If the proposal is found to comply will all the parameters of statutory agencies, then, the Single Window Committee will resolve to issue "Composite In-Principle Approval". Also, Guidance Bureau will monitor status of actual approvals and follow-up with the concerned statutory agencies.

- **SIPCOT(State Industries Promotion Corporation)**

SIPCOT is established in 1971 to develop, maintain and manage Industrial Complexes and Parks with necessary infrastructures for investors. SIPCOT so far 20 Industrial Complexes/Parks including 6 SEZ in 12 Districts across the State with about 29,500 acres of land acquired for the purpose. SIPCOT is in the process of land acquisition for expansion of existing Industrial Park and establishment of the new Industrial Complexes.

Also, SIPCOT is the nodal agency for implementing and monitoring the structured package of assistance scheme under various incentives.

The list of SIPCOT Industrial Complexes

| | | | |
|---|---|---|---|
| 1 | BARGUR | 11 | IRUNGATTUKOTTAI |
| 2 | CHEYYAR | 12 | SIRUSERI |
| 3 | CUDDALORE | 13 | SRIPERUMPUDUR |
| 4 | GUMMIDIPOONDI | 14 | THERVOYKANDIGAI |
| 5 | HOSUR | 15 | MAPPEDU |
| 6 | MANAMADURAI | 16 | PILLAIPAKKAM |
| 7 | NILAKOTTAI | 17 | PERUNDURAI |
| 8 | PUDUKOTTAI | 18 | GANGAIKONDAN |
| 9 | RANIPET | 19 | ORAGADAM |
| 10 | THOOTHUKUDI | 20 | VALLAM-VADAGAL |

- **TIDCO (Tamil Nadu Industrial Development Corporation Limited)**

TIDCO was established in 1965 to promote the large and medium industries and infrastructure projects in association with private sectors.

TIDCO has promoted several joint ventures for manufacturing projects as well as development of industrial complexes. Some of achievements are shown in the table below.

| Joint Venture | Partner | Industry |
|---|---|---|
| Titan Industries Ltd | Questar Investments Limited (TATA Group companies) | Watch manufacturing |
| Mahindra World City | Mahindra World City Developers Limited | Industrial complex |
| Ascendas IT Park (Chennai) Ltd | Ascendas (India) Private Limited | IT park |
| Tamil Nadu Road Development Company Limited | IL&FS | Development of highway system |
| TANFAC Industries Ltd | Aditya Birla Group | Chemical complex |
| Cheslind Textiles Ltd | Thiru T.N. Aravind Reddy & Associates | Manufacturing of combed cotton yarns |
| SKM Egg Products Export (India) Ltd. | SKM Animal Feeds and Foods (India) Limited | Egg processing unit |

- **TIIC (Tamil Nadu Industrial Investment Corporation Limited)**

TIIC is incorporated in 1949 as a pioneer among State Financial Corporations in India. TIIC provides financial assistance to Small Scale and Medium Scale Industrial Units in various forms such as subsidy, term loan, soft loan, lease financing for machinery/equipment etc. TIIC so far assisted 1,15,806 units with a cumulative sanctions of approx. USD 1,936 million (as of 31.03.2014).

- **ELCOT (Electronics Corporation of Tamil Nadu Limited)**

ELCOT comes under Information Technology Department. ELCOT is the Nodal Agency for information and communication technology projects. ELCOT was established to promote electronic industries in Tamil Nadu to make the State the premier IT destination in India.

ELCOT provides support to IT entrepreneurs and promotes joint ventures in electronics, communication and IT, and develops infrastructure such as IT Parks and communication backbone. ELCOT is also involved in various e-governance and computer education initiatives.

- **TANSIDCO (Tamil Nadu Small Industries Development Corporation Limited)**

TANSIDCO was established to promote the development of Small Scale Industries. TANSIDCO develops industrial estates with infrastructure facilities and provision of work sheds and plots. Also, TANSIDCO implements Raw material supply scheme, Marketing Assistance scheme, Export assistant scheme to support Small Scale Industries.

## B. Institutional framework

Tamil Nadu has robust institutional mechanism to facilitate investments. It is important for investors to understand to whom to approach for the future investment.

- **Industries Department**

Industries Department is the department which takes the responsibility for industry development in Tamil Nadu. The Department formulates and implements the industry polices to achieve the robust growth of the State.

Industries Department organizes the various Government Undertakings related to industry.

| Industries Department | SIPCOT (State Industries Promotion Corporation) |
|---|---|
| | TIIC (Tamil Nadu Industrial Investment Corporation Limited ) |
| | Tamil Nadu Newsprint and Papers Limited |
| | Guidance Bureau (Tamil Nadu Industrial Cuidance and Export Promotion Bureau) |
| | TIDCO (Tamil Nadu Industrial Development Corporation Limited) |
| | Tamil Nadu Cements Corporation Limited |
| | Tamil Nadu Salt Corporation Limited |
| | Tamil Nadu Magnesite Limited |
| | Tamil Nadu Industrial Explosives Limited |
| | TAMIN (Tamil Nadu Minerals Limited) |
| | Department of Geology and Mining |
| | Department of Sugar |

- **Micro, Small and Medium Enterprises Department**

The Government recognizes MSME contribution to the economy development is significant.

Under the Department, The Commissionerate of Industries and Commerce acts as the State level agency for the development of industries in general and micro, small and medium enterprises in particular. There are District Industries Centres (DICs) functioning in all the 32 Districts. In Chennai, the Regional Joint Director heads the District Industries Centre.

These Centres provide a variety of services to the entrepreneurs, like, identification of activities, the preparation of project profiles, obtaining financial assistance from various financial institutions, statutory clearances from Government Departments, sanction and disbursement of eligible subsidies.

# Appendix 1 A

## The list of 39 industries requiring prior environmental clearance

| No | Category of Industry |
|---|---|
| 1 | Mining of minerals |
| 2 | Slurry pipelines (coal lignite and other ores) passing through national parks/sanctuaries/coral reefs, ecologically sensitive ares |
| 3 | Offshore and on shore oil and gas exploration, development & production |
| 4 | River valley projects |
| 5 | Thermal power plants |
| 6 | Nuclear power projects and processing of nuclear fuel |
| 7 | Coal washeries |
| 8 | Mineral beneficiation |
| 9 | Metallurgical industries (ferrous & non ferrous) |
| 10 | Cement plants |
| 11 | Petroleum refining industry |
| 12 | Coke oven plants |
| 13 | Asbestos milling and asbestos based products |
| 14 | Chlor-alkali industry |
| 15 | Soda ash industry |
| 16 | Leather/ skin / hide processing industry |
| 17 | Chemical fertilizers |
| 18 | Pesticides industry and pesticide specific intermediates (excluding formulations) |
| 19 | Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics |
| 20 | Manmade fibers manufacturing |

| | |
|---|---|
| 21 | Petrochemical based processing (processing other than cracking & reformation and not covered under the complexes) |
| 22 | Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basis organic chemicals, other synthetic organic chemicals and chemical intermediates) |
| 23 | Distilleries |
| 24 | Integrated paint industry |
| 25 | Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp without bleaching |
| 26 | Sugar industry |
| 27 | Oil & gas transportation pipe line (crude and refinery / petrochemical products), passing through national parks/sanctuaries/coral reefs/ecologically sensitive areas including LNG terminal |
| 28 | Isolated storage & handling of hazardous chemicals |
| 29 | Air ports |
| 30 | All ship breaking yards including ship breaking units |
| 31 | Industrial estates/parks/complexes areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes |
| 32 | Common hazardous waste management, storage and disposal facilities (TSDFs) |
| 33 | Ports, harbours, break waters, dredging |
| 34 | Highways |
| 35 | Aerial ropeways |
| 36 | Common effluent plants (CETPs) |
| 37 | Common municipal solid waste management facilities (CMSWMF) |
| 38 | Building and construction projects |
| 39 | Township and area development projects |

Note : As per Environment Impact Assessment (EIA Notification), 2006

# Appendix 1 B

## Appendix 1 B - Contact details of key Government Agencies and Departments - Government of Tamil Nadu

| Department | Name and Designation of the concerned officer | Direct Contact | E-Mail | Address |
|---|---|---|---|---|
| **Government of Tamil Nadu** | Thiru K. Gnanadesikan, IAS., Chief Secretary to Government, Government of Tamil Nadu | 91-44-25671555 | cs@tn.gov.in | Chief Secretary to Government Public Department Secretariat, Chennai 600 009 |
| **Industries Department** | Thiru C.V. Sankar, IAS., Additional Chief Secretary to Government | 91-44-25671383 | indsec@tn.gov.in | Industries Department Secretariat, Chennai 600 009 |
| **Industries Department** | Dr. Pingale Vijay Maruti, IAS., Joint Secretary to the Government | 91-44-25677607 | indjsgim@tn.gov.in | Industries Department Secretariat, Chennai 600 009 |
| **Tamil Nadu Industrial Guidance & Export Promotion Bureau, (Single window office)** | Thiru M.Velmurugan, IES., Executive Vice Chairman | 91-44-28553118 | directorguidance@ gmail.com | 19-A, Rukmani Lakshmipathy Road, Egmore, Chennai 600 008 |
| **Agriculture Department** | Thiru Rajesh Lakhoni, IAS., Agricultural Production Commissioner & Principal Secretary to Government | 91-44-25674482 | agrisec@tn.gov.in | Agriculture Department Secretariat, Chennai 600 009 |
| **Energy Department** | Thiru Rajesh Lakhoni IAS., Secretary | 91-44-25671496 | enersec@tn.gov.in | Energy Department Secretariat, Chennai-600009 |
| **Handlooms, Handicrafts, Textiles and Khadi Department** | Thiru Harmander Singh IAS. Principal Secretary to Government | 91-44-25671623, | htksec@tn.gov.in | Handlooms, Handicrafts, Textiles and Khadi Department Secretariat, Chennai-600009 |

| **Highways and Minor Ports Department** | Thiru Rajeev Ranjan IAS., Principal Secretary to Government | 91-44-25670959 | hwaysec@tn.gov.in | Highways and Minor Ports Department Secretariat, Chennai-600009 |
|---|---|---|---|---|
| **Information Technology Department** | Thiru T.K. Ramachandran IAS., Principal Secretary to Government | 91-44-25670783 | secyit.tn@nic.in | Information Technology Department Secretariat, Chennai 600 009 |
| **Micro, Small and Medium Enterprises Department** | Thiru Kumar Jayant, IAS., Secretary to Government | 91-44-25671476 | sindsec@tn.gov.in | Micro , Small and Medium Enterprises Department (formerly Small Industries Department) Secretariat, Chennai-600009 |
| **Transport Department** | Dr. T. Prabhakara Rao, IAS., Additional Chief Secretary to Government | 91-44-25671475 | transec@tn.gov.in | Transport Department Secretariat, Chennai - 600009 |
| **Madras Export Processing Zone (MEPZ)** | Shri A.K.Choudhary, I.T.S., Development Commissioner, | 91-44-22628218 | dc@mepz.gov.in | MEPZ Special Economic Zone, Administrative Building, N.H.45, Tambaram, Chennai- 600 045 |
| **Tamilnadu Pollution Control Board** | Thiru K. Skandan, IAS., Additional Chief Secretary | 91-44-22353134-40 | | Tamil Nadu Pollution Control Board 76, Mount Salai, Guindy, Chennai - 600 032 |
| **Tamil Nadu Electricity Board** | Er. T.V.K. Murugan, B.E., Chief Engineer/Commercial | 91-44-28520496 | cecoml@ tnebnet.org | 2nd Floor, Eastern Wing, NPKRR Maaligai, Electricity Avenue, 144,Anna Salai, Chennai - 600 002. |
| **SIPCOT** | Dr. R. Selvaraj, IAS., Managing Director | 91-044-28554514 | sipcot@ md3.vsnl.net.in | State Industries Promotion Corporation Of Tamil Nadu Ltd. 19-A, Rukmani Lakshmipathy Road Egmore, Chennai 600 008 |

| Department | Name and Designation of the concerned officer | Direct Contact | E-Mail | Address |
|---|---|---|---|---|
| **TIDCO** | Thiru C.V. Sankar, IAS., Additional Chief Secretary / Chairman & Managing Director (I/c) | 91-44-28554421 | mdtidco@vsnl.com | Tamil Nadu Industrial Development Corporation Ltd, 19-A, Rukmini Lakshmipathy Road, Egmore, Chennai - 600 008. |
| **TNIDB** | Thiru S. Krishnan, IAS., Chief Executive Officer | 91-44-25674310 | plansec@tn.gov.in | Tamil Nadu Infrastructure Development Board, O/o The Principal Secretary to Government (Planning and Development), Fort St. George, Chennai -600 009. |
| **TANGEDCO** | Dr. M. Saikumar, IAS., Chairman | 91-44-28521300 | chairman@ tnebnet.org | Tamil Nadu Generation and Distribution Corporation Limited, NPKRR Maaligai, 144,Anna Salai, Chennai - 600 002. |
| **TANTRANSCO** | Dr. M. Saikumar, IAS., Chairman | 91-44-28521300 | chairman@ tnebnet.org | Tamil Nadu Transmission Corporation Limited, NPKRR Maaligai, 144,Anna Salai, Chennai - 600 002. |
| **DTCP** | Thiru R. Kirlosh Kumar, IAS., Director – Town & Country Planning | 91-44-2852 1115<br>91-44-2852 1116<br>91-44-28521495 | dtcp@vsnl.net | Directorate of Town and Country Planning, Opposite to LIC, Chengalvarayan Building, Fourth floor, 807, Anna Salai, Chennai - 600 002. |
| **CMDA** | Thiru A. Karthik IAS., Member-Secretary | 28414355 (D)<br>28414855 - Ext.210<br>Fax : 28548416 | mscmda@ tn.gov.in | 1, Gandhi Irwin Road, Egmore, Chennai – 600 008. |

# Appendix 1 C

## Looking at new horizon – Budget Analysis 2015

### C. Promoting and incentivizing 'Make in India'

- Income tax on royalties and fee for technical services received by non-residents restored to 10 from 25%
- Phased reduction of corporate tax rate from 30 to 25% over next four years
- Reduction in basic customs duty rate on specific items of inputs to address inverted duty structure concerns and to reduce manufacturing costs
- Reiteration of government's resolve of rolling out GST from 1 April 2016 and reiteration of presenting the Land Acquisition Ordinance to current session of Parliament to enact it
- Threshold for weighted deduction from corporate tax for wages of new workmen reduced from 100 to 50; benefit extended to even non corporate taxpayers
- Extension in excise duty exemption and concessions for manufacture of cleaner technology vehicles (i.e. hybrid and electrically operated vehicles)
- Special additional duty exemption on import of raw materials for use in manufacture of specific goods (ITA bound goods, LED lights, pacemakers)

### D. Ensuring the much-needed ease of doing business in India

- Principle of composite cap (FDI + FPI) introduced to simplify calculation of foreign investment limit in sectors where FDI cap apply (e.g retail, banking, brownfield pharma, etc.)
- Powers to make or amend rules relating to foreign investments and outbound investments to vest with government, being a policy matter; this simplification to ensure a faster policymaking process; requires a legislative amendment in Foreign Exchange Management Act (FEMA)
- Setting up business in India to be made easy by prescribing simple compliance with a pre-existing regulatory mechanism instead of prior multiple approvals permissions; expert committee to be set up to examine and make recommendations in this regard
- Comprehensive Bankruptcy Code of global standards to be brought in year 2015-16
- Implementation of General Anti Avoidance Rule (GAAR) deferred by two years; GAAR provisions to be applicable from FY 2017-18 onwards
- Threshold for specified domestic transactions (domestic transfer pricing provisions) rose from Indian Rupees (INR) 5 crore to INR 20 crore.
- Advance ruling option for customs, excise and service tax extended to resident firms (including partnership firms, sole proprietorship and one-person companies)

## E. Indirect transfer rules clarified

- The interest or share in an Indian company to be deemed to derive value substantially from India, if the fair market value of Indian assets (without reduction of liabilities) exceeds 10 crore INR and represents at least 50% of the value of all assets owned by transferor entity
- A transaction to not be taxed if the transferor (along with associate enterprises) neither holds right of control or management nor holds voting power or share capital or interest exceeding 5%
- Indirect transfer on account of group reorganization exempted subject to meeting specified conditions
- The Indian entity in the chain obligated to furnish information relating to transaction; failure to report may attract a penalty up to 2% of transaction value
- Central Board of Direct Taxes to clarify the dividends declared by foreign company from Indian source income to not be subject to indirect transfer rules

## F. Special benefits to financial investors and financial sector

- Foreign investments in alternate investment funds (AIFs) to be permitted; entail issue of an enabling policy framework
- In case of eligible offshore funds, fund management activity carried out through independent fund managers in India to not constitute a taxable presence in India albeit subject to conditions
- Rationalization of tax regime of real estate investment trust (REIT) and infrastructure investment trust (InvIT)
- Concessional rate of 5% withholding tax on interest payable to FIIs and QFIs on their investment in government securities and rupee denominated bonds to be available upto 30 June, 2015
- Benefit of reduced tax rate of 5% on rupee denominated bonds issued to QIP extended upto 30 June 2017
- Capital gain income of FII (other than short-term capital gain not subject to securities transaction tax) to be excluded from levy of minimum alternate tax (MAT)
- In case of merger of similar scheme of mutual funds, no capital gains arise in the hands of the unit holder
- Non-Banking Finance Companies with a minimum asset size of 500 crore INR to be empowered to enforce its security interest in non-performing assets; SARFAESI Act, 2002 to be amended to this effect
- Forwards Markets Commission to be merged with the capital markets regulator (Securities Exchange Board of India) to strengthen regulation of commodity forward markets and reduce speculation
- Any interest payable by an Indian branch of a foreign bank to its head office to be income deemed to accrue or arise in India, also subject to withholding tax

## G. Some Direct Tax Rationalization measures

- The Wealth Tax Act, 1957 be abolished and compensated by an increased levy of surcharge on taxpayers earning higher income; effective increase in tax rate for the affluent (including corporates) in FY 15-16 on account of this additional 2% surcharge
- Rationalized the criteria for tax residency of companies to include the concept of place of effective management
- To avoid ambiguity, any person responsible for paying any sum, whether chargeable to tax or not, to a non-resident to be required to furnish the information of such sum in prescribed forms
- Rationalization of provisions relating to Income Tax Settlement Commission

## H. Some important indirect tax proposals

- Service tax rate effectively increased from 12.36 to 14%; enabling provision introduced to empower imposition of additional Swach Bharat Cess at the rate of 2%
- Rationalization of general rate of excise duty from 12.36 to 12.5%
- Rate of clean energy cess increased from 100 INR per tonne to 200 INR per tonne on specific products
- Increase in additional duty of excise on manufactured HSD and motor spirits (petrol) from 2 INR per litre to 6 INR per litre; however, no change in effective excise duty rate
- Service tax net widened by including new services and withdrawal of some exemptions. An indicative list includes the following:

i. Entry to entertainment events and amusement facility

ii. Job-work activity for manufacture of alcohol for human consumption

iii. Transportation service of food stuff by rail, vessels, road limited to food grains including rice and pulses, flour milk and salt

iv. Services provided by a mutual fund agent and distributor to an MF/AMC

- Service tax exemption extended to the following:

i. Ambulance services provided to patients

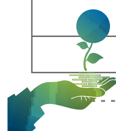
ii. Life insurance service provided by way of Varishtha Pension Bima Yojna

iii. Services by a common effluent treatment plant operator for treatment of effluent

iv. Services of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables

# Appendix 1 D
# DTAA Countries

| Name of the country | Interest | Dividend | Royalty | Fees for technical services |
|---|---|---|---|---|
| Austria | 10% | 10% | 10% | 10% |
| Armenia | 10% | 10% | 10% | 10% |
| Australia | 15% | 15% | 10% (b); 15% in other cases | 10% (b); 15% in other cases |
| Albania | 10% | 10% | 10% | 10% |
| Bangladesh | 10% | 10% ©;<br>15% in other cases | 10% | No specific provision (e) |
| Belarus | 10% | 10% (l);<br>15% in other cases | 15% | 15% |
| Belgium | 10%(k);<br>15% in other cases | 15% | 10%(f) | 10%(f) |
| Botswana | 10% | 7.5% (l);<br>in other cases 10% | 10% | 10% |
| Brazil | 15% | 15% | 25% if royalty arises from trademarks; 15% in other cases | No specific provision (e) _ |
| Bulgaria | 15% | 15% | 15% if royalty relates to copyrights of literary, artistic or scientific work; 20% in other cases | 20% |
| Canada | 15% | 15% ©; in other cases 25% | 15% (including fee for included services) (q) | 15% (for technical fees) (q) |
| Cyprus | 10% | 10% ©; in other cases 15% | 15% (including fee for included services) (q) | 15% (for technical fees) (q) |
| China | 10% | 10% | 10% | 10% |
| Colombia | 10% | 5% | 10% | 10% |
| Croatia | Treaty yet to be notified. | | | |
| Czech Republic | 10% | 10% | 10% | 10% |
| Denmark | 10% (k); 15% in other cases | 15% (l); 25% in other cases | 20% | 20% |
| Ethiopia (refer note r) | 10% | 7.5% | 10% | 10% |
| Estonia | 10% | 10% | 10% | 10% |
| Fiji | Treaty yet to be notified. | | | |
| Finland | 10% | 10% | 10% | 10% |



| France | 10% | 10% | 10% | 10% |
|---|---|---|---|---|
| Germany | 10% | 10% | 10% | 10% |
| Georgia | 10% | 10% | 10% | 10% |
| Greece | Taxable in the country of source as per domestic tax rates. | Taxable in the country of source as per domestic tax rates. | Taxable in the country of source as per domestic tax rates. | No specific provision (e) |
| Hungary | 10% (f) | 10% (f) | 10% (f) | 10% (f) |
| Iceland | 10% | 10% | 10% | 10% |
| Indonesia | 10% | 10% (I); 15% in other cases | 15% | No specific provision (e) |
| Ireland | 10% | 10% | 10% | 10% |
| Israel | 10% | 10% | 10% | 10% |
| Italy (refer to note o) | 15% | 15% ©; in other cases 25% | 20% | 20% |
| Japan | 10% | 10% | 10% | 10% |
| Kazakhstan | 10% | 10% | 10% | 10% |
| Kenya | 15% | 15% | 20% | 17.5% (for managerial, technical, professional or consultancy fees) |
| Kuwait | 10% | 10% | 10% | 10% |
| Republic of Korea | 10% (n); 15% in other cases | 15% (d); 20% in other cases | 15% | 15% |
| Kyrgyz Republic | 10% | 10% | 15% | 15% |
| Latvia | 10% | 10% | 10% | 10% |
| Libya Arab Jamahriya | 14% | 14% | 14% | No specific provision (e) |
| Luxembourg | 10% | 10% | 10% | 10% |
| Grand Duchy of Luxembourg | 10% | 10% | 10% | 10% |
| Malaysia | 10% | 5% | 10% | 10% |
| Malta | 10% | 10% (I); in other cases 15% | 15% including fee for included services (q) | 10% on fee for technical, managerial and consultancy services (q) |
| Mauritius | 14% | 5% ©; in other cases 15% | 15% | No specific provision (e) |
| Mexico | 10% | 10% | 10% | 10% |
| Mongolia | 15% | 15% | 15% | 15% |
| Montenegro | 10% | 5% (I); in other cases 15% | 10% | 10% |
| Morocco | 10% | 10% | 10% | 10% |

| | | | | |
|---|---|---|---|---|
| Mozambique | 10% | 7.5% | 10% | No specific provision (e) |
| Myanmar | 10% | 5% | 10% | No specific provision (e) |
| Namibia | 10% | 10% | 10% | 10% |
| Nepal | 10% (n); in other cases 15% | 5% (c); in other cases 10% | 15% | No specific provision (e) |
| Netherlands | 10% (f) | 10% (f) | 10% (f) | 10% (f) |
| New Zealand | 10% | 15% | 10% | 10% |
| Norway | 15% | 15% (I); in other cases 10% | 10% (f) | 10% (f) |
| Oman | 10% | 10% ©; in other cases12.5% | 15% | 15% |
| Philippines | 10% (n); in other cases 15% | 15% (c); in other cases 20% | 15% | No specific provision (e) |
| Poland | 15% | 15% | 22.50% | 22.50% |
| Qatar | 10% | 5% ©; in other cases 10% | 10% | 10% |
| Portugal | 10% | 10% (I); 15% in other cases | 10% | 10% |
| Romania | 10% | 10% | 10% | 10% |
| Russian Federation | 10% | 10% | 10% | 10% |
| Saudi Arabia | 10% | 5% | 10% | No specific provision (e) |
| Serbia | 10% | 5% (I), in other cases 15% | 10% | 10% |
| Singapore | 10%(k); in other cases 15% | 10%(k); in other cases 15% | 10% | 10% |
| South Africa | 10% | 10% | 10% | 10% |
| Spain | 15% | 15% | 10%(f); 20% | 20%(f) |
| Sudan | 10% | 10% | 10% | 10% |
| Slovenia | 10% | 5% ©; in other cases 15% | 10% | 10% |
| Switzerland | 10% | 10% | 10% | 10% |
| Syrian Arab Republic | 10% | 5% ©, in other cases 10% | 10% | No specific provision, (e) |
| Taipei | Treaty yet to be notified. | 10% | 10% | 10% |
| Tajikistan | 10% | 5% ©, in other cases10% | 10% | No specific provision, (e) |
| Tanzania (p) | 10% | 5%(j); in other cases10% | 10% | 20% on management and professional fees |

| Thailand | 10%(n),in other cases 25% | 15%(c)(h); 20%(h) or (h) | 15% | No specific provision (e) |
|---|---|---|---|---|
| Trinidad and Tobago | 10% | 10% | 10% | 10% |
| Turkey | 10%(k); in other cases 15% | 15% | 15% | 15% |
| Turkmenistan | 10% | 10% | 10% | 10% |
| Uganda | 10% | 10% | 10% | 10% |
| Ukraine | 10% | 10%(I); in other cases15% | 10% | 10% |
| United Arab Emirates | 5%(k); in other cases 12.5% | 10% | 10% | No specific provision (e) |
| United Arab Republic (Egypt) | No specific provision (e) | No specific provision (e) | No specific provision (e) | No specific provision (e) |
| United Kingdom | 10%(n); in other cases 15% | 15% | 10%(b); in other cases 15% | 10%(b); in other cases 15% |
| United States of America | 10% | 10% | 10% | 10% |
| Uruguay | Treaty yet to be notified. | 10% | 10% | 10% |
| Uzbekistan | 10% | 10% | 10% | 10% |
| Vietnam | 10% | 10% | 10% | 10% |
| Zambia | 10% | 5% (j); in other cases 15% | 10% | 10% on managerial and Consultancy fees |

**Notes:**

- The Double Taxation Avoidance Agreements (treaty tax) rates on dividends are not relevant in case of dividend paid by an Indian company, because under the current Indian tax legislation, dividend distribution by such companies is exempt from income tax in the hands of the recipient.
- This is applicable for use of industrial, scientific or commercial equipment.
- This is applicable if the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividend.
- This is applicable if the beneficial owner is a company which owns 20% of the capital of the company paying the dividend.
- In the absence of a specific provision, it may be treated as business profits under respective treaties.
- The 'Most Favoured Nation' clause is applicable. The protocol to the tax treaty limits the scope and rate of taxation to that specified in similar articles in the treaties signed subsequently by India with other OECD nations.
- In most of the tax treaties, the interest attributable to financing of exports, imports and loans granted by specified institutions is subject to nil or lower withholding tax rates.
- This is applicable if the company paying the dividend is engaged in an industrial undertaking.
- This is applicable if the beneficial owner is a company which holds at least 25% of the shares of the company paying the dividend.
- This is applicable if the recipient is a company owning at least 25% of the capital during a period of six months before date of payment.
- This is applicable if paid on a loan granted by a bank or financial institution.
- The tax rate under domestic tax laws is 20% plus surcharge at 2%; since education cess of 3% is levied, the effective tax rate is 21.012% (applicable for payments under the agreements entered prior to June 1, 2005 but after May 31, 1997).
- The prescribed tax rate for royalties and FTS under domestic tax laws is 10% (plus surcharge at 2% and education cess of 3%, so the effective tax rate is 10.506%). The rate would apply for payments under the agreement entered on or after June 1, 2005.
- This is applicable if interest is received by a bank or financial institution.
- The protocol amending the tax treaty with Italy (January 2006) stipulates the rate of 10% for Dividend, Interest, Royalty and Fee for Technical Services
- As per a Government Press Release, under an agreement signed on May 27, 2011 the maximum rate of tax to be charged in the country of source will not exceed a two-tier 5% or 10% in the case of dividends and 10% in the case of interest and royalties. This is yet to be notified.
- There is a separate clause for technical fees and fee for included services under the treaty.
- As per a Government press release, an agreement was signed on May 25, 2011, but it is yet to be notified.

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