

INDIA

Country Overview

Key Facts:

Population	1.33 billion
Capital City	New Delhi
Government	Parliamentary Democracy
Head of State	President Ramnath Kovind
Head of Government	Prime Minister Narendra Modi
Language	Hindi, English, and 21 main languages
Economy Ranking	5

Economy:

India became the world's fifth-largest economy in the year 2019, according to data from the IMF's October World Economic Outlook. It was ranked at number 9 in 2010. This rapid rise has been a result of multiple factors such as rapid urbanization and technology improvement that improved productivity. Despite the growth in overall GDP, there are several problems that India faces such as a high poverty rate and an uneven development between urban and rural populations among many of its states. India is now seeking to build upon its past growth by focusing on sustainable growth and programs such as Make in India that are supposed to attract investments and increase job opportunities.

India ranks 120th freest in terms of economic freedom in the world as per the Heritage Foundation.

Focus Industries:

India has been traditionally an agriculture-oriented country and it remains an important aspect of the economy. However, the manufacturing and service industry has been growing strong since the last two decades. Some of the major drivers of the Indian economy are:

- Education
- Health sector
- Energy
- Infrastructure
- Financial Services
- Pharmaceuticals
- Logistics and Transport
- Chemicals
- Information Technology

- Telecommunications

Apart from the above sectors, a major push is being given in India for the manufacturing of high-tech products such as mobile phones and defense-related production. Make in India is the initiative of the Government of India that promotes growth in several sectors by attracting FDI and forging partnerships between foreign and Indian firms. There are 25 sectors identified under this initiative as listed below:

- Automobiles
- Automobile components
- Aviation
- Biotechnology
- Chemicals
- Construction
- Defense manufacturing
- Defense exports
- Electronic systems
- Electrical machinery
- Food processing
- Information technology and business process management
- Leather
- Media and entertainment
- Mining
- Oil and gas
- Pharmaceuticals
- Ports & shipping
- Railways
- Rapid Transit
- Renewable energy
- Roads and highways
- Space and astronomy
- Thermal power
- Textiles and garments
- Tourism
- Wellness and Healthcare

Top 10 reasons to set up:

- India is the second-largest country in terms of population and presents a huge potential as a consumer market. India is also the third-largest economy in Asia.
- India has a double taxation avoidance agreement with 88 countries, but presently 85 have been enforced the DTA a treaty has been signed in order to avoid double taxation of the same declared assets into different countries.
- India has 42 trade agreements (including preferential agreements) either in effect or signed or under negotiation or proposed. These agreements help

reduce tariffs, remove trade barriers, encourage investment, and improve the rules and regulations related to intellectual property, commerce, and government procurement.

- The cost of transport, land, the cost of living, the cost of electricity, the cost of accessibility to water are extremely low in India and hence the overall operating cost of a business in India is far lower than many of the other countries.
- India has already developed a large infrastructure in its cities which is still growing further into its rural areas. This infrastructure has been the key driver of business growth and provides an excellent opportunity for companies to set up business in these areas.
- The Indian labor force has good communication skills and a large number of them speak English.
- With a median age of 29, most of the population is under 30. Compared to other countries with an aging population, this presents an excellent opportunity to tap into the potential of high productivity.
- The government of India is working on allowing for higher foreign direct Investments in many sectors such as Telecom, Retail, Finance, and Transportation. It should be noted that these are key sectors that are growing at a very rapid pace.
- Indian legal framework and regulations have been changed over the past decades to make them more business-friendly.

Red Flags:

- Despite improving the ease of doing business ranking by 79 points the situation on the ground in India for setting up businesses has not changed much. There are problems with understanding processes and compliances because they are regularly changed or updated by the State or Central Authorities and it becomes difficult to keep tabs and adjust every time.
- Starting a business in India can be a very daunting task. Several permissions need to be taken. For example, permit for electricity permission, permit from environmental department permission for land acquisition, permission from fire and safety department, permission for water, etc.
- Due to all these processes and procedures, the time taken to start a business in India is around 4 months to 1 year. Many of the investors find this timeline to be very long and expect faster setups as is possible in many OECD countries where the setup time is 7 days on average.
- After setting up a business several compliances need to be followed regularly that include filings of taxes, payroll, employment, labor, employee social security, etc.

Market Assessment

Before you enter a new market, conducting a new market assessment will be crucial. This will be bespoke to your business and your target region.

You should think about undertaking the following activities:

1. Market Analysis

This entails researching the market size, target customers, customer attitudes and behaviors, state of the economy, and infrastructure. It is also important to consider the potential for growth within a region.

2. Competitor Analysis

It is important to review the local competition to understand how they operate and enable you to position your company against competitors.

3. Marketing Strategy

You will need to consider how you will generate awareness of your product or service and promote your brand. Where will you position your brand in line with the results of your market analysis

Our local experts can help you undertake this new market assessment to assist you with your international expansion plans.

Market Entry Options

There are several methods you can use to enter a market:

1. Set up an overseas office

- Open up a branch in your chosen location, hire staff if necessary, sell your goods/services

2. Franchise

- Allow others in different locations to open up branches of your business and operate it themselves following your guidelines. They pay you a fee and a percentage of profits. However, they have more control within their local market of how they operate.

3. Direct Exporting

- Market your goods/services within a region and export your goods/services from your home region.

4. Partnerships

- Can take many forms including JVs or having a local partner to represent your firm and help generate business.
- Some countries require a local partner to have an ownership stake within a region.
- You may simply need a distributor to sell your goods.

5. Buy a Company

- You immediately claim market share with an existing customer base.
- No incorporation or initial setup costs/laws to comply with
- However, expensive to buy and need to integrate within the company culture

6. Licensing

- Give ownership of your product to parties in different regions for them to sell on your behalf.

7. PEO/EOR

- If you liaise with a company offering PEO and EOR services you will be able to launch in a region without setting up an entity.
- If you liaise with a company offering PEO and EOR services you will be able to launch in a region without setting up an entity.
- This involves the “leasing” of employees. A resident firm will hire employees on your behalf and cover payroll and other necessary HR requirements, whilst the employees work for you.
- This enables you to test the market with staff but without the up-front capital of setting up a company.

Company Setup

1. Indian Public Limited Company

This type of entity is created in order to list the company in the local stock exchange (although it is not mandatory). This entity requires minimum 3 directors and 7 shareholders. At least one of the directors has to be of Indian nationality. An annual statutory audit is necessary for this entity. The minimum share capital required is US \$ 6,730.

2. Indian Private Limited Company (called PLC but is the same as LLC)

This entity requires 2 directors and two shareholders. All directors are required to obtain the director's identification number (DIN) and the digital signature certificate (DSC). At least one of the directors should be of Indian nationality. Most of the foreign investors find this to be the most suitable entity type to set up business in India as they have options from manufacturing to providing services such as IT and are free to import and export. The minimum share capital required is US \$ 1350.

3. Indian Limited Liability Partnership (LLP)

An LLP can be formed between a foreign and Indian investor or both partners being foreigners. However, if both the partners are foreigners, the entity is required to have an Indian resident manager. Audited financial statements are required to be filed with the tax authorities each year, but the LLP has more flexibility than an LLC as the income is directly taxed at the partner level. There is no minimum fixed

contribution required of the partners. The partners may benefit from the activities of the company on the basis of the share of their contributions.

4. Indian Private Trust

This type of entity is used by families in India to pass on property or wealth or goal-specific relief such as for education or medical purposes to the future generations of the family.

This type of entity has three parties:

- Settlor (also called Trustor): A person who wants to transfer a property and repose confidence in another to create a trust.
- Trustee: The person who accepts the confidence of the creation of the trust.
- Beneficiary: The person who benefits from the trust in the near future.

The property of the trust is required to be registered. The Indian Trusts Act provides the basis for the formation of trust.

5. Indian Free Zone Company

This type of entity is similar to LLC in most aspects, except the place of operation is in special economic zones (SEZ is also known as EPZ) and these entities enjoy special benefits in taxes. The amount of capital required to set up this type of company is much higher than an LLC and differs as per the rules of the SEZ.

Most companies planning to export out of India prefer to set up manufacturing units in these SEZs.

6. Branch Office

A branch office in India can invoice clients, import and export goods, offer consultancy, and trade. The parent company decides the scope of activities conducted by the branch office. A branch office has a much higher tax rate of 43% and requires special permission from the Reserve Bank of India for setting up.

7. Representative Office

This type of entity is not allowed to trade or invoice clients or conduct import or export. Its main purpose is to liaise between the parent company and Indian firms for the purpose of market promotions, conducting research, and forming local collaborations.

8. Project Office

This type of entity is created for a limited amount of time to complete a project in India. The taxes on the project office are on par with that of the Branch office. The entity is terminated after the completion of the project. A project office may be set up if the company does not wish to establish a long-term base in India.

Entity FAQs

- Is the entity allowed to rent office premises?
 - o Yes, for all types of entities
- Is the entity allowed to do business in India?
 - o Except for the Representative office, all other entity types are allowed to do business or commercial transactions.
- Is the entity allowed to sign contracts with and invoice local clients?
 - o Except for the Representative office, all other entity types are allowed to sign contracts with and invoice local clients
- Is the entity allowed to import raw material or export goods?
 - o Except for the Representative office, all other entity types are allowed to import raw material and export goods
- Is there a corporate tax on local income?
 - o Yes, for LLC, PLC, Branch office, Project Office, SEZ company
 - o No, for LLP, Representative Office, Private Trust
- Is the Statutory Audit required?
 - o Yes, for PLC, Branch Office, Representative Office, Project Office, and SEZ company
 - o No, for LLC, Private Trust, and LLP
- Is the Annual Tax return to be submitted?
 - o Yes, for all entity types except Representative Office
- Are Double Taxation Avoidance Agreements allowed?
 - o Yes, for LLC, PLC, SEZ company, Private Trust, Project Office, and Branch Office
 - o No, for LLP and Representative Office
- Issued Share Capital is required?
 - o Yes, US\$ 1350 for LLC, US\$ 6730 for PLC, US\$ 1 for LLP, SEZ company share capital depends on the SEZ.
 - o No, for Private Trust, Branch Office, Project Office, and Representative Office
- Is a resident Director/representative required?
 - o Yes, for all types of entities
- Is an Indian shareholder/partner required?
 - o Except for LLP, not required for any other type of entity
- What is the minimum number of directors?
 - o 2, for LLC, SEZ company
 - o 1, for LLP, Representative Office, Project Office, and Branch Office
 - o 3, for PLC
 - o NA for Private Trust
- What is the minimum number of shareholders required?
 - o 1, for LLC, Private Trust, and SEZ company.
 - o 2, for LLP
 - o 7, for PLC
 - o Parent Company itself, for Representative Office, Project Office and Branch Office

- Are individual shareholders allowed?
 - o Yes, for LLC, Private Trust, LLP, PLC, SEZ company
 - o Not required, for Representative, Project Office and Branch office
- Are Corporate shareholders allowed?
 - o No, for all entity types
- Is there a public register of Directors and shareholders?
 - o Yes, for all entity types
- Can the entity hire expatriate employees?
 - o Yes, for all entity types
- How long does it take to get a work permit for expatriate staff?
 - o 3 – 5 days, for all entity types

Company Formation

Incorporation Procedure

The companies Act of 2013 provides the procedure for the incorporation of a private limited company in India.

- Proposal of the name of the company has to be provided along with applications from a minimum of two directors and a minimum of two promoters and six proposed names in order of preference. Once this name is accepted. It is held for a period of 60 days and a new company can be incorporated post the acceptance.
- There should be a minimum of two directors and two subscribers for private limited companies. For a public limited company, there should be a minimum of three directors and seven subscribers.
- Obtain a Director's Identification Number (DIN) and Digital Signature Certificate (DSC).
- Submit memorandum of Articles of Association and Memorandum of Association. These legal documents outline the company's workings, procedures, rules, and regulations.
- Lease or rent a registered office as it is mandatory to provide the address of communication to the government authorities.
- After acceptance and approval of all documents required to incorporate the company by the Registrar of Companies, a certificate is issued for the company to begin its activities.

Post Incorporation Steps:

After the incorporation of a Company, the company needs to undertake a series of compliance and statutory regulations. They are listed below.

- Opening of bank account

- Maintaining of books
- Allotment of shares
- Income tax registration
- Others (if applicable)
 - o Import Export registrations
 - o Sales tax registration
 - o Service tax registration
 - o Central excise registration, etc

Documents Required:

- Address proof of the office such as lease or rent agreement including the document of the title of the premises.
- Authorization from the landlord to use the premise by the company as its registered office.
- Proof of evidence of any utility service like telephone electricity, etc.
- Passport copy of the foreign National.
- Address proof of the foreign National.
- Photograph of the foreign National.
- Photographic ID proof or any government license of the foreign National.
- Bank statement of the Foreign National.
- Memorandum of Association and Articles of Association of the company.

Processing Timelines

Description of steps	Timeframe to complete
Company incorporation period	18 days
Approval of Corporate Bank Account	1 month

Tax and Accounting

Tax

Corporate Tax

The corporate income tax (CIT) in India is based on income slabs as given below:

Income*	CIT rate (%) **		
	Turnover does not exceed INR 4 billion in FY 2017/18	For other domestic companies	Foreign companies
Less than INR 10 million	26	31.2	41.6
More than INR 10 million but less than INR 100 million	27.82	33.38	42.43
More than INR 100 million	29.12	34.94	43.68

* Surcharge of 10% is payable only where total taxable income exceeds INR 10 million.

** Effective tax rates include surcharge and health and education cess.

- The tax filing should be done annually on or before 31 October. Audited financial statements have to be prepared via registered chartered accountants and auditors.
- GST rate of 12 to 28% is applicable on the sale of products. GST filing has to be done on a quarterly basis. GST filing has to be done on a monthly basis for firms with an annual turnover above US\$ 200,000.
- The resident shareholder dividend is taxed at a rate of 25.17% to 34.94%.
- For non-resident shareholders, the dividend tax is withheld at 20%, plus applicable surcharge and cess subject to double tax treaty which can reduce the rate.
- Long Term Capital Gains Tax (LTCG) for income arising from the sale of shares, debentures, and securities is 10% for residents and non-residents plus surcharge and health and education cess.
- Short Term Capital Gains tax (STCG) for income arising from the sale of shares, debentures, and securities is 15% for residents and non-residents plus surcharge and health and education cess.

Withholding Tax

The rate of withholding tax for foreign investors are given below:

Nature of payment	WHT rate (%)
Interest on foreign currency	5
Interest on money borrowed in foreign currency under a loan agreement or by way of long-term infrastructure bonds	5
Interest on investment in long-term infrastructure bonds issued by Indian company	5
Interest payable on long-term bonds listed on IFSC	4
Non-specified type of interest	20
Royalty and technical fees	10
Dividend income	20
Long-term capital gains other than equity shares of a company or units of equity-oriented fund/business trust on which STT is paid	20
Long-term capital gains on equity shares of a company or units of equity-oriented fund/business trust on which STT is paid	10

Payroll Tax

The Indian payroll tax is based on salary slabs and is collected through tax deduction at source through the employer. The tax rates are as follow:

- Up to INR. 2,50,000 – Nil (Up to ~US\$3375)
- Rs. 2,50,000 to Rs 5,00,000 – 5% (from ~US\$3375 to ~US\$6750)
- INR 5,00,000 to INR 10,00,000 – 20% (from ~US\$6750 to ~US\$13500)
- Above INR 10,00,000 – 30% (above ~US\$13500)

Income Tax

Indian residents and foreign nationals working in India are taxed as per slabs given below:

- Up to INR 2,50,000 – Nil (Up to ~US\$3375)
- INR 2,50,000 to Rs 5,00,000 – 5% (from ~US\$3375 to ~US\$6750)
- INR 5,00,000 to INR 10,00,000 – 20% (from ~US\$6750 to ~US\$13500)
- Above INR 10,00,000 – 30% (above ~US\$13500)

Payroll / HR / PEO / EOR

Specific Information	
Working Weekly Hours	48 hours (maximum 9 hours a day)
Social Contributions (Employer)	12% of income
Social Contributions (Employee)	12% of income
Annual Leave	<ul style="list-style-type: none">- Earned Leave (EL) - a minimum of one day for every 20 days worked.- Casual Leave (CL) – depends on the state.- Sick Leave or Medical Leave - 12 days per annum.- Maternity Leave - 12 weeks paid leave.

Payroll

Indian Payroll system is complicated by the vast number of social security laws, tax calculations, salary structuring mechanisms that impact the final payments made to the employee as well as the total cost to the employer. If these calculations and payments to the employees and authorities are not followed strictly, legal action may follow that would entail penalties and fines as well as a massive rework of all calculations and considerable time and energy sorting the issues with the authorities. For this reason, most foreign investors/companies setting up in India prefer to outsource their payroll to expert agencies that know the Indian payroll systems. Some of the generic benefits of outsourcing payroll include:

- Professional calculation of wages, taxes, superannuation, and other payroll requirements under Indian laws.
- Maintenance of payroll records in a secure manner at both the outsourcing company and client office.
- Highly efficient payment disbursements and payslip distribution.
- Benefits and bonus administration.
- Professional handling of statutory reporting and tax filing.
- Leave records and processes are streamlined.
- Hotline support for employees for any queries related to payroll.
- Online access to employees and employers related to payroll records.
- Management reporting of payroll-related expenses.

HR Administration

The legal requirements in India for maintaining records related to employment and processes involved are carefully scrutinized by authorities. Mistakes made in following these requirements to the satisfaction of authorities can cause unnecessary complications for foreign investor operated companies. Hence, most foreign investors prefer to outsource the HR administration process completely to professional agencies. Outsourcing the HR administration has the following benefits:

- The recruitment process is streamlined as per legal requirements.
- Offer letters and Employment contracts are created as per legal requirements.
- Employee records are maintained as per legal requirements.
- Job profiles creation, employment contract, and any amendments are done in a professional manner.
- Inspections or Audits as required by authorities are handled.
- New Joiners and Resignations information management such as on-boarding, appointment letters, experience certificate, relieving letter, and reporting to relevant authorities is streamlined.

Labour Law and Employment Support Services

The labor laws in India need to be strictly followed by the employer. Foreign employers prefer to employ the services of professional agencies to help with creating the necessary processes and practices that are consistent with the requirements.

Such services include:

- Designing of HR processes, policies, and procedures.
- Preparing employment contractual documentation such as job offers, appointment letters, relieving letter, etc
- Resolving relevant employment-related matters such as working time, shifts, leaves, employee salary, etc
- Personal Data protection policy-related processes

EOR

If a foreign company does not wish to deal with multiple agencies to manage payroll, HR administration, and legal and employee support services, the company may completely outsource their HR function. Under this, the agency assumes full responsibility for hiring, maintenance of records, and other legal responsibilities by maintaining the employees on

their own payroll. This is a far more cost-effective and efficient process as the company does not have to invest heavily in creating and maintaining the infrastructure required to manage all of the HR and accounting activities.

Legal

India is a federal parliamentary constitutional republic. India is a federation with a parliamentary system governed under the Constitution of India. India maintains a hybrid legal system with a mixture of civil, common law, religious law within the legal framework inherited from the colonial era. Since the drafting of the Indian Constitution, Indian laws also adhere to the United Nations guidelines on human rights law and environmental law.

Legal System

The Constitution of India was drafted and adopted by a constituent assembly of elected representatives of the people and came into effect on 26 January 1950.

Corporate Law

- Key regulatory authorities governing foreign investment are:
 - o Department for Promotion of Industry and Internal Trade (**DPIIT**): This formulates India's FDI Policy and issues press notes to amend the FDI Policy.
 - o Reserve Bank of India (**RBI**): This issues circulars, notifications, and regulations under FEMA.
 - o Ministry of Finance (**MOF**): This issued the NDI Rules and is now the notifying authority for any changes to the FDI Policy.
- The key laws that govern foreign investment in India are the:
 - o Foreign Direct Investment Policy (FDI)
 - o Foreign Exchange Management Act 1999 (FEMA)
- As per Indian Law, every company based in India should have at least one director who is a resident in India. All directors including foreign directors are required to obtain the Director's Identification Number (DIN) and Digital Signature Certificate (DSC).
- Annual filing is required as per law for all foreign companies in prescribed forms. This includes information about financial health (Balance Sheet and P&L statements) along with complete information about shareholders, directors, and executives.
- Director's Report is an important document that has to be provided with the annual filings. This report provides details about the company's financial position and overall performance including systems to ensure compliance, risk management, etc. This is required for companies with a paid-up capital of US\$ 3.5 million)
- Ministry of Corporate Affairs maintains a public database of all directors and shareholders of the company in order to maintain commercial transparency.

HR and Employment Laws

- The Indian labor and employment laws make a clear distinction between employees who are defined as 'workmen' (also understood to be blue-collar) and 'non-workmen' (white-collar) such as those who are in management, supervisory or administrative roles. These two categories are governed by a different set of employment laws. The employer has to understand which employee falls in which category and accordingly follow the regulations prescribed under the law.
- As per the Indian Contract Act, an agreement that hinders trade, business, or profession is deemed void. This can have implications pertaining to employment bonds, and non-solicit provisions in an employment contract.
- The Trade Unions Act provides a framework for registration of unions, their rights, and liabilities. Trade Unions were mostly present in the manufacturing sector, but recently, IT industry employees have started coming together to form unions. Key points of this Act are:
 - Formation of Trade Union requires any 7 members which make up not less than 10% of the persons engaged in the establishment or 100 members whichever is lower.
 - No member of the trade union is liable for punishment in respect of any agreement made between the members for the purpose of furthering any object of the trade union.
- The Industrial Disputes makes provision for the investigation and settlement of disputes between employees and employers through Conciliation officer or member of a Board or Court or Presiding officer of a Labour Court, Industrial Tribunal or National Tribunal.
- The Contract Labour (Regulation and Abolition) Act regulates contract labor in India. The Act enjoins Joint and Several responsibilities on the Principal Employer and the Contractor. The Principal Employer should ensure that the Contractor does the following:
 - Pays the wages as determined by the Government, if any, or;
 - Pays the wages as may be fixed by the Commissioner of Labour.
 - In their absence pays fair wages to contract laborers.
- The Equal Remuneration Act mandates equal pay for male and female workers for performing similar tasks.
- The Minimum Wages Act provides the basis for minimum wages across different industries and locations across India. Under this act, different states decide minimum wages for the workers which are categorized as per urban vs rural workers and agriculture vs non-agriculture workers.
- The Employee Provident Fund Act, the Employee State Insurance Act, the Payment of Gratuity Act provide mandatory regulations related to employee social security in India.

Applicable to all foreign workers

- Foreign employees are required to be a part of the Employee Provident Fund. The calculation of contribution for EPF is based on gross salary for foreign employees whereas it is calculated on a basic salary for Indian nationals.
- As per law, the EPF can be withdrawn only after the foreign worker reaches 58 years of age.
- India has signed the Social Security Agreement with 19 countries where the foreign employee already has social security cover in their home countries and thus can collect their EPF contribution on completion of employment in India.
- Foreign workers wishing to remit their salaries to their accounts in the home country are required to obtain an ITCC or income-tax clearance certificate from the income tax authorities.
- If the foreign worker belongs to one of the 90 countries with which India has signed DTAA, they may apply for DTAA exemption by providing a Tax Residency Certificate and proof of payment of tax in their home country.

Intellectual Property Law

India joined the World Intellectual Property Organisation (WIPO) in 1975. The laws that govern intellectual property in India are:

- The Patents Act, 1970
- The Copyright Act, 1957
- The Trade and Merchandise Marks Act, 1958
- The Designs Act, 2000
- The Geographical Indication of Goods (Registration and Protection) Act, 1999

Patents

Patents are protected in India for a period of 20 years from the date of filing of application of patent or from the international filing date as per provisions of the Patent Cooperation Treaty. As per the Patents Act, "invention" means a new product or process involving an inventive step and capable of industrial application.

The Patents Act specifically defines what cannot be patented. E.g.

- Frivolous Inventions.
- Inventions against public order or morality or which causes harm to the environment.
- Mere discovery of scientific principles or any discovery.
- Mere discovery of a known substance is not patentable.

During this period, a patent holder may:

- Stop others from manufacturing, using, or selling the invention in India without permission
- License the invention to anyone for manufacturing

- Take legal action (including claiming compensation) against anyone who is manufacturing the invention without permission

It normally takes 4-5 years for a patent to be granted.

Copyright

Copyright law protects expressions of ideas rather than the ideas themselves. Copyright protection commences the moment a work is created, and its registration is optional. However, it is always advisable to obtain a registration for better protection. Copyright registration does not confer any rights and is merely a prima facie proof of an entry in respect of the work in the Copyright Register maintained by the Registrar of Copyrights.

Indian Copyright Laws protect original works of authorship such as

- literary works (This also covers computer programs, tables, and compilations including computer databases which may be expressed in words, codes, schemes, or in any other form, including a machine-readable medium)
- dramatic, musical, and artistic works,
- cinematographic films and sound recordings

Copyright provides the exclusive right:

- To reproduce the work
- To issue copies of the work to the public
- To perform the work in public
- To communicate the work to the public.
- To make cinematograph film or sound recording in respect of the work
- To make any translation of the work
- To make any adaptation of the work.

In the case of original literary, dramatic, musical, and artistic works, the 60 years period is counted from the year following the death of the author. In the case of cinematograph films, sound recordings, photographs, posthumous publications, anonymous and pseudonymous publications, works of government, and works of international organizations, the 60-year period is counted from the date of publication. Broadcasts and Performances (live visual or acoustic presentation) are protected for 25 years from the date of first broadcast or performance.

Trademark

A trademark is a visual symbol that may be a word signature, name, device, label, numerals, or combination of colors used by one undertaking on goods or services or other articles of commerce to distinguish it from other similar goods or services originating from a different undertaking. The legal requirements to register a trademark under the Act are:

- The selected mark should be capable of being represented graphically (that is in the paper form).

- It should be capable of distinguishing the goods or services of one undertaking from those of others.
- It should be used or proposed to be used the mark in relation to goods or services for the purpose of indicating a connection in the course of trade between the goods or services.

The registration of a trademark confers upon the owner the exclusive right to the use the trademark in relation to the goods or services in respect of which the mark is registered and to indicate so by using the symbol (R), and seek the relief of infringement in appropriate courts in the country.

In India, the term of protection for a trademark is 10 years from the date of application, renewable every 10 years on payment of the requisite fee.

Design

‘Design’ means only the features of shape, configuration, pattern or ornament or composition of lines or color or a combination thereof applied to any article whether two dimensional or three dimensional or in both forms, which in the finished article appeal to and are judged solely by the eye, and does not include any trademark.

The object of the Designs Act is to protect new or original designs so created to be applied or applicable to a particular article to be manufactured by Industrial Process or means.

The registration of a design confers upon the registered proprietor ‘Copyright’ in the design for the period of registration. ‘Copyright’ means the exclusive right to apply a design to the article belonging to the class in which it is registered.

The term of protection for a registered design is 10 years from the date of the application and can be extended for a further five years on payment of an extension fee.

Geographical Indication

Geographical indication is a sign which indicates that:

- It originates from a definite geographical territory.
- It is used to identify agricultural, natural, or manufactured goods.
- The manufactured goods should be produced or processed or prepared in that territory.
- It should have a special quality or reputation or other characteristics.

Registration of geographical indications helps to:

- confer legal protection to Geographical Indications in India.
- prevent unauthorized use of a Registered Geographical Indication by others.
- provide legal protection to Indian Geographical Indications which in turn boost exports.
- promote the economic prosperity of producers of goods produced in a geographical territory.

Although registration is not mandatory, it is recommended to exercise the exclusive right to use the geographical indication and initiate infringement actions.

The registration of a geographical indication is valid for a period of 10 years and can be renewed from time to time for a further period of 10 years each.

Geographical Indication cannot be the subject matter of assignment, transmission, licensing, pledge, mortgage, or such other agreement

Data Protection Law

India has also not yet enacted specific legislation on data protection. The Data Protection Bill is pending approval with the Government of India. Meanwhile, amendments to the Information Technology Act (2000) ("IT Act") to include Section 43A and Section 72A provide some basis for data protection by giving a right to compensation for improper disclosure of personal information.

The Ministry of Electronics and Information Technology is responsible for administering the IT Act and issuing the rules and other clarifications under the IT Act.

Indirect safeguards have been developed by the courts under common law, principles of equity, and the law of breach of confidence. the Supreme Court of India has recognized the right to privacy as a fundamental right under Article 21 of the Constitution as a part of the right to "life" and "personal liberty". "Informational privacy" has been recognized as being a facet of the right to privacy and the court held that information about a person and the right to access that information also needs to be given the protection of privacy.

The Ministry of Electronics and Information Technology is responsible for administering the IT Act and issuing the rules and other clarifications under the IT Act.

Immigration

Visa types

Business Visa

This visa is issued to people visiting India for a business purpose. The validity of this visa is 5 years (Extendable in India)

For obtaining a business visa, the individual should provide proof of good financial standing and experience in the field of investment.

Documents Required:

- Proof of financial standing (Bank statements of self or company, or any document showing the capability to invest)
- Expertise in the field of investment (details of work/business experience)
- Valid Passport with 2 blank pages and 6-month validity from the date of application.
- Introduction letter from the foreign entity (that is being represented by the person)
- Invitation letter of the Indian company
- Certificate of incorporation of the Indian entity.

Employment Visa

This visa is for highly skilled individuals intending to take up employment in India. The validity of this visa is 5 years/period of the contract (Extendable in India).

The salary of these employees should not be less than US \$25000 per annum.

Documents Required:

- Invitation letter from the host Indian company.
- Covering letter from the foreign company.
- Employment contract and income statement.
- Certificate of Incorporation of the host company.
- Certificate of educational qualification and professional expertise.
- A valid passport with 2 blank pages and 6 months validity from the date of application.

Project Visa

This visa is available for individuals who wish to visit India for executing projects in the Power and Steel sectors. The validity of this visa is 1 year or for the actual duration of the project/contract.

Documents Required:

- Letter of Indian entity awarding the contract.
- Letter from the foreign employer describing the contract.
- Certificate of Incorporation of the Indian company.
- A valid passport with 2 blank pages and 6 months validity from the date of application.

"X"/ Entry visa

This visa type is applicable to accompanying families of foreign nationals. The validity of this visa is 5 years (Extendable in India).

Documents Required:

- Marriage/Birth Certificate.
- Invitation Letter or personal request letter.
- A valid passport with 2 blank pages and 6 months validity from the date of application.

Conference Visa

This visa is available to individuals who wish to visit India to attend International seminars/seminars held by Govt./ PSUs/NGOs. The validity of this visa is until the duration of the Conference.

Documents Required:

- A formal letter of invitation to attend the conference from the Indian entity.
- A valid passport with 2 blank pages and 6 months validity from the date of application.

Research Visa

This visa is for individuals pursuing research in any field. The validity of this visa is 5 years (Extendable in India).

Documents Required:

- Letter of admission and Certificate of Affiliation in original from the recognized Indian University/Institution of having secured admission for the research purpose.
- Subject/topic of the research project. Research Proposal (not more than 150 words).
- List of places to be visited in India during the course of the project period.
- A valid passport with 2 blank pages and 6 months validity from the date of application.

Medical Visa

This visa is for individuals seeking medical treatment in India at recognized and specialized hospitals and treatment centers. The validity of this visa is a maximum of 1 year and cannot be extended.

Documents Required:

- Letter from the hospital in India stating that individuals shall receive treatment at their facility, details of the number of days of treatment.
- Evidence of financial capability for the treatment and stay in India.
- A valid passport with 2 blank pages and 6 months validity from the date of application.

Tourist Visa

This visa is for individuals visiting India for tourism. The validity of this visa 30 days (Not extendable in India).

Documents Required:

- Proof of financial standing (return ticket and availability of sufficient bank funds).
- A valid passport with 2 blank pages and 6 months validity from the date of application.

Process of Visa application

1. Depending on the type of visa being sought, collect the necessary documents that would be required.
2. The passport should have at least two blank pages and should be valid for minimum six months.
3. The Government of India has established an online portal for visa application - <https://indianvisaonline.gov.in/>. Fill up the information and upload the photo and passport pages.
4. Pay the prescribed fee through online payment.
5. If required, schedule an appointment with the Indian embassy.
6. Print and sign the application form.
7. Submit the application and required documents including the visa fee receipt to the nearest Indian embassy (Courier may also be used).
8. If required, the applicant may be called to the Indian embassy for interview. Additional information/documents may be asked by the Indian embassy.
9. Once visa is approved, you can collect the passport in person or get it couriered.

Registration with FRRO

It is mandatory to register oneself with the Foreigners Regional Registration Officer (FRRO) within 14 days from the date of arrival in India if the period of stay in India is more than 180 days. The registration is required during the first visit after the visa is issued for multiple-entry visas. Foreigner would be liable for prosecution/fines as per Indian laws, for any delay in fee payment/document upload/not attending interview etc.

This registration has been made online since 2018 and in-person visit to the FRRO is not required anymore in most cases.

The website for the registration is - <https://indianfrro.gov.in/eservices/home.jsp>.

All foreigners who desire Visa and Immigration related services in India viz. Registration, Visa Extension, Visa Conversion, Exit Permit etc need to apply for e-FRRO.

It is advised on the FRRO website that application to the e-FRRO should be made at least 2 weeks in advance.

Applicants have to create their own USER-ID by registering themselves.

It is mandatory to use the applicant's own personal email id during registration. This email id is used to update the applicant at each stage of process before approval by the FRRO and to send the documents post approval.

The upload of photo and documents is mandatory.

If the photo is found to be modified using any software such as photoshop, the application may get rejected. The following requirements are mentioned for photo upload.

- The Photo should be in JPG format.
- The file size of the photo should not exceed 1 MB.
- Photograph should be full face, front view with eyes open.
- The face should be positioned in the centre of the photo and the entire face from top of the hair to the bottom of the chin should be visible.
- Background of the photo should be either white or light colour and plain.
- There should be no shadow on the face or in the background.
- The physical size of the photo should be passport size (3.5 X 3.5 cm or 3.5 X 4.5 cm)

Each signed document should be scanned and uploaded in PDF format. The size of individual PDF should not exceed 1 MB.

Payment should be made using a debit or credit card issued by VISA or Mastercard. The payment can be made using either SBlePay (State Bank of India) or Axis Bank online payment gateway. On successful completion of payment, the applicant is directed back to the <https://indianfrro.gov.in> website.

Following the completion of all mandatory fields in application form and upload of photo and documents, a print should be taken.

On approval from the FRRO, the necessary immigration/Visa document e.g. Registration Permit/Certificate (RP/RC), Visa Extension Certificate etc will be sent by post on the address mentioned. It would also be electronically sent to the foreigner to his registered email ID.

In certain exceptional cases, the foreigner will be intimated to visit the FRRO/FRO on scheduled date and time for interview.

Banking Solutions

India has a large number of international and local banks offering world-class banking service for corporates such as Internet banking, Tele-banking, Credit/Debit Cards, online and over the phone customer support, credit facilities, etc.

It should be noted that opening a bank account in India can be a bit challenging due to the additional time taken for scrutinizing the identity and purpose of the individuals and companies opening the bank account. This is being done to deter corruption/ black money and illegal activities as per the directives of the government.

This results in a typical time of 2 months to open a corporate bank account.

Some of the global banks in India include [Citibank](#), [Standard Chartered Bank](#), [HSBC](#), [Deutsche Bank](#), [DBS Bank](#), [Barclays Bank](#), [Bank of America](#).

Some of the top Indian banks are [State Bank of India](#), [ICICI Bank](#), [HDFC Bank](#), [Axis Bank](#).

Documents Required:

Company Documents required are:

- Memorandum of Association (MOA)
- Articles of Association (AOA)
- Certificate of Incorporation
- Board Resolution (BR) - duly signed
- PAN Card in the name of the company
- Certificate of commencement of business (Only in case of Public Ltd Co)

Individual documents required are (also known as KYC):

- Valid foreign passport.
- Valid Indian visa (it should be a long-term visa that is valid for more than 182 days).
- Copy of Foreigners Registration Office (FRO) permit.
- Overseas address proof.
- Indian address proof.
- Passport-size photograph.
- Copy of PAN card or Form 60.
- RBI approval may be required in some cases.

Account Opening Process

- All required documents including bank account opening form are duly filled and signed.
- The documents are submitted at the branch office where the account is to be operated from.
- Any request for additional information or documents is fulfilled.
- On acceptance of application, bank account is opened and details such as the account number, customer id, login and passwords along with debit/credit cards are provided to the customer.

Time taken to open: 1 – 2 months.

Information Sources:

<https://www.healyconsultants.com>

www.oecd.org

www.heritage.org

www.taxsummaries.pwc.com

<https://cleartax.in>

<https://home.kpmg/xx/en/home/insights/2014/04/india-thinking-beyond-borders.html>

[https://knowledge.leglobal.org/wp-content/uploads/sites/2/LEGlobal-Employment-Law-Overview India 2019-2020.pdf](https://knowledge.leglobal.org/wp-content/uploads/sites/2/LEGlobal-Employment-Law-Overview_India_2019-2020.pdf)

[https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/Doing Business in India.pdf](https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/Doing_Business_in_India.pdf)

<https://www.ukibc.com/india-guide/how-india/legal/>

<https://www.lexology.com/>

<https://uk.practicallaw.thomsonreuters.com/>

<http://www.ipindia.nic.in/>

<https://www.startupindia.gov.in/content/sih/en/international/go-to-market-guide/indian-visa.html>

<http://www.mca.gov.in>

<https://indianfiro.gov.in/eservices/home.jsp>