

## FREQUENTLY ASKED QUESTIONS:

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### **1. What are the forms in which business can be conducted by a foreign company in India?**

**ANS:** Foreign companies can make investments or operate their business in a number of ways such as Liaison, Representative office, Branch Office, Project Office, 100% wholly owned subsidiary and Joint Venture Company. The requisite approval can be granted by Reserve Bank of India. (RBI) or Foreign Investment Promotions Board (FIPB). Any company set up with FDI has to be incorporated under the Indian Companies act with the Registrar of Companies, Ministry of Company Affairs and all Indian operations would be conducted through this company.

### **2. What proposals require an industrial license (IL) and how is it obtained?**

**ANS:** Under the new industrial policy, all industrial undertaking is exempt from licensing except for few industries those are in negative. The project should not be located within 25 kilometers of a city with a population of more than one million as per 1991 Population census. The Government has substantially liberalized the procedures for obtaining an Industrial License. The application in form IL-FC should be filed with the SIA. Approvals are normally granted within 4-6 weeks.

### **3. What is the procedure for a delicensed sector?**

**ANS:** An industrial undertaking exempted from licensing needs only to file information in the Industrial Entrepreneurs Memorandum (IEM) with the SIA, which will issue an acknowledgment. No further approvals are required.

### **4. What is the taxation policy in India?**

**ANS:** Foreign nationals working in India are generally taxed only on their Indian Income. Income received from sources outside India is not taxable unless it is received in India. The Indian tax laws provide for exemption of tax on certain kinds of income earned for services rendered in India. Further, foreign nationals have the option of being taxed under the tax treaties that India may have signed with their country of residence. Remuneration for work done in India is taxable irrespective of the place of receipt. Remuneration includes salaries and wages, pensions, fees, commissions, profits in lieu of or in addition to salary, advance salary and perquisites. Taxable payments include all allowances and tax equalization payments unless specifically excluded. The stock options granted by the employer are taxable as capital gains at the time of sale of shares acquired due to exercise of options.

### **5. What is the situation regarding intellectual property rights protection in India?**

**ANS:** India is a signatory to the agreement concluding the Uruguay Round of GATT negotiations and establishing the World Trade Organization (WTO) and its laws today are WTO compliant. The important regulations dealing with the Intellectual Property Rights are: The Patents Act, The Trademarks Act, The Geographical Indication of Goods Act, The Designs Act.

### **6. Is investment by non-resident Indians (NRI) permitted?**

**ANS:** The Government attaches importance to investments by NRI. Government has provided a liberalized policy framework for approval of NRI investment through both the Automatic and the Government route. NRIs are permitted to invest up to 100% equity in the Real Estate and Civil Aviation Sectors. Automatic Approval is given by the RBI to all NRI proposals with their investment up to 100% for all Items/activities except a few exceptions mentioned in Press notes (2000 series) read with sector specific guidelines. Government approval is required for all proposals not qualifying under Automatic Route.

### **7. Can Profits, dividends, royalty, know how payments be repatriated from India?**

**ANS:** All Profits, dividends, royalty, know how payments that have been approved by the Government / RBI can be repatriated. Some sectors like investment in development of integrated township, NRI investment in real estates, etc. may attract a lock in period.

**8. What are the formalities a joint venture company has to complete to increase the foreign equity holding?**

**ANS:** The following formalities are required for the joint venture that wants to increase in their foreign equity holding by acquisitions of shares or by any other means.

- a) If only quantum of foreign equity increased without change in percentage than press note no. 7(1999 series) maybe followed.
- b) For increase in percentage of foreign equity by way of expansion of capital base, automatic route or FIPB/Government route would apply depending upon the nature of proposal in terms of Press Note No. 2(2000 series)
- c) Cases involving increase in percentage in foreign equity by way of acquiring existing shares in an Indian company would necessarily require prior approval of FIPB/Government if the activity is in the financial sector or the provision of SEBI (Substantial Acquisitions of Shares and Takeover) regulations 1997 is attracted.
- d) In cases involving inclusion of an additional foreign collaborator, guideline laid down in Press note No.1 (2005 series) would have to be satisfied

**9. What is the policy of conversion of non-repatriable shares into repatriable shares?**

**ANS:** FIPB approval is required. Where original investment was made in foreign exchange, the change is allowed without any conditions: if not the sale proceed will have to be repatriated to India by opening a NRO account.

**10. What is the mechanism for publicizing the changes in the FDI policies?**

**ANS:** Changes in FDI policies are brought out in the form of Press Notes by department of industrial policy & promotions (DIPP). Soon after releasing the Press Note to the media, it is also loaded on the departmental website.

**11. What mechanism is available alternative dispute resolution (ICADR)?**

**ANS:** International Center for Alternative Dispute Resolution (ICADR) has been established as an autonomous organization under the aegis of minister of law and justice to promote settlement of domestic and international disputes by different modes of alternate dispute resolution.