This report provides helpful information on the current business environment in India. It is designed to assist companies in doing business and establishing effective banking arrangements. This is one of a series of reports on countries around the world.

Global Banking Service

Report on India

Contents

RBC Royal Bank®

Important to Know

Official languages

- Hindi
- English
- Individual states also recognize their own official languages

Currency

- Rupee (INR)

Bank holidays

2010	
January	26
February	12, 26
March	16
April	1, 2, 14
May	1, 27
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December	16, 25

Source: www.goodbusinessday.com.

Types of Business Structure

Under Indian law, there are several business structures available. Some require a minimum amount of share capital to be paid up before the business can be established. A financial institution must hold the paid share capital in a restricted account until the business is legally established.

Public and private limited companies in India are known as "'joint stock companies" and are governed by the 1956 Indian Companies Act.

Public limited liability company

This is a company whose shares are not registered to their owners and are tradable on a public stock market. This requires a minimum paid up share capital of INR 500,000. A public company must have at least seven members, although there are no restrictions on the maximum number of members involved.

Private limited liability company

This is a company whose shares are registered to its owners and, thus, are not publicly tradable. This requires a minimum share capital of INR 100,000. Total membership must not be fewer than two individuals and must not exceed 50 members.

General partnership

In a general partnership, all partners have full and joint liability. This requires no minimum share capital. General partnerships are limited to a maximum of 20 people (ten people in the case of banking business partnerships).

Limited partnership

In a limited partnership, some partners enjoy limited liability (silent partners) although they are not permitted to exercise managerial control. Other partners are considered general partners and have unlimited liability. Limited partnerships must have two or more members. There is no maximum limit to membership.

Cooperatives

Cooperatives under Indian law are subject to the provisions of the 1912 Co-operative Societies Act and State Co-operative Societies Acts. There must be at least ten members of each cooperative, who either reside or work in the same locality. Liability of members is restricted to the extent of their capital contribution.

Branches and representative offices

Non-Indian companies are entitled to establish a branch or a liaison, project or representative office in India.

Liaison and representative offices require permission from the Reserve Bank of India (RBI) and cannot undertake any commercial activity directly or indirectly. Project offices are for specific projects in India and can set up on temporary sites for carrying out activities only relating to that specific project.

A branch's activities are subject to India's Foreign Exchange Management Regulations. Branch offices require RBI approval and may remit profits outside India, subject to RBI guidelines.

Opening and Operating Bank Accounts

Residency

To be considered resident, a company must be registered in India under the Indian Companies Act 1956 or controlled or managed wholly from within India during the relevant year.

Domestic and foreign currency account restrictions

Residents are permitted to hold local currency (INR) accounts outside India and foreign currency accounts both within and outside India, although a number of restrictions exist on the types of accounts which can be held. Domestic foreign currency accounts for residents are only permitted for unspent foreign exchange, foreign exchange acquired abroad for payment of services not arising from business within India and foreign exchange acquired from non-residents in India as gifts or payments.

A non-resident entity is usually required to have an office within India in order to have a domestic currency account.

Anti-money laundering and counter-terrorist financing rules

- Account opening procedures require formal identification of the account holder. For companies, identification includes the name of the company, its principal place of business, mailing address and telephone/fax number, which must be verified from the certificate of incorporation and memorandum and articles of association. In addition there must be a resolution of the board of directors to open an account, identification of those who have authority to operate the account, details of the power of attorney granted to its managers, officers or employees to transact business on its behalf following identification, a copy of the Permanent Account Number (PAN) allotment letter and a telephone bill.
- Customers must be identified for all domestic wire transfers of INR 50,000 and above and for all cross-border transfers.

Supplied by BCL Burton Copeland (www.bcl.com). Data as at June 2009.

Special purpose accounts required by local regulation

None.

Value-added tax (VAT) on banking services

A service tax of 10.3% is applied on the provision of a number of specified services, including banking and other financial services.

Payment and Collection Instruments

Cash remains the most commonly used payment method for small and medium-value consumer transactions. Card payments are increasingly used for consumer retail payments. The RBI has developed a multi-application consumer smartcard which can be used to pay for banking, insurance and postal services. The card also serves as an identity card. Direct debits are also used to collect consumer payments, primarily by utility companies, although they represent a very small proportion of overall payment volumes.

Electronic funds transfers are the most common method among larger companies for making supplier payments, along with pensions, tax and social security benefit payments. Despite the growth of electronic payment methods, cheques and drafts remain popular instruments for commercial transactions. Electronic funds transfers have become the primary payment method used to make payroll payments, especially by larger companies, although cheques are still commonly used.

Payment Instrument Use (domestic)

Payment instrument	Transactions (million)		% change 2009/2008	Traffic (value) (INR billion)		% change 2009/2008
	2007–08	2008–09		2007–08	2008–09	
Cheques	1,460,560	1,395,910	– 4.4	133,960.66	124,612.17	– 7.0
Credit transfers	78,365	88,394	12.8	7,822.22	9,748.66	24.6
Direct debits	127,120	160,055	25.9	489.37	669.76	36.9
Debit cards	88,306	127,546	44.4	125.21	185.47	48.1
Credit cards	228,203	259,561	13.7	579.59	653.56	12.8
Total	**1,982,554**	**2,031,455**	**2.5**	**142,977.05**	**135,869.52**	**– 5.0**

Source: RBI Bulletin, June 2009.

International Payments

International payments are processed through same-bank networks or by using traditional correspondent banking techniques. Most major banks have direct SWIFT connections.

Payment Processing Times

Transactions processed (INR-denominated)	Value dating rules	Cut-off time(s) in local Indian Standard Time (IST)
High-value and urgent domestic transfers	Real-time settlement, immediate finality	16:30 IST weekdays and 12:30 IST Saturdays
High-value cheques above INR 100,000	Same day, if between two banks in the same city, otherwise on a next-day basis	There are different cut-off times for different banks and local clearing houses
Non-urgent credit and debit payments	Payments are settled on a next-day basis	There are different cut-off times for different banks and local clearing houses
Low-value electronic credit transfers	Payments are settled on a same-day basis	15:30 IST Monday to Friday
Non-urgent cheques	Cheques using magnetic image cheque recognition (MICR) software are settled on a three-day cycle, otherwise settlement takes between five and ten days	There are different cut-off times for different banks and local clearing houses

Central Bank Reporting

The RBI collates balance of payments statistics primarily as a by-product of the administration of the exchange controls. Because all foreign exchange transactions must be routed through authorized banks, companies are not required to report the details of any transactions directly to the RBI.

Exchange Arrangements and Controls

The RBI administers currency exchange controls on behalf of the Indian Government.

Companies must repatriate profits within six months, unless RBI approval has been granted. Exporting resident companies do not have to convert foreign currency receipts, although they must be held in Indian-domiciled foreign currency accounts.

Foreign-owned companies are permitted to repatriate capital as long as the initial capital was denominated in foreign currency. Otherwise there are no restrictions on the remittance of profits.

Forward foreign exchange contracts can only be arranged through authorized dealers. Residents are not permitted to enter into any forward contract for a value above their more recent annual turnover or, if higher, the average of the company's annual turnover over the last three years.

Cash and Liquidity Management

Cash management in India is going through a period of evolution as bank cash management solutions are integrated with companies' enterprise resource planning (ERP) systems. Most liquidity management techniques are focused on domestic optimization of cash. This is due to the number of regulatory and tax restrictions placed on cross-border transactions and non-resident companies.

Physical Cash Concentration

Domestic cash concentration is the predominant liquidity management technique in India. Residents are permitted to take part in a cash concentration structure with accounts held in the name of different legal entities, as long as all participants have the same beneficial ownership and the structure complies with limits on inter-company borrowing levels. However, resident and non-resident accounts do not usually participate in the same cash concentration structure because of the existence of exchange controls and the application of withholding tax.

Notional Cash Pooling

Notional cash pooling is not permitted in India.

Short-term Investment

Bank instruments

Local and foreign currency current accounts and time deposit accounts are available to both residents and non-residents. Time deposits are available for a minimum term of seven days. Interest is usually paid on a quarterly basis, although these quarterly payments can be discounted to facilitate more frequent payment.

Certificates of deposit (CDs) are also issued by banks with maturities lasting between seven days and a year. The minimum amount for investment is INR 100,000.

Non-bank instruments

Commercial paper is available for both resident and non-residents. Paper is issued for maturities ranging from 15 days to one year, with most issued for 61 days, three or six months. The minimum amount for investment in commercial paper is INR 500,000.

The Indian government issues Treasury bills at weekly auctions. Most maturities last 91, 182 and 364 days.

Repurchase agreements (repos) can only be used by RBI-specified financial institutions.

Inter-corporate deposits are also available allowing companies to invest in each other for short periods, up to a maximum six months.

Short-term Borrowing

Bank

Overdraft facilities are available and are reviewed annually, usually with automatic renewal. Interest is charged at prime lending rates for small facilities, although larger entities may be able to arrange lower-cost overdraft facilities. The short-term loan minimum element of companies' working capital facilities is 80%.

Non-bank

Larger companies can issue commercial paper. Issues must be rated by a RBI-approved credit rating agency.

Taxation

Corporate Taxation

- A flat tax rate of 33.99% is levied on all business income of domestic companies, irrespective of their income levels. Foreign companies are subject to a tax rate of 42.23%. However, if the income of a domestic company or foreign company during the financial year does not exceed INR 10 million, the relevant tax rate will be 30.9% in the case of a domestic company and 41.2% in the case of a foreign company.
- Residents of India are taxed on their worldwide income. A non-resident company is chargeable to tax on the income derived from Indian sources.
- A corporate dividend tax of 16.995% is payable by a domestic company on dividends declared. Dividends are tax exempt in the hands of the shareholder.
- A minimum alternate tax is payable by a company if the income tax payable on the total income relevant to the assessment year commencing on or after April 1, 2007 is less than 10% of its book profit. In this circumstance the book profit shall be deemed to be the total income, and tax payable on such total income shall be 10% of the income tax rate. The 10% rate is increased by applicable surcharges and an education cess (tax), resulting in the minimum alternate tax rate rising to 10.3% if the income of the company is less than INR 10 million and 11.33% if the income of the company exceeds INR 10 million.

Advance Tax Ruling Availability

- Advance rulings from the Authority for Advance Rulings are permitted in respect of transactions undertaken, or proposed to be undertaken, by non-residents.
- A resident company may approach the Authority in relation to any transaction undertaken, or proposed to be undertaken, by the resident with a non-resident.
- Advance rulings are binding for both the applicant and the revenue authorities.

Withholding Tax (subject to tax treaties)

Payments to	Dividend*	Interest**	Royalties	Fee for technical services	Long-term capital gain	Short-term capital gain	Other income
Where total income including capital gains exceeds INR 10 million:							
Resident companies	Nil	22.66%	11.33%	11.33%	22.66% or 11.33%	16.995%	†
Non-resident companies	Nil	21.115%††	10.5575%‡	10.5575%	21.115% or 10.5575%	15.836%	42.23%
Where total income including capital gains does not exceed INR 10 million:							
Resident companies	Nil	20.60%	10.30%	10.30%	20.60% or 10.30%	15.45%	†
Non-resident companies	Nil	20.60%††	10.30%‡	10.30%	20.60% or 10.30%	15.45%	41.20%

* On dividends distributed by a domestic company on which dividend distribution tax is paid/payable. ** Other than interest on securities. † Variable, depending on nature of income. †† In respect of interest on foreign currency loans. ‡ In respect of agreements entered into before June 1, 2005, the applicable rate of tax is 21.115%. The above rate is subject to the fact that the agreement is approved by the Central Government or, where it relates to a matter included in the industrial policy of the Government of India, the agreement is in accordance with that policy. Lower rates as prescribed in tax treaties would be used wherever applicable.

Capital Gains Tax

- Capital gains are calculated and taxed based on the holding period of capital assets. Based on the holding period, assets are classified into long-term assets and short-term assets.
- Short-term assets are:
  - shares, specified securities and units held for not more than 12 months; and
  - other assets held for not more than 36 months.
- Assets other than short-term assets are considered to be long-term assets.
- Gains are computed with reference to the sales price and cost. In the case of long-term capital assets, cost is normally indexed with reference to the Cost Inflation Index.
- Special provisions exist governing the computation of capital gains in respect of shares or debentures acquired in a foreign currency by non-residents.

- Long-term capital gains, other than shares, securities, etc. are taxed at the rate of 21.115% in the case of non-resident companies and 22.66% in the case of domestic companies. However, if the income of a domestic company or foreign company during the financial year does not exceed INR 10 million, a tax rate of 20.60% is levied for both domestic companies as well as foreign companies. The short-term capital gains are taxed at the normal income tax rates.
- Shares, securities, etc. sold on the stock exchange attract security transactions tax varying between 0.017% and 0.125% of the value of the sale or purchase price of the shares, etc. Short-term capital gains on such assets are subject to tax at 15.836% in the case of non-resident companies and 16.995% in the case of domestic companies. However, if the income of a domestic company or foreign company during the financial year does not exceed INR 10 million, a tax rate of 15.45% is levied for both domestic companies as well as foreign companies. No tax is levied on long-term capital gains relating to such assets.
- Long-term assets that are listed securities not sold on stock exchanges attract a maximum tax of 11.33% in the case of domestic companies and 10.5575% in the case of non-resident companies on the gain without indexation.
- Capital losses can only be set off against the capital gains of the company in the current period or carried forward for a period of eight financial years to be offset against the capital gains. However, long-term capital losses can only be offset against long-term capital gains.
- Subject to specific conditions, long-term capital gains are exempt from tax if the sale proceeds or capital gains are reinvested in specified types of assets within the stipulated time period.
- The buy-back of shares by a company is subject to capital gains tax in the hands of the shareholder.

Stamp Duty

- Financial instruments and transactions in India attract stamp duties that are levied under the Indian Stamp Act and the stamp acts of the various states; however, these vary significantly from state to state. The transfer of specific securities to and from a depository is not liable to stamp duty.

Thin Capitalization

- There are no thin capitalization rules in India.

Transfer Pricing

- The income earned or expenses incurred by a company from an international transaction with an associated enterprise should be at arm's length for the purposes of income tax. The transfer pricing regime is influenced by the Organisation for Economic Co-Operation and Development (OECD) norms, although the penal provisions are much more stringent.
- The law requires the company subject to tax to maintain prescribed information and documents.
- The provision also requires the company subject to tax to obtain a certificate (in the prescribed format) from a chartered accountant disclosing the details of the international transactions with associated enterprises, along with the methods applied for benchmarking.

Sales Taxes / VAT

- VAT is a state levy and applies to the sale of goods within the state. Each state has its own VAT legislation applicable to intra-state transactions. The rate of tax for most industrial products is 12.5%. However rates of 4%, 1% and nil also exist for some products. As a multi-point tax, VAT has its own credit mechanism to avoid the cascading effect.
- Central Sales Tax (CST) is a central levy and is applicable on inter-state sales. The rate of CST at present is 2%, subject to the fulfilment of certain conditions. In cases where the conditions are not fulfilled, the rate applicable on such goods in the state of sale would be applied.

All tax information supplied by Deloitte LLP (www.deloitte.com). Data as at April 1, 2009.

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