

FAQ - Company Formation In INDIA

Country - India

Point

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1. Advantage of Business set up in India

- Well Planned economy and developed infrastructure
- Popular destination for business set up and investment
- Secured and safe business transaction & Investment Banking
- Major Multinational bank, Trading house & MNC have set up in India
- Well cultured and educated work force, Second Largest market in World
- Well connected with Asian, American, Europe, Far East and GCC Market
- Major hub for MNCs, FIIs and Investment banker
- Secured legal environments & Pro active Government Policy
- Liberal Immigration policies
- Safe and Stable government, clear FDI policy
- Majorly allow in all sector more than 51 % equity participation by Foreign National \ MNC

2. Preferred Business Destination

As per the business study and Government data, major businesses in India are:

- Manufacturing hub – Steel, Automobile, Telecommunication, Space, Pharma, Textile, Electronic, Electrical, Computer and accessories & FMCG products
- Investment banker, Assets Management Companies & Private Equity Funds
- Oil & Gas, Airlines, Shipper, logistic and Forwarding Agent
- Equipment and mega infra structures
- Turnkey project and infrastructure
- Gems and Jewelry, Diamond studded ornaments
- Travel & Tourism, Ticketing, Electronic Media, Satellites & Broadcasting

3. Type of Business entity

- Limited Liability Company - Private Limited Company
- Limited Liability Partnership Firm – LLP
- One Person Private Company – OPC (Not allowed for Foreign National to form)

Limited Company

We generally recommend the Private limited Company considering the nature of business to set up in India. It is also commonly known as Private Limited Company and having separate legal entity. According to India Companies Act, any person (foreign or local) above the age of 18 can register Indian company.

Foreign companies & entrepreneurs that are keen on exploring the viability of doing business in India will be required to incorporate Indian company as legal entities with the Registrar of Companies and under the Companies Act, 2013, India.

Major benefits of Limited Company

- It has separate Legal entity in law
- Shareholders are not liable for company's debts beyond the own share capital

The Ministry of Corporate Affairs of India (MCA) controls the registration of business firms and incorporation of companies. However, the nature of the actual business activity could be subjected to control and regulation by other Government authorities. India Private Limited Company is companies incorporated under the India Companies Act, 2013.

In Private Limited Company - minimum 2 shareholders and 2 directors

In Public Limited Company - minimum 7 shareholders and 3 directors

Limited Liability Partnership Firm

This nature of business unit is having advantage of partnership firm and private limited company. It has been introduced in India LLP was introduced in India through enactment of Limited Liability Partnership Act. A LLP is primarily meant for carrying a profession \ business like accountants, lawyers, architects, business, Real estate etc. where two or more professionals would like to start and build a joint practice in a common field. The partners enter into detailed agreements about share of responsibility, share of profit and management responsibilities. Minimum 2 partners required.

4. Advantage of having Limited Company in India

- 100/ 74 / 51 / 26 % ownership allowed in Limited Company by Foreigners depend on nature of business activities under Foreign Direct Investment Route.
- Any individual or business entity (local or overseas) may incorporate Indian company.
- Easy to form and run the business without visiting India \ Resident Visa.
- Business Visa \ Employment visa can be availed for owners and his family
- Minimum Income tax, capital gain tax & withholding tax on dividend. DTAA available
- No restrictions on the type of business activities that a company can engage in.
- No special approvals are required by foreigner means they are at par with locals.
- No Restriction or obligation for local employment of work force.
- Minimum paid up capital requirement for India company is just INR 100,000\.
- Local Share holder \ Director \ Company Secretary necessary for compliance

To Form the company in India, you need to appoint professional firm for assistance and complete the formalities of formation of company. We shall assist for the same.

5. Minimum requirements for registration of a India company

In Private Limited Company - minimum 2 shareholders and 2 directors – Capital INR. 100,000\
In Public Limited Company - minimum 7 shareholders and 3 directors - Capital INR. 500,000\-

- **Shareholder either individuals \ Limited entity**
 - Know-Your-Client - KYC Norms For individual: Copy of passport, overseas residential address proof, KYC information such as personal and business profile, etc.
 - If the shareholder is a corporate entity: Copy of registration documents such as Certificate of Incorporation and Memorandum & Articles of Association and Board Resolution.
- **Director either individual \ Limited entity**
 - The minimum number of directors is one, who may be a natural person or a body corporate. Directors may be of any nationality, and need not be resident in India.
 - Corporate directors are permitted.
- **Local Director \ shareholder \ Company Secretary – Compulsory**
 - India Company requires to have local India resident director, shareholder and company secretary. We shall assist to arrange the same.
 - At least one of director must be ordinarily resident in India. i.e. Indian/ India Permanent Residence (PR)/ India Employment Pass Holder. We shall assist to arrange the same.

- **Registered office in India**

Company need to have registered office in India. We shall provide the registered office address. Post Box No. is not allowed to utilize as registered office.

- **Qualified Company Secretary**

Company need to appoint company secretary to keep and update the secretarial records and minutes of the meeting. It also requires to submit the necessary documents with Registrar of Companies on yearly basis. We shall provide the company secretary.

Upon receipt of the signed incorporation and supporting documents from you, we will proceed to incorporate the company with Registry of Companies.

6. Foreign Company Registration Options

Foreign company plans to have a presence in India, have the choice of setting up business unit as branch office, subsidiary or representative office in India.

- **Private Limited Company** - A separate company formed by shareholder and director of the company. It shall have independent identity in company law. Foreign company shall become shareholder and control it.

- **Subsidiary Company.** A subsidiary company is a private limited company incorporated in India with the parent company as its majority shareholder. For small to mid-size foreign businesses, a subsidiary company is the most preferred choice of registration in India.
- **Branch Office.** A branch office is registered in India as an extension of its parent company and not as a separately incorporated entity. The liabilities of a branch office extend to its parent company.
- **Representative Office.** A representative office is registered in India as a temporary arrangement for conducting marketing research activities. A representative office does not have any legal status and cannot be engaged in any profit yielding activities.

7. Business trade License & Banking

The nature of the actual business activity could be subject to control and regulation by other Government authorities.

Company need to obtain PAN – Income tax Number and VAT \ Service Tax registration before carry out business in India.

Depending on your company's business activities, you may need to obtain one or more business licenses after you have incorporated your company but before you can commence your business operations. Fortunately, very few business activities require such a license. Generally, it may take between 2 weeks to 2 months to get a license or permit. Examples of business activities that require a business license(s) include restaurants, educational institutes, travel agencies, financial services, import/export of goods, etc.

Bank account opening

After successful registration of your India company, you can open a corporate bank account in any of the major banks in India such as State Bank, Bank of India, HSBC, Standard Chartered, Citibank, HDFC Bank, ICICI bank, etc. Many of the banks in India these days require physical presence of the company principals as part of the account opening procedure.

While visit to India, you have a wider choice of banks to choose from. In this case, you can explore the features and facilities provided by different banks and decide on the bank that best suits your needs.

While opening the bank account, clients should bring the following documents

- Original Passport & residence address proof of director & share holder
- Original India company formation documents
- Business profile of director & shareholder
- Proposed Business plan of the company
- Bank Reference letter \ statement from existing banker of director – optional

8. Income Tax, Dividend and other Benefits

Income Tax

India has arrangement with a number of jurisdictions for double taxation relief of Export, shipping or airline income. It has also comprehensive double tax avoidance agreements (DTAA) with many countries to relieve taxation on income, for instance, dividends, interest and royalties. Therefore, businesses operating in India do not generally have problems with double taxation of income.

Tax Rates

Income tax is Flat rate of 30 % plus surcharges. Minimum Alternate Tax also application where tax exemption and benefits availed.

Other Income

Capital Gain

India capital gains tax or withholding tax: 10 \ 20 % capital gains tax

Dividend

- India does levy a withholding tax on dividends.
- Dividends paid by a India Private Limited Company are tax exempt in hand of Shareholders

Interest, royalties or rental of equipment payments to non-residents are subjects to a withholding tax.

For More detail please visit website of Inland Revenue Authority of India.

www.incometaxindiaefiling.gov.in & www.incometaxindia.gov.in

Other Information

Annual filing requirements for India companies

- Once your Indian Company has been incorporated, the Companies Act dictates certain annual filing requirements and formalities. For more details on this, see annual filing requirements for India companies.
- The company law requires that each company formed in India must file its accounts (audited) with the Registrar of Companies of India on an annual basis.

For More detail please visit website of Company Registrar www.mca.gov.in

9. Documents Required For Company Incorporation

Director and shareholder – When Individual

- Copy of passport; and
- Copy of residential address proof such as a recent utility bill, phone bill & Driving License

Director and shareholder – When Corporate Bodies & Nominee Director

- Copy of registration documents such as Certificate of Incorporation and Memorandum & Articles of Association of parent company and
- Board Resolution for investment with proposed business plan

For each India resident individual director:

- Copy of India Adhar Card, ID proof, PAN Card and Address proof

Please note the following:

- All documents must be in English or officially translated in English;
- All copies of documents must be certified true copies by a notary public or self certifying or you must bring the originals to India office for sighting;
- You can email us the scanned copies of documents so we can proceed with preparing the necessary incorporation documents. However we must receive the certified true copies before we can incorporate the company.
- Our compliance department may ask for additional information if necessary.
- Duly filled Company Formation Request Form

10. Company registration procedure and timeline

Company registration procedure in India is fully computerized. As a result, the incorporation process is quick and efficient. Under normal circumstance, the company can be incorporated in 15-20 working days.

There are three distinct steps involved in the India company setup procedure:

- a) Apply and obtain Digital Signature and Director Identification Number of Director
- b) Company Name Approval and;
- c) Company Registration. – submit MOA & AOA, shareholder & director list, Registered office address proof. All document duly signed by shareholders.

Public information about company in India

Directors and shareholders information is public information in India. It's listed in the company's business profile extract available for purchase from Registrar of Companies.