

# Free Guide on Setting Up an Office in India

Office Set-up Guidelines in India

An outline on how businesses can set-up an office in India, a Branch Office, an Incorporation, Documentation, Procedures and Compliances.

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8/18/2015



# Opening a Branch in India

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**'Gapeseed Consulting' comes with the experience of setting up offices across India & Asia. Our team has managed branch offices, project offices and has rendered Business Support through all forms – payroll, staffing, operations and accounting.**

## **Options and Requirements for Foreign Investors Opening a Branch in India**

There are certain conditions for opening a branch in India for a foreign company. A branch can be opened for specific purposes, and there are some requirements and conditions for opening a branch office in India.

The consultants at Gapeseed Consulting will render support on your choice of office, the feasibility and the procedure involved in the same – be it policy related, geographical or technical.

## **Branch in India - Purposes**

Foreign companies are allowed to set up Branch Offices in India for the following purposes:

### **Activities permitted:**

1. Export and/ or Import of goods.
2. Rendering services of professional or consultancy nature.
3. Research work in the areas in which the parent company is engaged.
4. Promoting technical or financial collaborations between Indian companies and the parent or the overseas group company.
5. Representing the parent company in India and acting as buying / selling agent in India.
6. Rendering technical support to the products supplied by parent/group companies.
7. Rendering services in Information Technology and development of software in India.
8. Foreign airline/shipping company
9. Foreign Banks

### **Non-permissible activities:**

1. Retail trading activities of any nature.
2. Manufacturing or processing activities, directly or indirectly.

**Note:** A branch office is not allowed to carry out manufacturing activities on its own but is permitted to subcontract these to an Indian manufacturer. Branch Offices established with the approval of RBI, may remit outside India profit of the branch, net of applicable Indian taxes and subject to RBI guidelines. Permission for setting up branch offices is granted by the Reserve Bank of India (RBI).

You can read more about the recent policies of [Make in India](#) initiative of Indian Government.

## **Requirements and Conditions of a Branch Office**

- The name of Indian Branch office shall be same as parent company.

- The Branch office does not have any ownership; it is just extension of the existing company in the foreign country.
- All the expenses of the BRANCH office are met by the head office, if it does not have the revenue from Indian operations.
- The foreign parent company looking to start a Branch office in India shall have a profitable track record during immediately preceding five years in the home country.
- The Net Worth i.e. total of paid-up capital and free reserves, less intangible assets as per the latest Audited Balance Sheet or Account Statement certified by a Certified Public Accountant or any Registered Accounts Practitioner by whatever name shall be not less than or equal to USD 100,000.

A branch office is suitable for foreign companies looking to setup a temporary office in India and not interested or not planning to have long term plans for the Indian operations; except banking, shipping and airlines etc.

### **Documents required for forming a Branch Office in India**

Currently as per the RBI Requirement the application for the branch office and BRANCH office is submitted through the Authorized dealer. The authorized dealer means the various institution having banking licenses. The following filings are required to open a branch office in India:

- Form FNC 1 (Three copies)
- Letter from the principal officer of the Parent company to RBI.
- Letter of authority from the parent company in favor of Local Representative.
- Letter of authority/ Resolution from parent company for setting up BRANCH office in India.
- Comfort letter from the parent company intending to support the operation in India.
- Two copies of the English version of the Certificate of Incorporation, Memorandum & Articles of association (Charter Document) of the parent company duly attested by the Indian embassy or notary public in the country of registration.
- Certification of Incorporation - Translated & duly notarized and properly authenticated.
- The Latest audited Balance sheet and annual accounts of parent company duly Translated notarized for past Three years and properly authenticated
- Name, Address, email ID and telephone number of the authorized person in Home Country.
- Details of Bankers of the Organization the Country of Origin along with the bank account number
- Commitment from the Organization to the effect that it will be open to report / opinion sought from its banker by the Government of India / Reserve Bank of India
- Expected funding level for operations in India.
- Details Relating to address of the proposed local office, number of persons likely to be employed, number of Foreigners among such employees and address of the head of the Local office, if decided
- Details of Activity carried out in Home Country by the applicant organization in brief about the product and services of company in Brief.
- Bankers Certificate
- Latest Proof of identity of all the Directors - Properly Certified by Banker in Home Country and duly authenticated
- Latest Proof of address all of Directors - Properly Certified by Banker in Home Country and duly authenticated
- Details of the Individuals / Company holding more 10% of Equity

- Structure of the Organization and its Shareholding pattern
- Complete KYC of Shareholders holding more than 10% Equity in the Applicant Company
- Resolution for Opening up Bank Account with the Banker
- Duly Signed Bank Account Opening Form for Indian Bank

The application for BRANCH office Licenses is approved by the RBI, but as per the recent changes the applications for BRANCH office are routed through the Authorized Dealers (AD). Due to this the timeline for setting up the BRANCH office has increased tremendously. Further the documentation required for the same has also increased to a great extent.

### **Other Incorporation Requirements for Branch Office**

Every Branch office registered with RBI shall get itself registered with the Ministry of Corporate Affairs; it is a registration by the Branch office as an establishment of foreign company in India. On such registration a CIN i.e., Corporate Identity Number is allotted by the Registrar of Companies. The following documents shall be filled with the Registrar of Companies:

- Charter, statutes or memorandum and articles of association or other Instrument constituting or defining the constitution of the company(In the manner provided under Rule 16, 17 of the Companies (Central Government's) General Rules and Forms, 1956)
- If the above documents are not in English then the translated version of the documents.
- Director(s) details - individuals
- Director(s) details - bodies corporate
- Reserve bank of India approval letter
- Secretary(s) details
- Power of attorney or board resolution in favor of the authorized representative(s)

### **Post Incorporation Procedural Requirements**

After Incorporation, the following requirements are also necessary for a branch office:

- Permanent account number - PAN
- Tax deduction number - tan number Shop & establishment
- Registration Service Tax Registration if the
- Branch provides any services in India
- VAT & CST Registration If the Branch carries out trading activities in India

### **Annual Compliance Activities required for a Branch Office**

Every year a branch office is required to undertake the following activities:

- Maintenance of Books of Account
- Getting Annual Accounts audited
- Filing of Annual Activity Certificate with RBI
- Filing of Annual Return and Balance sheet with Registrar of Companies
- Intimating any change in constitution of Foreign Company to RBI & ROC
- Intimating any change in Directors of Foreign Company to RBI & ROC
- Intimating each and every change in the BRANCH office to RBI & ROC

- No additional place of business can be started unless approval is taken from RBI.

## **How to Close a Branch Office in India**

Generally a branch office license is given for three years. If at any time a Company plans to close the branch office setup in India it shall file the necessary documents with the RBI through its Authorized Dealer.

Gapeseed provides the support from documentation to compliance with the Authorized Dealers. The application for the closure generally includes the followings:

- Copy of the Reserve Bank's permission/ approval from the sectoral regulator(s) for establishing the BO / LO.
- Auditor's certificate: i) indicating the manner in which the remittable amount has been arrived at and supported by a statement of assets and liabilities of the applicant, and indicating the manner of disposal of assets; ii) confirming that all liabilities in India including arrears of gratuity and other benefits to employees, etc., of the Office have been either fully met or adequately provided for; and iii) confirming that no income accruing from sources outside India (including proceeds of exports) has remained un-repatriated to India.
- No-objection / Tax Clearance Certificate from Income-Tax authority for the remittance/s.
- Confirmation from the applicant/parent company that no legal proceedings in any Court in India are pending and there is no legal impediment to the remittance.
- A report from the Registrar of Companies regarding compliance with the provisions of the Companies Act, 1956, in case of winding up of the Office in India.
- Any other document/s, specified by the Reserve Bank while granting approval.

We can further assist with your case, after looking at all the documents mentioned above.

## **Branch office on 'Stand Alone basis" in India**

Stand Alone Branch Offices are isolated and restricted to the Special Economic Zone (SEZ) alone and no business activity/transaction is allowed outside the SEZs in India, which include branches/subsidiaries of its parent office in India.

No approval is necessary from RBI for a company to establish a branch/unit in SEZs to undertake manufacturing and service activities subject to specified conditions.

SEZ is also considered most suitable and safest investment zone for businesses entering the Indian sub-continent.

## **Liaison Office/Representative Office**

A Liaison Office could be established with the approval of the government of India. The functionality of Liaison Office is limited to collection of information, promotion of exports/imports and further facilitates technical/financial collaborations. Liaison office cannot undertake any commercial activity directly or indirectly.

## Project Office

Foreign companies planning to execute specific projects in India can set up temporary project/site offices in India for carrying out activities only relating to that project. The Government of India has now granted general permission to foreign entities to establish project offices subject to specified conditions.

**Note:** For a foreign investor in India it is very important to choose a right kind of business or corporate entity which best suits its purposes and takes care of liability issues and tax planning issues. Foreign Companies planning to do business in India should pay special attention to Entry Strategies & Tax Planning for Foreign Investors and corporate structuring to save taxes to the best extent allowed by laws and international tax treaties.

We are pleased to offer this guide for you and your team as a welcome token to Indian Business & economy. Please connect with us for any further support.

**For More Details** write to us at [info@gapeseedconsulting.com](mailto:info@gapeseedconsulting.com) with the subject, 'Setting up a Business in India' and we will be happy to help.

You can also fill up this [contact form here](#) and we will touch base with you. **Or call us at,**

**+91-9599444639 | +91-9599444630 between 9am to 6pm, Monday to Friday**