India entry for foreign companies: subsidiary, FEMA and GST.

The right vehicle, clean FDI and FEMA compliance, and an entity that can invoice, hire and bank from day one. A practical setup guide for foreign companies entering India.

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Choose the right vehicle

- **Wholly-owned subsidiary (Pvt Ltd)** — the default for operating businesses; full FDI under the automatic route in most sectors.
- **LLP** — lighter compliance; FDI allowed in sectors with 100% automatic route and no performance conditions.
- **Branch / Liaison / Project Office** — for representation, project execution or limited activity; RBI/AD approval and narrower scope.

Incorporation & registrations

Name reservation and incorporation (SPICe+), PAN/TAN, GST registration, and a bank account — typically 4–6 weeks to an entity that can invoice, hire and bank.

FDI & FEMA

Inbound equity is reported on **FC-GPR** within 30 days of allotment; pricing must meet FEMA pricing guidelines and sectoral caps. Downstream investment and ODI have their own filings.

Tax & transfer pricing

An Indian subsidiary of a foreign parent has related-party transactions from day one — service fees, cost recharges, IP. These need an arm's-length policy and Form 3CEB. Corporate tax follows the Income-tax Act, 2025 (erstwhile Income-tax Act, 1961).

Ongoing compliance

ROC annual filings, GST returns, TDS, payroll and FEMA reporting run on a fixed calendar — handled in-house or via our Virtual CFO desk.

Choosing between the vehicles: the questions that decide it

The comparison is rarely about incorporation cost — it is about what the entity must be able to do in year three. Four questions settle most cases:

- **Will it earn revenue in India?** A liaison office cannot invoice at all; a branch can, but only within its RBI-approved scope and at a 35% tax rate on branch profits. Revenue businesses end up as subsidiaries almost every time.
- **Will it need outside capital or ESOPs?** Only a company issues shares cleanly to investors and employees. An LLP that later needs equity converts under time pressure.
- **How heavy is the parent's control?** A branch is legally the foreign company — its India dealings expose the parent's global income to Indian audit questions. A subsidiary ring-fences that: the parent's exposure stops at its shareholding and the transfer-pricing file.
- **Is the sector caught by conditions?** Most services and manufacturing are 100% automatic-route; retail, insurance, defence and a handful of others carry caps, conditions or approval routes that reshape the structure.

Two constraints that surprise foreign boards

The resident director. Every Indian company needs at least one director who stays in India 182+ days in the financial year. Decide before filing whether that is a relocating founder, a local hire or a professional director — retrofitting one delays incorporation.

Press Note 3. Any investment where an entity or beneficial owner sits in a country sharing a land border with India — China most prominently, including Hong Kong-routed structures — needs *prior government approval* regardless of sector or size. It applies to indirect stakes too: a Chinese fund holding a slice of the investing parent can trigger it. The approval runs months, not weeks, and it is the first cap-table question we ask.

The real long pole: banking and money-in

Incorporation is fast; the **bank account** is not. Foreign-shareholder KYC — apostilled charter documents, beneficial-ownership declarations, director verification — clears at the bank's pace, and nothing else can finish without it: the subscription money cannot land, so shares cannot be allotted, so FC-GPR cannot be filed, so later remittances stay blocked. Start the apostille chain and the bank file in week one, in parallel with the SPICe+ filing, and the 4–6 week timeline holds. Start them after incorporation and it stretches toward ten.

Invoicing-ready means more than incorporated

To raise a compliant first invoice — usually to the parent — you need GST registration with a **Letter of Undertaking filed** (so export-of-services invoices go out without charging 18% GST, with input credits refundable), a signed **intercompany agreement** priced on a transfer-pricing-defensible basis, and the FIRC trail for each inward remittance that your auditor and the RBI's annual FLA return will ask for. The intercompany agreement is the one to get right first: it anchors the tax position for every year that follows.

The first-year calendar, honestly

Budget for the full stack from day one, whatever the headcount: statutory audit and AGM, the income-tax return (31 October where transfer pricing applies) with **Form 3CEB**, monthly or quarterly GST returns, quarterly TDS returns, payroll (PF/ESI) once employees join, MCA annual filings (AOC-4, MGT-7), the commencement-of-business filing (INC-20A, within 180 days), and the RBI's **FLA return by 15 July**. A two-person subsidiary carries essentially the same calendar as a two-hundred-person one — which is why most foreign parents outsource it entirely rather than hire for it.

Common questions

What is the best entity for a foreign company entering India?

For an operating business, a wholly-owned private limited subsidiary is usual — most sectors allow 100% FDI on the automatic route. A branch/liaison office suits representation or project work.

How long does it take to set up an Indian subsidiary?

Usually 3–5 weeks from documents to an incorporated, PAN/GST-registered entity with a bank account, depending on document legalisation from the home country.

What FEMA filing is needed after foreign investment?

Equity infusions are reported on Form FC-GPR within 30 days of share allotment, at a price compliant with FEMA pricing guidelines.

This guide is general information, not legal or tax advice; positions turn on the facts of each case and the notified Rules. Get in touch for advice on your situation.

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