



# DOING BUSINESS IN INDIA

**CA.PRATAPKARAN PAUL**

**Senior Partner**

**Pratapkaran Paul & Co**

**Chartered Accountants**

**Chennai, India**

**Contact:**

**[pratapkaranp@pkpandco.com](mailto:pratapkaranp@pkpandco.com)**

**Website: [www.pkpandco.com](http://www.pkpandco.com)**

# INDIA - GEOGRAPHIC PROFILE

- India is one of the oldest civilizations in the world with a diverse variety and rich heritage.
- It covers an area of 3,287,263 sq. km\*, extending from the snow-covered Himalayan heights to the tropical rain forests of the south.
- As the 7th largest country in the world, India stands apart from the rest of Asia, marked off as it is by mountains and the sea, which give the country a distinct geographical entity
- It has a land frontier of about 15,200 km\*. The total length of the coastline of the mainland, Lakshadweep Islands and Andaman & Nicobar Islands is 7,517\* km.



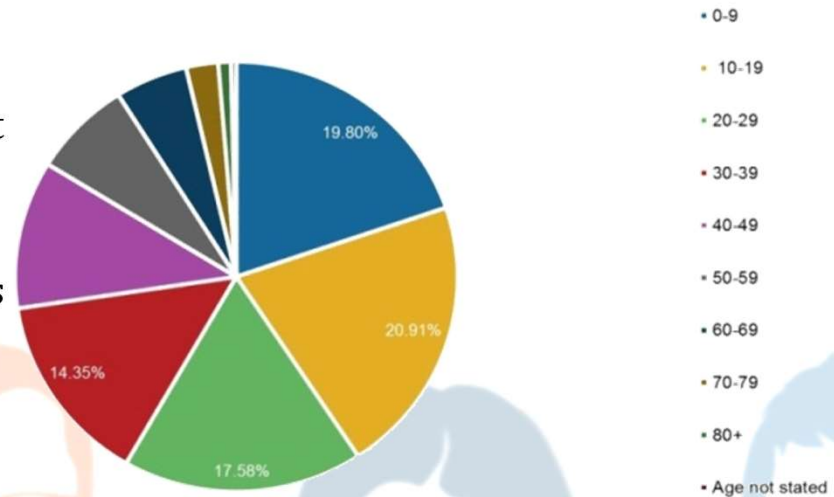
\* Source: Govt. of India



# INDIA - DEMOGRAPHIC PROFILE

- India has the second largest population in the world encompassing diverse identities, each with its own sub-culture, languages, attitudes, habits and practices.
- Each state has its own language. There are about 22 major languages spoken in India.
- India is a young nation with 58.3%\* of its total population belonging to the age category of 'less than 30 years old'.

Age-wise Population Distribution



Market Realist<sup>®</sup>

Source: Census of India, 2011

\* Source: Census of India, 2011



# INDIA- DEMOGRAPHIC PROFILE

- India is an Educated nation with the literacy rate being 74.04% \* according to the last census.
- The history of the nation gives a glimpse into the background of its evolution - from a Country formerly under the British empire to one of the leading economies in the global scenario.
- With a population of 1.34 billion\*\* as per the latest IMF report , India is a colourful canvas portraying a unique assimilation of ethnic groups displaying varied cultures and religions



\* **Source:**Census of India, 2011

# INDIA – POLITICAL PROFILE

- India is a secular state and the largest democracy in the world with a parliamentary form of Government.
- There are **29** states and **7** union territories in the country.\*
- It is divided into **three** distinct but interrelated segments
  1. Legislative (Rajya Sabha & Lok Sabha)
  2. Executive (President, Vice-President & Prime Minister)
  3. Judiciary (Supreme Court, High Court & District Court)



\* Source: Govt. of India



# INDIAN ECONOMY – AN OUTLOOK

- India's economy grew at an impressive 8.2 per cent in the latest quarter on the back of a strong core performance and a healthy base.
- "In India, important reforms have been implemented in recent years, including the Goods and Services Tax, the inflation-targeting framework, the Insolvency and Bankruptcy Code, and steps to liberalize foreign investment and make it easier to do business." - World Economic Outlook - October 2018 ahead of IMF meeting at Bali

INDIA GDP ANNUAL GROWTH RATE



SOURCE: TRADINGECONOMICS.COM | MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION (MOSPI)

\* Source: Census of India, 2011

# BUILDING A NEW INDIA

Several initiatives have been launched to ease doing of business in India:

## A. “Make In India”

Launched with a clear vision, the Make in India initiative aims to achieve long-term sustainable growth of 10% in manufacturing. This initiative focuses on about 25 key areas.



## B. “Smart Cities”

“Smart cities” campaign was launched with the objective to develop 100 smart cities by 2022. This initiative is expected to boost the real estate, technology, media and telecom (TMT) and construction sectors. In the construction sector, the Government has allowed 100% FDI under the automatic route and reduced the minimum capital requirement to US\$5m from US\$10m\*



## C. “Digital India”

Digital India is a huge government initiative, which aims to create an electronically connected economy, attract investment in electronics manufacturing, create millions of jobs and support trade

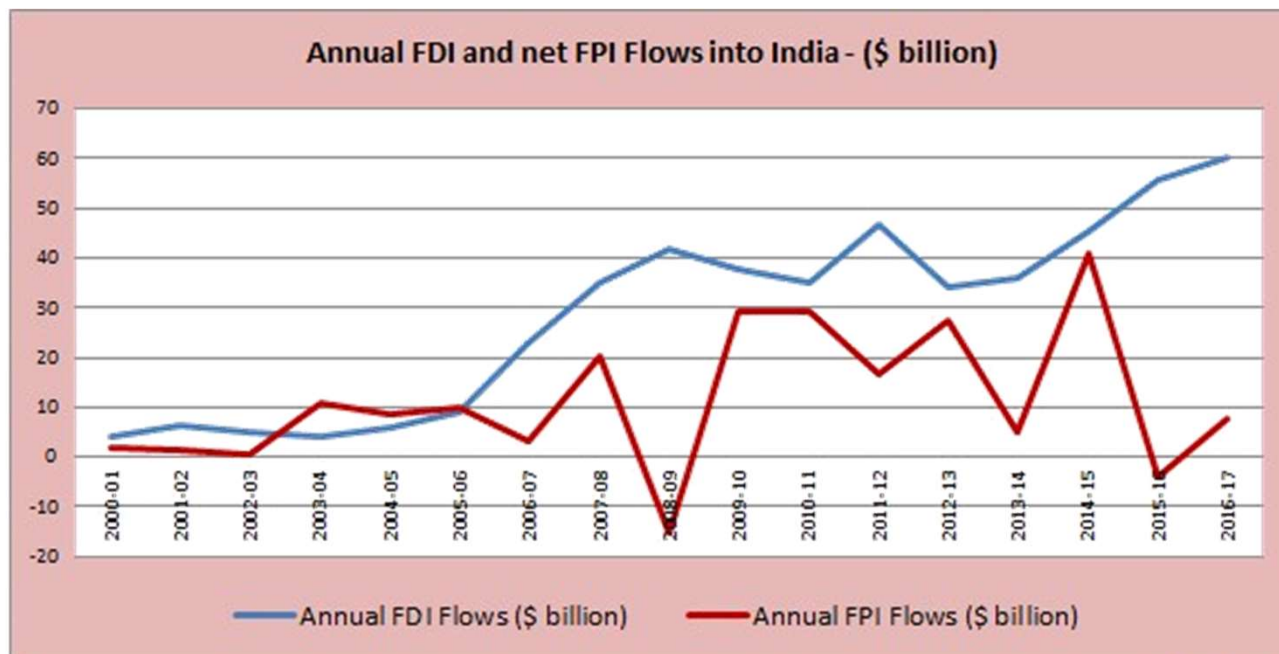


\* Source: [www.rbi.org.in](http://www.rbi.org.in) Notification No.354/2015-RB



# FOREIGN DIRECT INVESTMENTS INTO INDIA:

- As per the United Nations Conference On Trade And Development 's World Investment Report 2018, India is ranked 10th in the list of Top Economies to attract FDI inflows
- FDI in India has significantly increased over the recent past with a lot of government initiatives. Many sectors are open to 100% foreign investment
- The Government continues to liberalize FDI in telecommunications, asset-reconstruction companies and credit-information companies



Data Source: DIPP



# FOREIGN DIRECT INVESTMENTS INTO INDIA:

- Automatic Route is enabled for a majority of sectors where no specific approval is required for starting a business in India. Only limited sectors require the government approval before investing in India which are as follows:
  - a. Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities
  - b. Terrestrial Broadcasting FM (FM Radio), subject to such terms and conditions
  - c. Up-Linking of 'News & Current Affairs' TV Channels
  - d. Print Media
  - e. Satellites Establishment and operation
  - f. Multi Brand Retail Trading
  - g. Private Security Agencies
  - h. Banking
- Other than the above mentioned sectors, FDI is freely permitted in all other sectors where only an intimation is required to be provided to RBI about the FDI into India.



# KEY SECTORS IN INDIA



1. Aerospace and Defence
2. Automotive
3. Banking
4. Capital Markets
5. Life Sciences
6. Information Technology
7. Insurance
8. Media and Entertainment
9. Mining and Metals
10. Oil and Gas
11. Ports
12. Power (including cleantech) and Utilities
13. Real Estate
14. Retail and Consumer products
15. Roads and Highways
16. Telecommunications
17. Digital and E-commerce

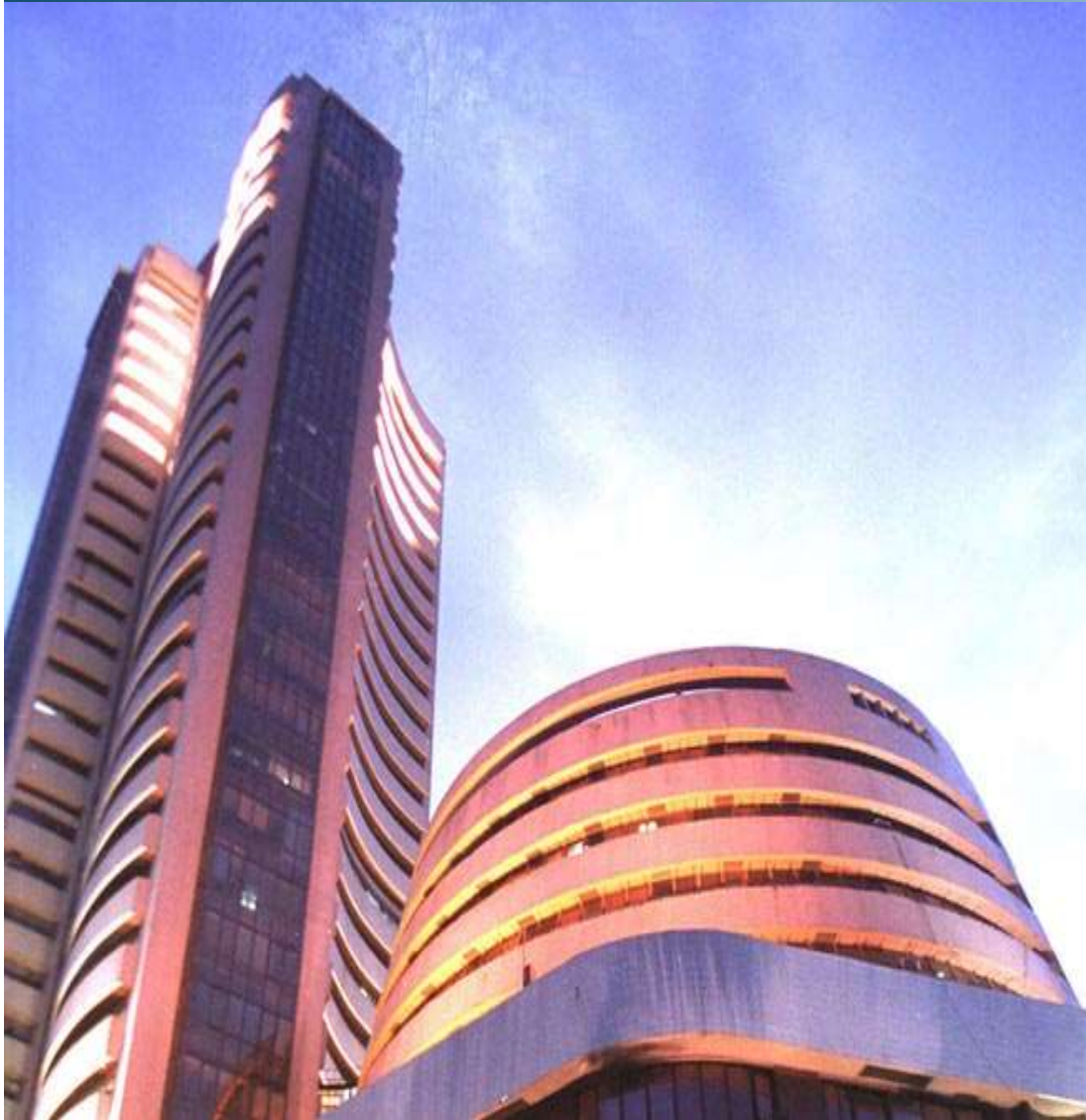


# INVESTMENT INITIATIVES

- India's Investment initiatives are designed in such a way to ensure a balanced growth throughout the nation
- The country offers a lot of benefits, including
  1. Tax and Non-tax incentives for the establishment of new industrial undertakings
  2. Incentives for specific industries such as power, ports, highways, electronics and software
  3. Incentives for units in less developed regions
  4. Incentives for units exporting or in Special Economic Zones
- These incentives include Tax Holidays, Weighted deduction of tax for in-house R&D and Capital outlays, Accelerated Depreciation, etc.,



# ENTRY OPTIONS IN INDIA



- A. Liaison office
- B. Branch office
- C. Company incorporated in India
- D. LLP

# A. LIAISON OFFICE

- A Liaison office (LO) act as a communication channel between the head office of foreign corporations and business parties in India.
- An LO is permitted by the RBI to undertake the following activities in India:
  1. Representing the parent company or group companies in India
  2. Promoting export/import from/to India
  3. Promoting technical/financial collaborations between parent/group companies and companies in India
  4. Acting as a communication channel between the parent company and Indian companies
- Not allowed to undertake any income generating activity in India
- Expenses to be met only through Foreign inward Remittances
- Specific approval to be obtained from RBI
- Initial approval will be given for three years and can be renewed for three more years upon satisfaction of certain conditions

## B. BRANCH OFFICE

- A Branch Office (BO) is set up as an extension of a foreign company in India, to undertake permitted commercial activities.
- Unlike an LO, a BO can undertake a broader scope of activities, subject to these being permitted under RBI regulation.
- A Branch office can be setup by a foreign company only with RBI approval
- Should be engaged in activities undertaken by the parent company
- Not allowed to engage in Retail Trading and Manufacturing (Except Manufacturing within SEZ's after RBI approval)
- However, a branch may not prove to be an ideal structure for a foreign corporation undertaking expansion or diversification in India.

## C. COMPANY INCORPORATED IN INDIA

A Company is the most widely used form for a foreign direct investor. A foreign entity can commence operations in India by incorporating a company under the Companies Act as a subsidiary (including a wholly-owned subsidiary) or as a joint venture company.

### I. DIRECTOR REQUIREMENTS:

**Private Company** – Minimum of **Two Directors** (One should be a Resident Director)

**Public Company** - Minimum of **Three Directors** (One should be a Resident Director)

An individual must obtain a Digital Signature Certificate (DSC) from the certifying authority, and then apply for a Director Identification Number (DIN) from the Ministry of Corporate Affairs (MCA) to act as a director.

### II. MEMBER REQUIREMENTS:

**Private Company** – Minimum of **Two Members**

**Public Company** - Minimum of **Seven Members**

There is No Minimum Paid up capital requirements to float a new company in India.

# C. COMPANY INCORPORATED IN INDIA



## III. INCORPORATION REQUIREMENTS:

- Promoter to file application to obtain desired company name
- Promoters to Register Memorandum and Articles of Association with the Registrar of Companies (ROC)
- Promoters to file the required ROC form electronically.

## IV. REPATRIATION:

- Dividend declared by a company is subject to Dividend Distribution Tax of **20.36%**.
- No Specific approval required for remittance of such dividend to Head Office outside India.
- Dividend is declared on profits remaining after tax.



## C. COMPANY INCORPORATED IN INDIA



### V. IND AS REQUIREMENTS:

- A company incorporated in India should maintain its accounts as per Accounting Standards issued by The Institute of Chartered Accountants of India (ICAI).
- India has initiated steps toward convergence of its accounting standards with IFRS (subject to a few carve-outs);
- These standards are called **Indian Accounting Standards or Ind AS**.
- From accounting periods commencing on or after 1 April 2016, these standards are mandatory for certain companies meeting certain net worth thresholds, in various phases.

## D. LIMITED LIABILITY PARTNERSHIP

- An Limited Liability Partnership (LLP) can be floated with a Minimum of **two** designated partners and **at least one of the Designated Partner** shall be a **resident** of India.
- LLP has to be engaged in sectors for which **100% FDI is allowed through automatic route** and no FDI-linked conditions are applicable
- Does not require any approval for remittance of post-tax profits outside India. Unlike a Company, an LLP is **not required** to pay tax on withdrawal of profits from partner's capital.
- Doing business through an LLP is marginally easier than doing it through a company in terms of the procedural and Repatriation requirements.

# TAXATION – INCOME TAX



## Branch Office:

- Income of a Branch office is taxed at **40% plus Surcharge and Cess** as applicable

## Company Incorporated in India:

- Rate of Corporate Income Tax is **25%/30% (Excluding surcharge and cess as applicable)** of its profit as per Income Tax Act based on the volume of operation.
- A company should pay Minimum Alternate Tax (MAT) @ **18.5% (Excluding surcharge and cess as applicable)** of its book profit if such amount is higher than the Corporate Income Tax.

## LLP:

- An LLP's profit is taxed at **30% (plus surcharge and cess)**. Similar to MAT in a company, Alternate Minimum Tax (AMT) at **18.5% (plus surcharge and cess)** has to be paid by an LLP on its Adjusted Total Income if the Income Tax is less than the AMT computed.

# TAXATION - TRANSFER PRICING



- Transfer Pricing has begun to occupy a significant importance in the Recent past with the term **'Arm's Length Price'** taking the center stage.
- Under Transfer Pricing Regulations (TPRs) , any international transaction between two or more Associated Enterprises must be conducted at an arm's length price (ALP).
- Transfer pricing (TP) provisions in India are generally in line with the TP guidelines for MNCs and tax administrators issued by the Organization for Economic Co-operation and Development (OECD).
- These Regulations are designed with an intention of clearly monitoring all the Forex movements to and from India and to curb unfair benefitting if any out of those transactions.
- It is mandatory for all tax payers, without exception, to obtain an independent accountant's report in respect of all international transactions between associated enterprises.

# TAXATION – GOODS AND SERVICES TAX

- The Introduction of Goods and Services Tax (GST) with effect from 01.07.2017 would be a very significant step in the field of Indirect Tax reforms in India.
- GST has amalgamated a large number of indirect taxes under a single tax regime and has established the principle of '**ONE NATION – ONE TAX**'.
- Introduction of GST would make Indian products competitive in the domestic and International markets. GST, because of its transparent and self-policing character, would be easier to administer.
- Under GST law, any person who supplies goods or services should pay GST to the government at the rates specified for the type of supply made by him. The GST rates vary from 0% to 28% for different kinds of products and services.
- While paying GST on the outward supplies made, the tax payer can claim credit on the GST paid on the inward supplies received by him.
- The Tax payer needs to file monthly returns indicating the amount of supply made by him and the Quantum of GST paid for the month.

# TAXATION - MAJOR DEVELOPMENTS

## 1. General Anti Avoidance Rule (GAAR) – Effective from FY 2017-18:

- GAAR is a set of Rules under Income Tax Act, 1961 ("the Act") which empowers the revenue authorities to deny tax benefits in relation to transactions or arrangements which do not have any **commercial substance** or consideration other than achieving the tax benefits.
- With the implementation of GAAR, a tax payer should clearly understand the fine line between **acceptable tax mitigation** and **actual tax avoidance**.

## 2. Multilateral Convention (MLC) :

- India has signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting at Paris on 7th June, 2017.  
(Source – [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in))
- The Convention will modify India's treaties in order to curb revenue loss through treaty abuse and base erosion and profit shifting strategies by ensuring that profits are taxed where substantive economic activities generating the profits are carried out and where value is created.

# TAXATION - MAJOR DEVELOPMENTS

## 3. Introduction of the concept 'Place of Effective Management' (POEM):

- Prior to the introduction of the concept of POEM, a company is a resident of India only if it is an Indian company.
- With effect from 01.04.2016, the concept of POEM has been inserted into the Income Tax act,1961 and the revised provision states that a company is a Resident of India if POEM is in India even if the company is established outside India.
- POEM means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance, made.

# FOREIGN EXCHANGE CONTROLS IN INDIA

## Reserve Bank of India (RBI) – The Regulator:

- RBI is the apex body in India regulating all the Foreign exchange movements. All these regulations are effected through 'Foreign Exchange Management Act, 1999'.
- Repatriation of funds outside India can be done freely for current account transactions after remitting the tax on such amount whereas for capital account transactions, Repatriation is subject to certain restrictions and conditions.





# INDIA – A PROMISING INVESTMENT ALTERNATIVE



- With all the reforms yielding positive results, India has definitely turned out to be a promising venue for potential investors to make an investment
- As per the World Bank's '**Doing Business Report 2018**' India is one of the **Top 100 nations** where doing business is made easy
- With more than 90 per cent of the foreign direct investment proposals coming through the automatic route, the Foreign Investors are supported to the fullest extent possible by the Indian government



**T**HANK

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