

Doing Business in India

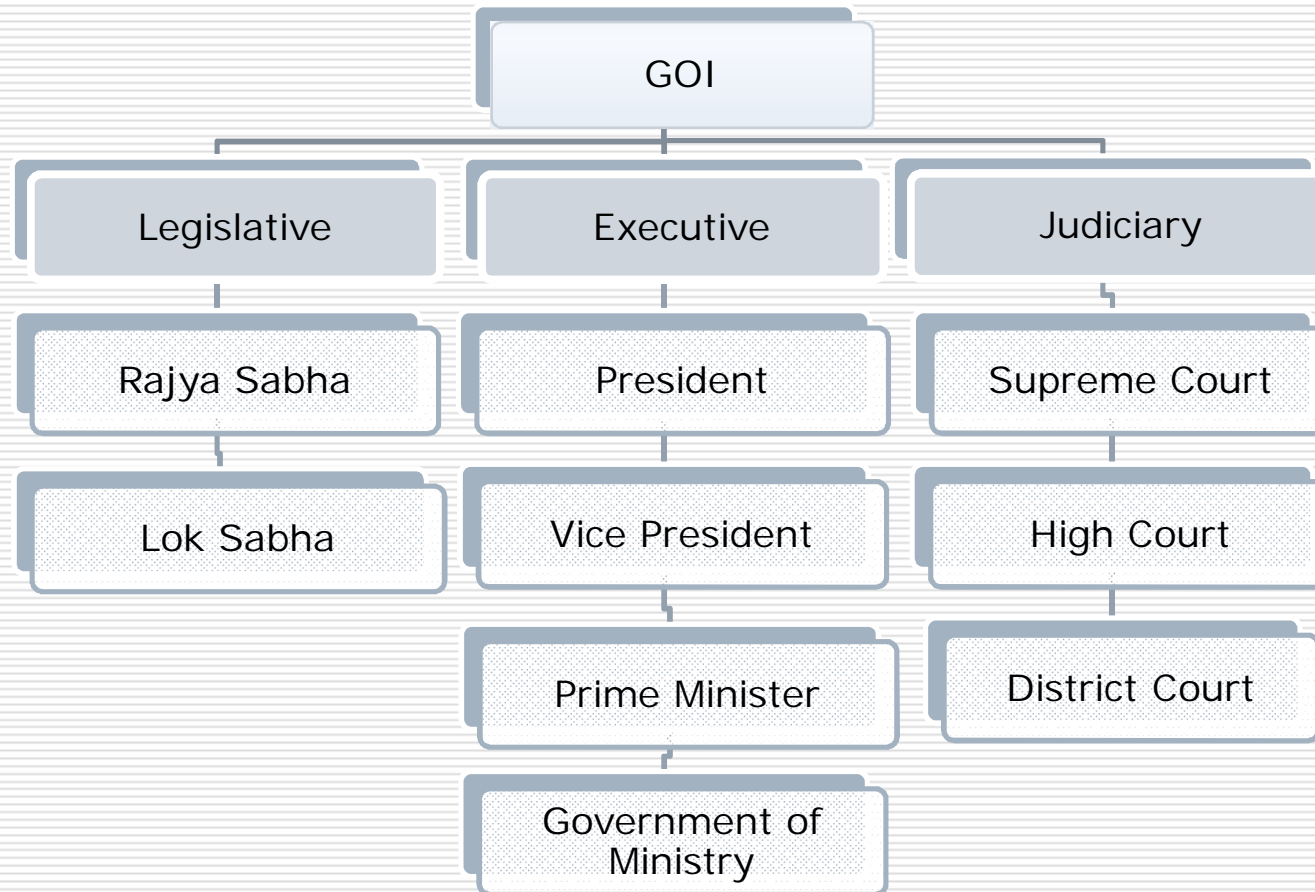


Why India?

- ❑ Large Country with 28 States and 7 UT.
- ❑ Country rich in history, culture, religion & diversity.
- ❑ 22 Officially recognised languages
- ❑ 2 decades of Economic Liberalisation
- ❑ Large and fast growing middle class
- ❑ Rapidly growing domestic consumption
- ❑ Availability of skilled manpower:- Literacy rate of 74%
- ❑ Lower cost of Production:- Lower Labour Rates
- ❑ Government emphasis on infra improvement

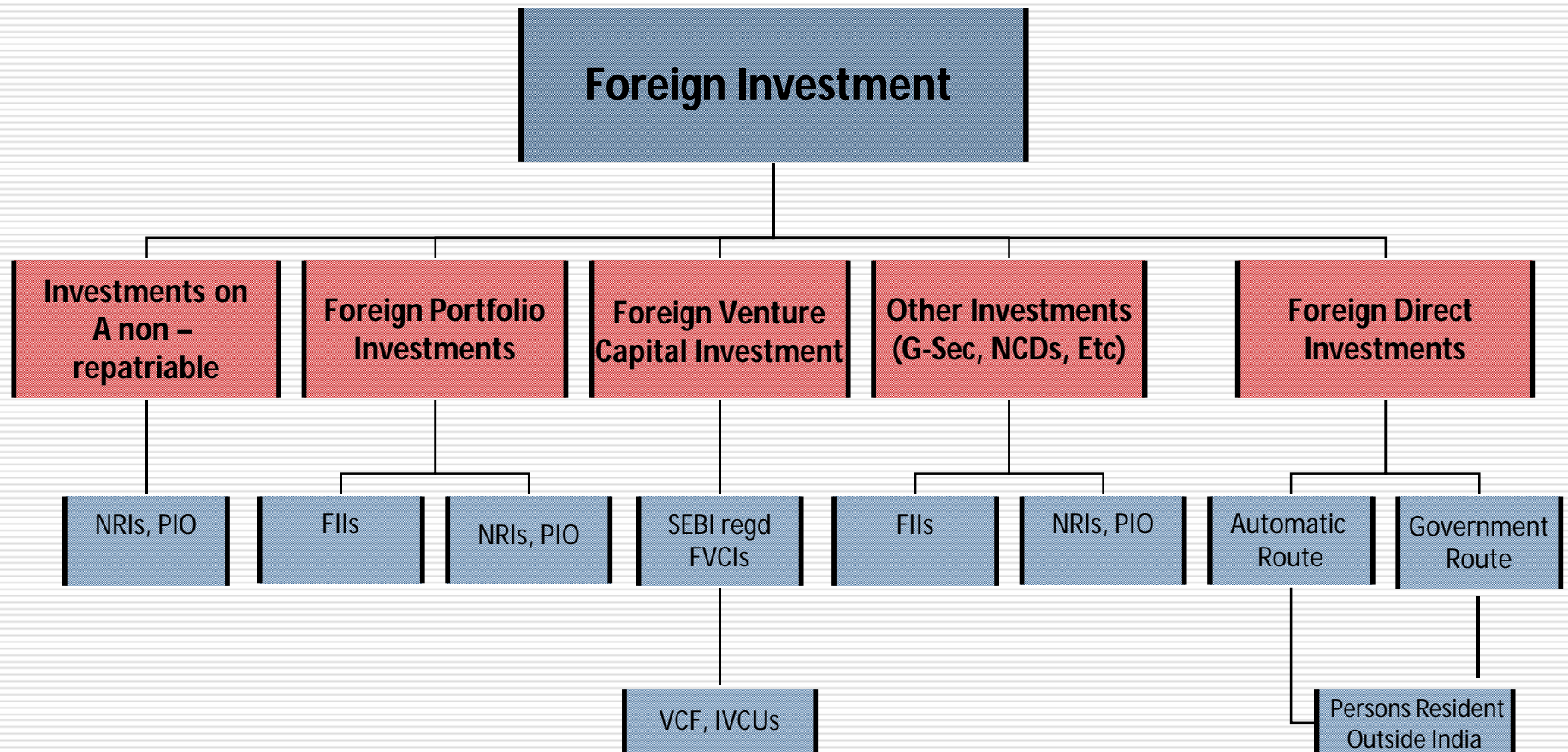


Government Functionary

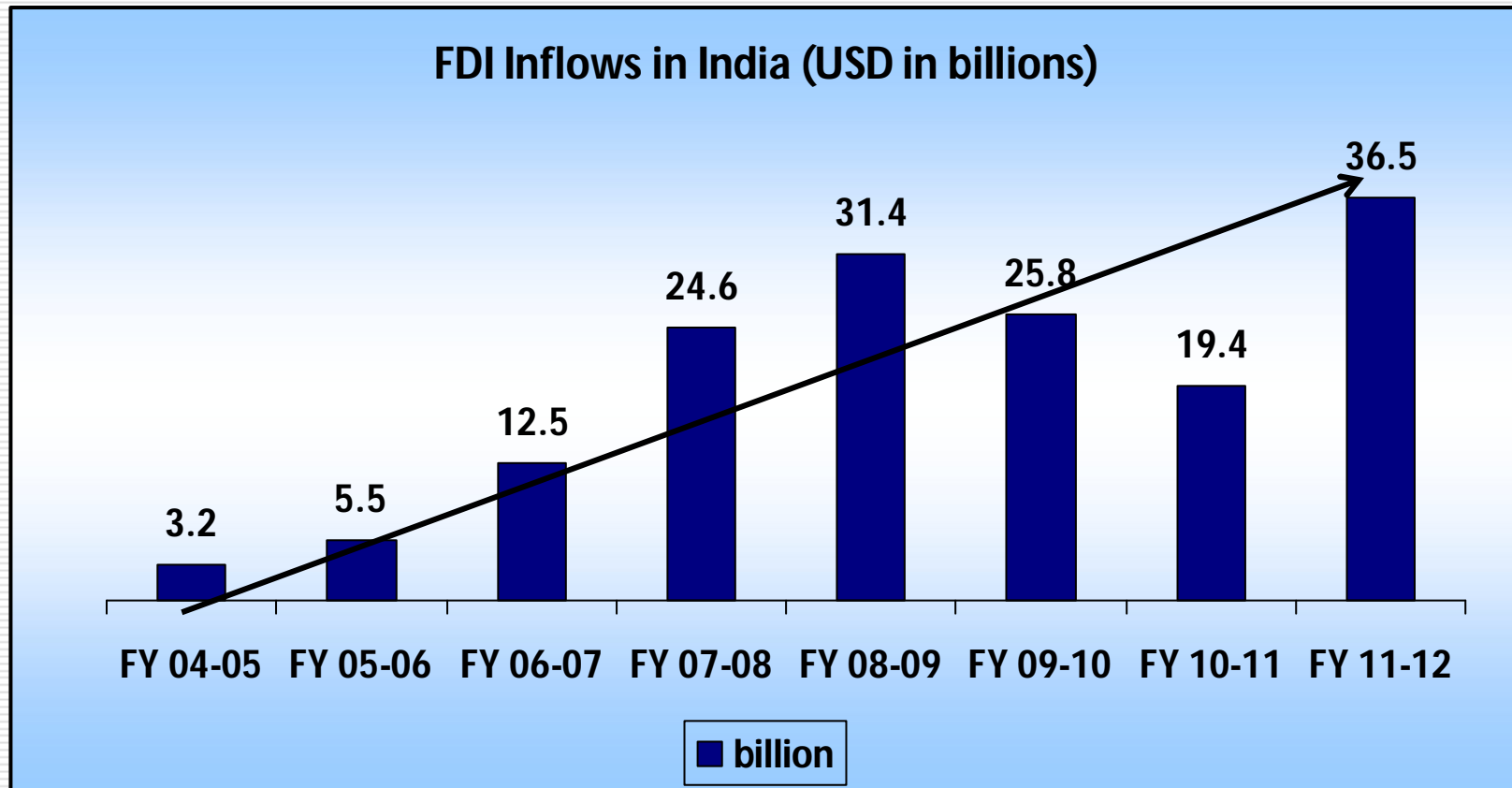


Foreign Investment in India

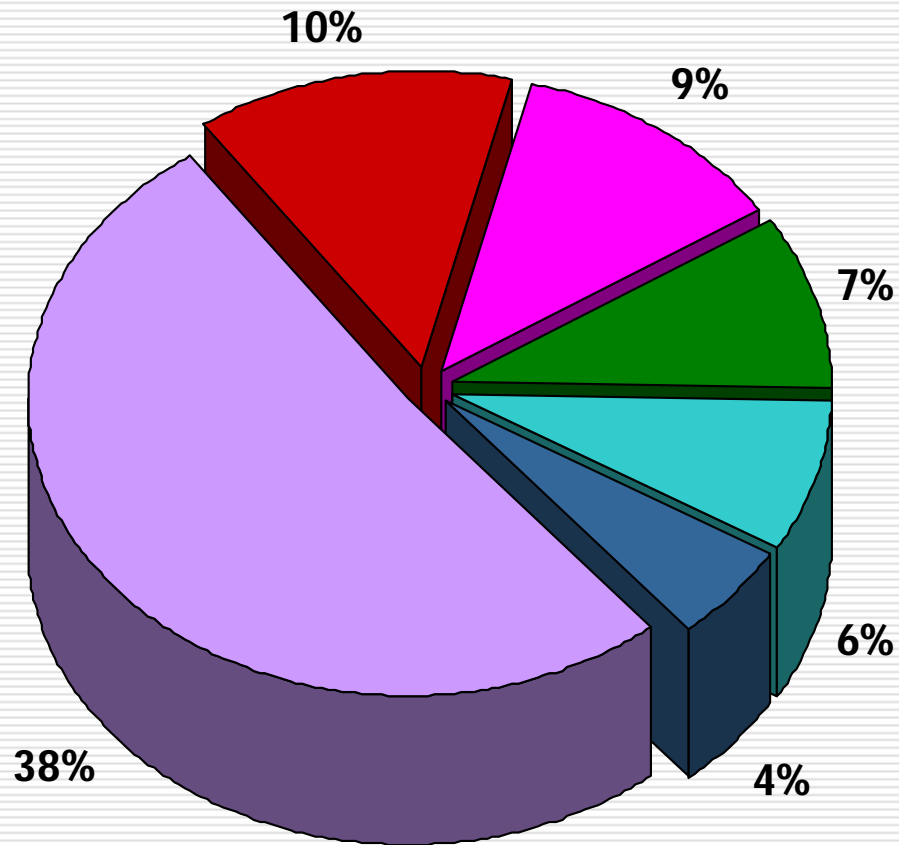
(Schematic Representation)



Yearwise FDI inflows in India



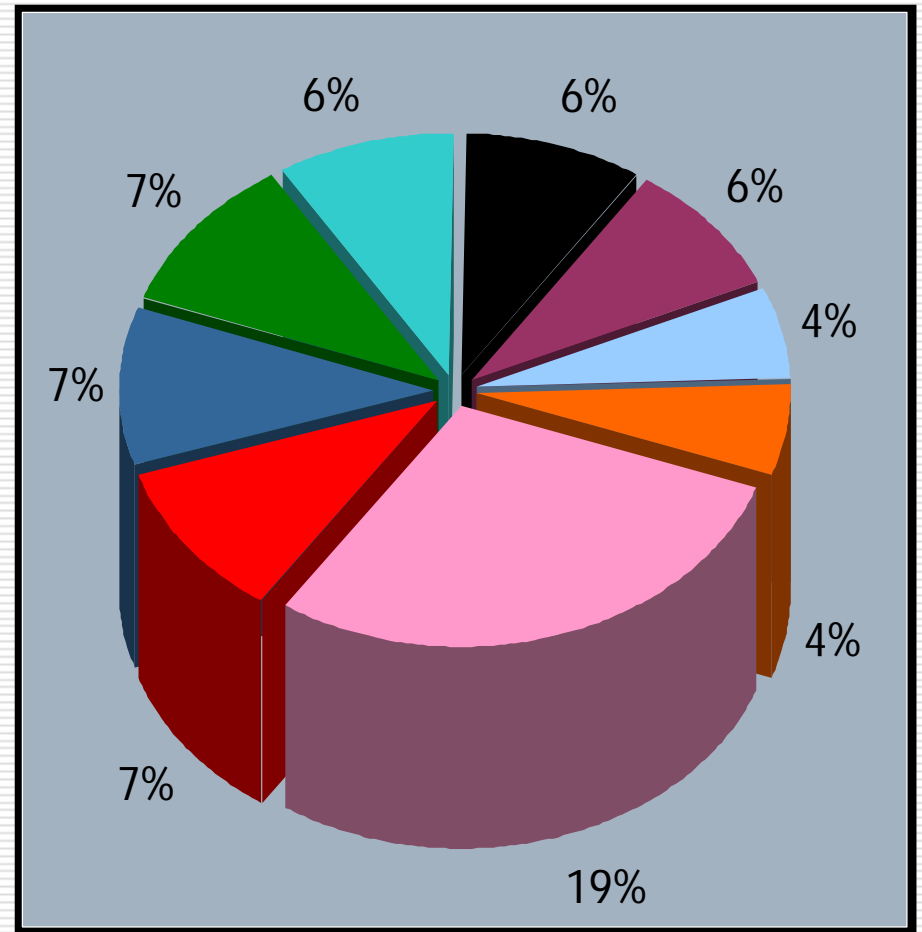
Country-wise FDI



Country	% of total inflows
Mauritius	38%
Singapore	10%
UK	9%
Japan	7%
USA	6%
Netherlands	4%

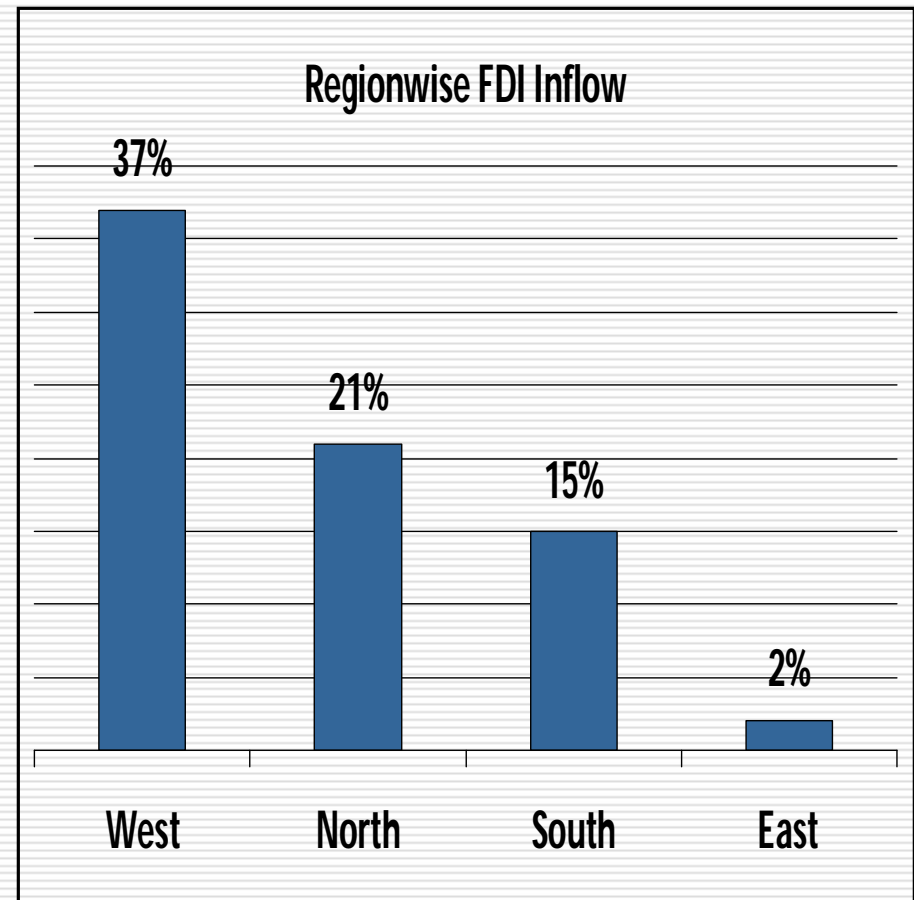
Sector-wise FDI

Sectors	% of total inflows
Services	19%
Telecom	7%
Construction Activities	7%
Computer Software & Hardware	7%
Housing & Real Estate	6%
Chemicals	6%
Drugs & Pharma	6%
Power	4%
Auto	4%

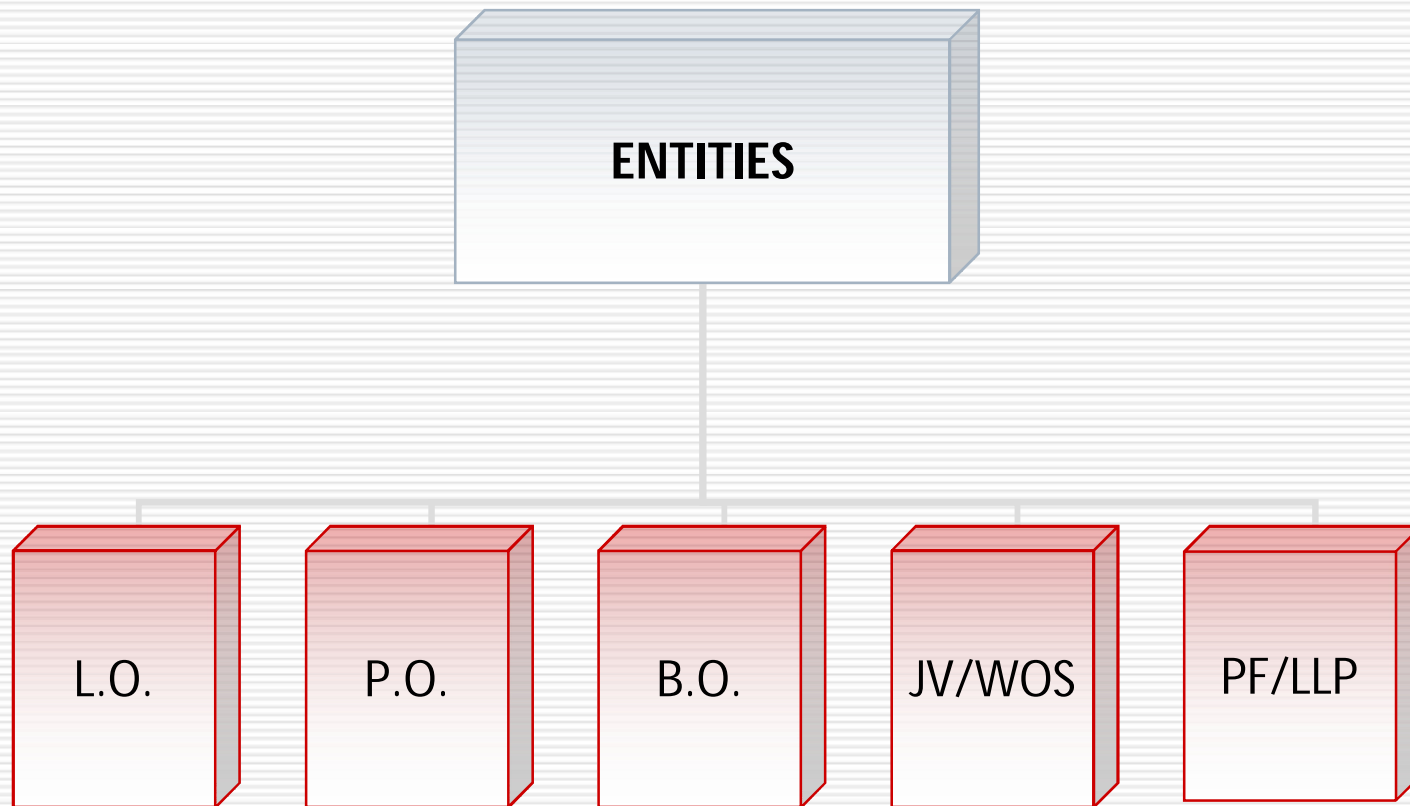


Region-wise FDI

Ranks	Region	% of total inflows
1	Mumbai+ Ahmedabad = West	37
2	Delhi + Chandigarh = North	21
3	Bangalore+ Chennai + Hyderabad = South	15
4	Kolkata = East	2



Foreign Direct Investment



Liaison Office (L.O.)

- ❑ A representative office of the foreign entity.
- ❑ To explore and understand business and investment climate.
- ❑ Communication channel between parent Company and Indian entities.
- ❑ Parent Company with track record of 3 years and Networth of USD 50,000
- ❑ **Permitted activities:**
 - Represent parent/group Company in India.
 - Promote export/import
 - Promote technical/financial collaboration.
 - Acts a communication channel



Liaison Office (L.O.)

- ❑ No income generating activity.
- ❑ Cannot buy immovable property
- ❑ All the expenses to be borne by parent company.
- ❑ A representative based in India.
- ❑ RBI permission is necessary.
- ❑ Annual Accounts to be filed with Tax Authorities.
- ❑ Recent amendment in Tax Rules – Lot of information required by Tax Authority.



Project Office (P.O.)

- ❑ Foreign company has secured a contract from Indian Company to execute project in India
- ❑ Conditions under automatic route:
 - Project is funded by inward remittance
 - Project is funded by bilateral or multilateral International Financing Agency
 - Project is approved by appropriate authority
 - Indian entity awarding the contract is granted by public financial institution or a bank in India.
 - Corporate Tax at rate applicable to foreign LOS.

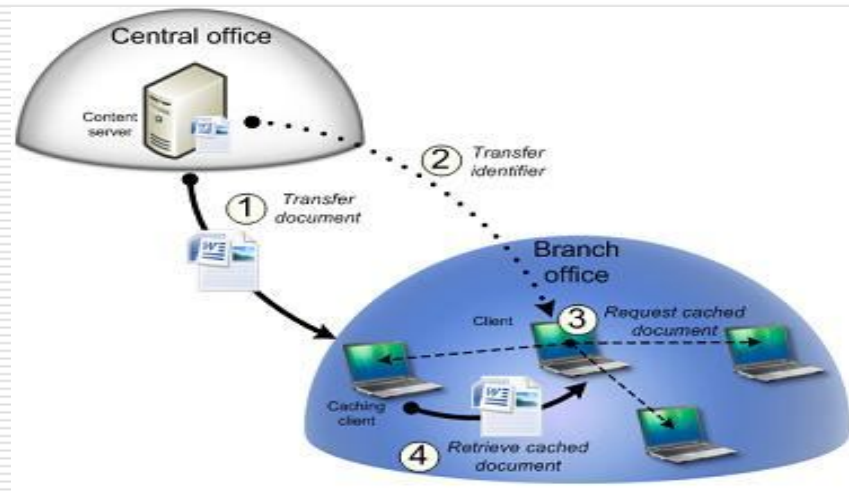


Branch Office (B.O.)

- ❑ To carry on same or substantially same activity as that of the parent Company.
- ❑ Parent Company with track record of 5 years and Networth of USD 100,000.
- ❑ **Permitted activities -**
 - Export/Import of goods
 - Professional/Consultancy services
 - Research work
 - Promote technical/financial collaboration
 - Act as buying/selling agent for parent Company
 - Services in IT or software development
 - Render technical support to products supplied by parent Company.
- ❑ **Prohibited activities -**
 - Retail trading
 - Accepting deposit
 - Any activity other than expressly approved by RBI.

Branch Office (B.O.)

- ❑ A representative based in India.
- ❑ RBI permission is necessary.
- ❑ Can acquire immovable property if it is necessary to carry out business activity from there.
- ❑ Profits are fully repatriable, after payment of tax.
- ❑ Applicable tax rate is 41.20%.
- ❑ No more tax on repatriation.



Wholly Owned Subsidiary (WOS) or Joint Venture (JV)

- ❑ A foreign Company is permitted to set up a WOS or a JV in India.
- ❑ Restrictions mainly based on Nature of proposed Activity in India.
- ❑ “Automatic Route” or “Approval Route” - Based on some conditions and criteria.
- ❑ Automatic Route: No Government/RBI permission necessary.
- ❑ Approval Route: Prior Government/RBI permission.
- ❑ A Company can be formed with The Registrar of Companies (ROC)
- ❑ Minimum of 2 shareholders and 2 directors.
- ❑ Shareholders and directors need not be Indians.

Wholly Owned Subsidiary (WOS) or Joint Venture (JV)

- ❑ Minimum Paid up share capital - INR 100,000.
- ❑ Valuation of shares under Discounted Free Cash Flow (DCF) method certified by Chartered Accountant.
- ❑ Financial Projections and Forecast needs to be shared upfront.
- ❑ Minimum of 4 Board Meetings and 1 Annual General Meeting.
- ❑ Can acquire immovable property if necessary to carry out business from there.

Company Formation

- ❑ Directors' Identification Number (DIN) and Digital Signature of Directors
- ❑ Get approval of name.
- ❑ Draft Memorandum of Association (MOA) and Articles of Association (AOA)
- ❑ Pay requisite Stamp duty and filing fees.
- ❑ All the documents will be vetted by the ROC.
- ❑ Certificate of Incorporation.

FORM I.



CERTIFICATE OF INCORPORATION
CIN.....**U74910TN2005PTC058157**

I hereby certify that..... **AMARNATH MANPOWER CONSULTANCY
AND TRAVELS PRIVATE LIMITED**.....

.....
is this day incorporated under the Companies Act 1956 (No.1 of 1956) and that the
Company is Limited.

Given under my hand at..... **CHENNAI**.....
this..... **FIRST**.....day of..... **DECEMBER**
TENTH.....
AGRAHAYANA.....

Two thousand **FIVE**
One thousand nine hundred and **TWENTY SEVEN** (Saka)

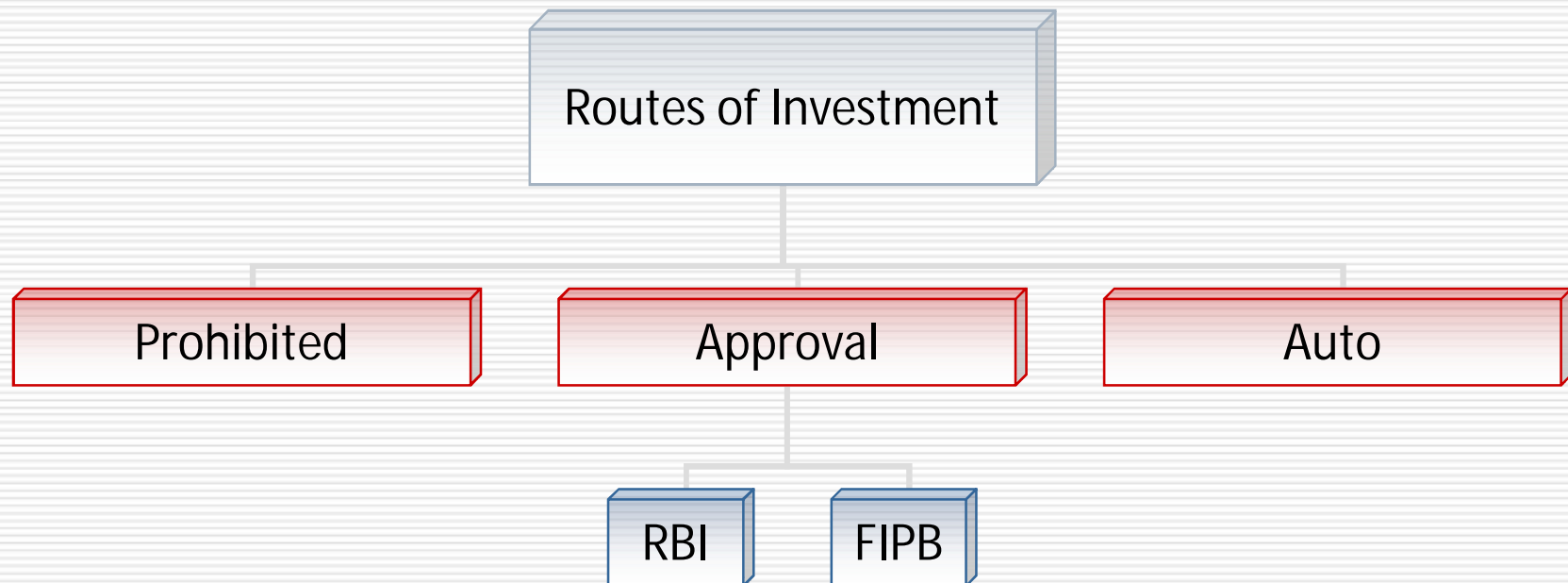


Asst. **(R. V. UNNIKRISHNAN)**
Registrar of Companies
TAMIL NADU

Types of Securities

- ❑ Equity shares
- ❑ Fully, compulsory, mandatory convertible preference shares and debentures.
- ❑ Other types of preference shares/debentures are considered as debt.
- ❑ Inward remittance on issue of Depository Receipts (DRs) and Foreign Currency Convertible Bonds (FCCBs) are treated as FDI.

Foreign Direct Investment



Prohibited Sectors

- Retail Trading (except single brand product retailing)
- Atomic Energy
- Lottery
- Gambling and Betting
- Chit fund
- Nidhi Company
- Trading in Transferable Development Right (TDR)
- Real Estate Business or Construction of Farm House
- Activities/Sectors not opened to private sector investment
- Agriculture and plantations (excepts selected activities)
- Manufacture of Cigars, cheroots, tobacco products etc.



Sector Specific Guidelines

❑ Manufacturing:

- Industrial Undertaking not a micro or small scale enterprise (MSEs) manufactures items reserved for MSE sector would require Government approval if the foreign Investment is more than 24% in equity capital.

❑ Service Sector:

- **Advertising** – 100% FDI allowed under automatic route.
- **Films** – 100% FDI allowed in Film industry including film financing, production, distribution, exhibition, marketing and associated activities.
- **Cable Network:** permitted up to 49% under Government route.

❑ Business Service:

- 100% FDI under automatic route for Data processing, software development, computer consultancy, business management services, Market research, testing and analysis.

Sector Specific Guidelines

- ❑ **Health and Medical Services** – 100% FDI allowed under automatic route.
- ❑ **Hotel and Tourism Industry** – 100% FDI allowed under automatic route.
 - Hotel includes restaurants and beach resorts.
 - Tourism Industry includes:
 - ❑ Travel agencies, Tour operators, tourist transporters
 - ❑ Convention/seminar units and organisations.
- ❑ **Investment Advisory services, Financial Consultancy, Credit Rating agencies** – 100% FDI allowed under automatic route.

Development of Township:

❑ **Minimum Area**

- Service housing plots – 10 hectares
- Construction-development projects – built-up area of 50,000 sq. mtrs.

❑ **Investments:**

- For WOS – US\$ 10 million.
- For JV with Indian Company – US\$ 5 million.
- Funds have to be brought in within 6 months of commencement of business
- Original investment cannot be repatriated before 3 years from completion of minimum capitalisation.

Above terms do not apply for investment by NRI. They also do not apply for development of SEZ.

Development of Township:

➤ Other Terms:

- At least 50% of the project must be completed within 5 years from obtaining all statutory compliances.
- Company is not permitted to sell undeveloped plots.
- Company must obtain all necessary approvals, plans, licenses under applicable rules/bye-laws/regulations.
- FDI is not allowed in Real Estate Business.



Cash & Carry Wholesale Trading

- ❑ WT would mean sale of goods to retailers, industrial, commercial, institutional or other professional business users and related subordinate service providers. Such sale should be made for the purpose of trade, business and profession and not for personal consumption.
- ❑ WT can be undertaken as per normal business practice, including extending **normal credit facilities**.
- ❑ WT sales will be considered valid only if the buyer holds sales tax/VAT registration, Service Tax/Excise Duty Registration, trade licenses and permits for undertaking retail trade from Government Authorities or institutes having registration as a society or public trust.
- ❑ **WT cannot open retail shops to sell to consumers directly.**
- ❑ **Trading for Exports** – 100% FDI allowed under automatic route.

Single Brand Product Retailing

- ❑ FDI up to 51% in retail trade of 'single brand' products is allowed under approval route subject to:
 - Product should be of 'Single Brand' only.
 - Product should be sold under the same brand internationally.
 - Will cover only those products which are branded during manufacturing.
 - The foreign investor should be the owner of the brand.

- ❑ The FDI cap of 51% in single brand product retail trading has now been revised to up to 100% by the Department of Industrial Policy and Promotion with an additional condition, other than the ones mentioned above, that where the FDI exceeds 51%, mandatory sourcing of at least 30% of the value of products sold would have to be done from Indian small industries/ village and cottage industries, artisans and craftsmen.

RBI Approvals

❑ Transactions where RBI prior approval is required.

- ✓ Indian Company engaged in Financial sector
- ✓ Attracts SEBI takeover code.
- ✓ Activity is outside automatic route
- ✓ Transaction price falls outside the pricing guidelines.
- ✓ When non resident buyer proposes deferment of payment.
- ✓ Companies engaged in sectors falling under Govt. route.

Reporting Requirement

❑ Reporting of Inflow:

- Within 30 days of date of receipt in Ann – 5
- Foreign Inward Remittance Certificate – FIRC
- KYC report on overseas investor in Ann – 6

❑ Reporting of issue of Shares:

- Form FC-GPR within 30 days of allotment of shares
- Part A of the form be submitted by the Company Management
- Annual Return to be submitted by 15th July every year.
- The form includes all foreign investments made into the company.
- Details of bonus/right shares of stock options to persons resident outside India.
- Issue of shares on conversion of ECB/Royalty/Lump sum fees etc.



Reporting Requirement

Reporting of transfer of shares:

- Form FC-TRS within 60 days of date of receipt of consideration.

Reporting on non-cash:

- Full or Partial conversion of ECB into Equity share capital is allowed.
- Form FC-GPR and Form ECB-2 has to be filed within 7 working days from the close of the month.

Repatriation

❑ Repatriation of Dividend:

- Governed by FEMA (Current Account Transaction) Rules 2000
- Freely repatriable Net of Taxes or Dividend Distribution Tax @ 16.23%.

❑ Repatriation of Interest:

- Governed by FEMA (Current Account Transaction) Rules 2000
- Interest on fully, mandatorily & compulsorily convertible debentures is freely repatriable Net of Taxes.

Compliances



Income Tax

- ❑ Obtain Permanent Account Number. (PAN)
- ❑ Obtain Tax Deduction Account Number (TAN)
- ❑ Estimate annual income and pay Advance Tax in 4 installments.
- ❑ The Financial Year is 1st April to 31st March.
- ❑ Get Accounts audited by a Chartered Accountants' firm.
- ❑ File Computation of Taxable Income and Return of Income.
- ❑ The Income Tax is payable at 30.90%
- ❑ The assessment can be done within one year from the date of filing.
- ❑ Can file appeal before CIT(Appeal), Income Tax Tribunal, High Court and Supreme Court.

Tax Deduction at Source

- ❑ The company is required to deduct tax at source on certain expenses at the prescribed rates and pay to the government before prescribed dates.
- ❑ Issue certificate for such tax deduction to the payee.
- ❑ File TDS Return every quarter in respect of all the tax deductions certificates.
- ❑ Any foreign remittance made towards certain payment like Royalty, Fee for Technical services, Interest, Dividend are subject to Tax Deduction at Source.
- ❑ The Tax to be deducted will be lower of the rates provided in Indian Income Tax or Double Tax Avoidance Agreement between countries.
- ❑ If foreign Company does not have PAN card in India, the rate of tax deduction will be 20.60%

Value Added Tax (VAT)

- ❑ For Companies engaged in dealing of goods.
- ❑ State level charge.
- ❑ VAT paid on Purchase can be set-off against VAT liability on sale of goods.
- ❑ Depending on the quantum of Liability, periodicity of VAT returns is determined ie. Monthly or Annually.
- ❑ VAT will not be applicable on Export of goods.
- ❑ Central Sales Tax (CST) is applicable for inter-state transactions.



CERTIFICATE OF REGISTRATION FOR VALUE ADDED TAX


HM Customs and Excise

MORENA ENTERPRISES LTD
KRAFTWORK VEHICLE REFINISHING
POOLES LANE
HIGHWOOD
CHELMSFORD
ESSEX
CM1 9GL

REGISTRATION NUMBER **923 6137 33**
EFFECTIVE DATE **04 FEBRUARY 2008**
CERTIFICATE ISSUED ON **18 JANUARY 2008**
RETURNS TO BE MADE IN RESPECT OF PERIOD ENDING **31 MARCH 2008** AND THREE MONTHLY THEREAFTER
BANK CODE NO: **20-19-95**
BANK A/C NO: **10914894**
LEGAL ENTITY **INCORPORATED COMPANY**
TRADE CLASSIFICATION **45200 - MAINTENANCE & REPAIR OF MOTOR VEHICLES**

Please check the above details are correct. It is particularly important that your bank details are accurate as they will be used to make any repayment of tax that may be due to you.

You should inform the National Registration Service of any error or change in these details. Please refer to the supplement of notice 700/1 *Should I be registered for VAT?* or refer to the Customs and Excise website at www.hmce.gov.uk, to find out which of the registration sites you should contact.

If you need further advice and help please ring Customs and Excise National Advice Service on 0845 010 9000 between 8.00am and 8.00pm, Monday to Friday. If you have hearing difficulties, please ring the Textphone service on 0845 000 0200.

If you would like to speak to someone in Welsh, please ring 0845 010 0300, between 8.00am and 6.00pm, Monday to Friday.

Profession Tax

- ❑ Every company is required to obtain the Profession Tax certificate
- ❑ Annual payment of Rs. 2,500/-.
- ❑ Deduct and pay from the salary of the employees and pay as per prescribed slabs.
- ❑ File Annual Return.

Ahmedabad Municipal Corporation
Mahanagar Seva Sadan, Ahmedabad
Profession Tax
Certificate of Registration (RC)
Form No. 2 1101
[see Rule 3(2)]

under sub-section (1) of section 5 of
The Gujarat State Tax on Profession, Trade, Calling and Employments Act, 1976.

Registration No. : P R C 0 1 6 1 1 0 0 0 3

This is to certify that the Proprietor/Partner/Principal/Officer/Agent/Manager/Head of the Office/Establishment/Club/Association/Society/Corporation/Company known as VARAHI EDUCATION COLLEGE and located at D. Cabin, Sabarmati has been registered as an employer under the Gujarat State Tax on Profession, Trade, Calling and Employment Act, 1976.

The holder of this certificate has additional place of work at the following addresses.

Return in the prescribed form shall be furnished by the employer in respect of each month separately.

The tax shall be payable monthly with the return and receipt of payment of the tax shall be attached to the return. :

Signature : આસી. સેનેજર
સહી : મહેશ્વર દેસા
Designation : નિવાસ પચ્ચિમ ઝોન
બીલ :

SEAL

AHMEDABAD-DATE 21/5/09

ઓફિસે મળવાનો સમય દરપોરના ૩-૩૦ થી ૫-૩૦ કલાકે (કામકાજના દિવસોમાં)
Please visit www.egovamc.com for details.

Service Tax

- ❑ For Companies engaged in providing services.
- ❑ Service tax is applicable @ 12.36%.
- ❑ Payable now on accrual basis every month.
- ❑ Return needs to be filed every six monthly.
- ❑ Under “Export of Services Rules”, certain category of services provided to foreign enterprises is exempt, subject to conditions.
- ❑ Under “Import of Services Rules”, certain category of services provided by foreign enterprise is also taxable in India.



Provident Fund/ ESIC

- ❑ Every Company with more than 20 employees to register with Provident Fund authorities.
- ❑ Deduct employees contribution from their Salary
- ❑ Make equal contribution by the Company
- ❑ Deposit in the PF account every month



Shop Establishment License

- ❑ Every company is required to obtain Shop and Establishment License from local authority.
- ❑ This License has to be renewed periodically.



Transfer Pricing Regulations

- ❑ International transactions with the “Associated Enterprises”
- ❑ Transactions have to be at Fair Market Value
- ❑ As per Transfer Pricing regulation, the company has to:
 - Do an Industry analysis of profit margins between to non-related parties engaged in similar business in similar circumstances.
 - Maintain specified records
 - Obtain a certificate of Chartered Accountants
 - Subject to scrutiny assessment by tax authority if the annual transactions exceed Rs. 15 crores.

VISA

VISA and Registration:

- ❑ No provision for "VISA on Arrival". Foreign passengers to ensure that they have valid VISA before they start journey.
- ❑ Visitors to India need VISA to enter country unless they are Indian Categories. NRI's holding a transship of other country also need VISA unless they hold PIO card



VISA

Business VISA:

- ❑ Multiple entry Business VISA for ST not exceeding 6m are used for business trips
- ❑ Multiple entry business VISA for LT visits are used for extended periods
- ❑ Letter from sponsoring organisation indicating Nature of a's business
- ❑ Probable Stay, Places & Organisations to be visited
- ❑ Guarantee to meet maintenance are should accompany application

VISA

Employment VISA:

- ❑ Multi entry visa valid from 1-5 years
- ❑ Appointment and Contract letters
- ❑ Proof that organisation is register in India
- ❑ Foreign national sector to practical profession must required with RBI
- ❑ All foreign nationals are required to register with police authority with 14 days from their date of arrival if their uses are valued for longer than 6 months

Discounted Cash Flow Method (DCF)

RBI has revised the pricing guidelines Vide A.P. (DIR Series) Circular No. 49 (“**Circular**”) dated May 4, 2010 for issue/transfer of shares from a resident to a non-resident and vice-versa and notified the pricing norms with respect to issue of shares to non-residents.

Listed Entities:

Type of Issue	Pricing Guideline
Issue of shares	At or above the price arrived at as per the applicable “ SEBI ” guidelines.
Rights Issue	At a price as determined by the company as per the applicable “ SEBI ” guidelines.

Discounted Cash Flow Method (DCF)

Listed Entities:

Type of Issue	Pricing Guideline
Preferential Allotment	At a price not be lower than the price as applicable to transfer of shares from residents to non-residents.
Transfer by resident to non-resident (i.e. to foreign national, Non-Resident Indian (" NRI "), Foreign Institutional Investor (" FII ") and incorporated non-resident entity other than erstwhile Overseas Corporate Body (" OCB ")	The price of shares transferred by way of sale should not be less than the price at which a preferential allotment of shares can be made under the SEBI guidelines.

Discounted Cash Flow Method (DCF)

Listed Entities:

Type of Issue	Pricing Guideline
Transfer by non-resident (i.e. by incorporated non-resident entity, erstwhile OCB, foreign national, NRI, FII) to resident.	The price of shares transferred by way of sale should not be more than the Preferential Allotment Price.

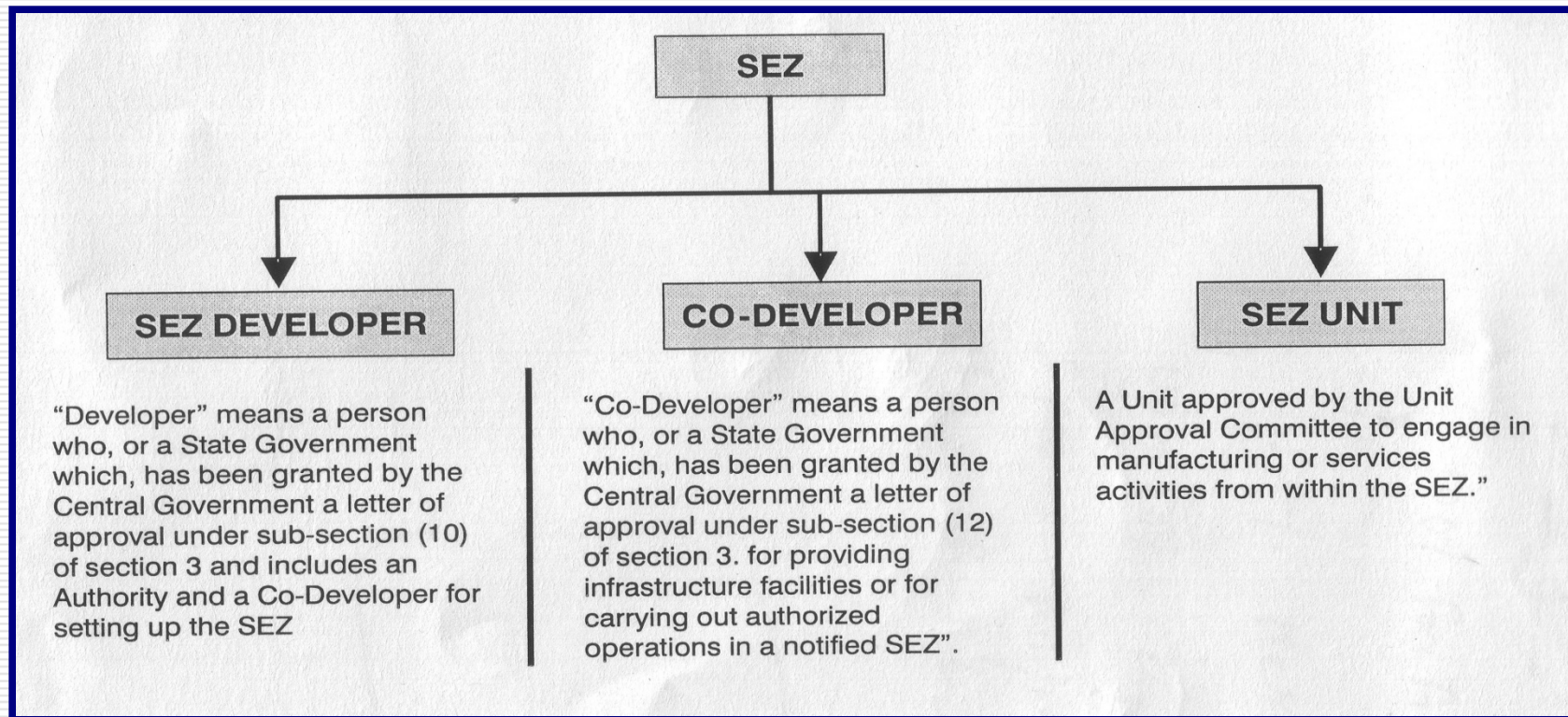
Discounted Cash Flow Method (DCF)

Non Listed Entities:

Type of Issue	Pricing Guideline
Issue of shares	At a price which is not lower than the fair valuation done by a SEBI registered Category-1 Merchant Banker (“ MB ”) or a CA as per the <u>DCF method</u> .
Rights Issue	At a price which is not lower than that at which the offer is made to resident shareholders.
Preferential Allotment	At a price not less than the price as applicable to transfer of shares from residents to non-residents.
Transfer by resident to non-resident	At a price not less than the fair value to be determined by a MB or a CA as per the <u>DCF method</u> .
Transfer by non-resident to resident.	At a price not more than the fair value to be determined by a MB or a CA as per the <u>DCF method</u> .

Special Economic Zone (SEZ)

Entities in SEZ:



Special Economic Zone (SEZ)

Objectives

- ❑ Specified, delineated and duty-free geographical region
- ❑ Trade capacity development tool, with the goal to promote rapid economic growth by using tax and business incentives to attract foreign investment and technology

Special Economic Zone (SEZ)

Advantages

- ❑ 100% FDI for manufacturing sector
- ❑ No caps on foreign investments for SSI reserved items
- ❑ Single window clearance
- ❑ Branch of foreign company- Can start Manufacturing without RBI permission
- ❑ Job work for overseas principal allowed
- ❑ No minimum export commitment on Units.
- ❑ Units only to be net foreign exchange earner at the end of 5 year period and every 5 years thereafter

Special Economic Zone (SEZ)

Advantages

- ❑ Validity of lease of land/facility by unit from developer to be for a minimum of 5 years
- ❑ Direct and Indirect tax benefits
- ❑ Trading is a permitted activity subject to some restrictions
- ❑ Simplified Exit Process

Special Economic Zone (SEZ)

Tax Benefits

Type of Tax	Developers/Co-Developers	SEZ Units
Income Tax	<p><u>Under Section 80IAB of the Income tax Act</u></p> <p>100% of the Profit for 10 consecutive years out of block of 15 years starting from the year in which SEZ is notified.</p>	<p><u>Under Section 10AA of the Income tax Act</u></p> <p>-100% for first 5 years; -50% for next 5 years; and -Up to 50% for further 5 years subject to creation of specified reserve</p>
Minimum Alternate Tax (MAT)	Applicable @18.5% plus surcharge if applicable	Applicable @18.5% plus surcharge if applicable

Special Economic Zone (SEZ)

Tax Benefits

Type of Tax	Developers/Co-Developers	SEZ Units
Dividend Distribution Tax	Applicable @15% plus surcharge	Applicable @15% plus surcharge
Custom Duty	Exempted on Import of capital goods, consumables, spares etc.	Exempted on Import of capital goods, consumables, spares etc.
Excise Duty	Exempted on local procurement of Capital goods, consumables, spares etc	Exempted on local procurement of Capital goods, consumables, spares etc

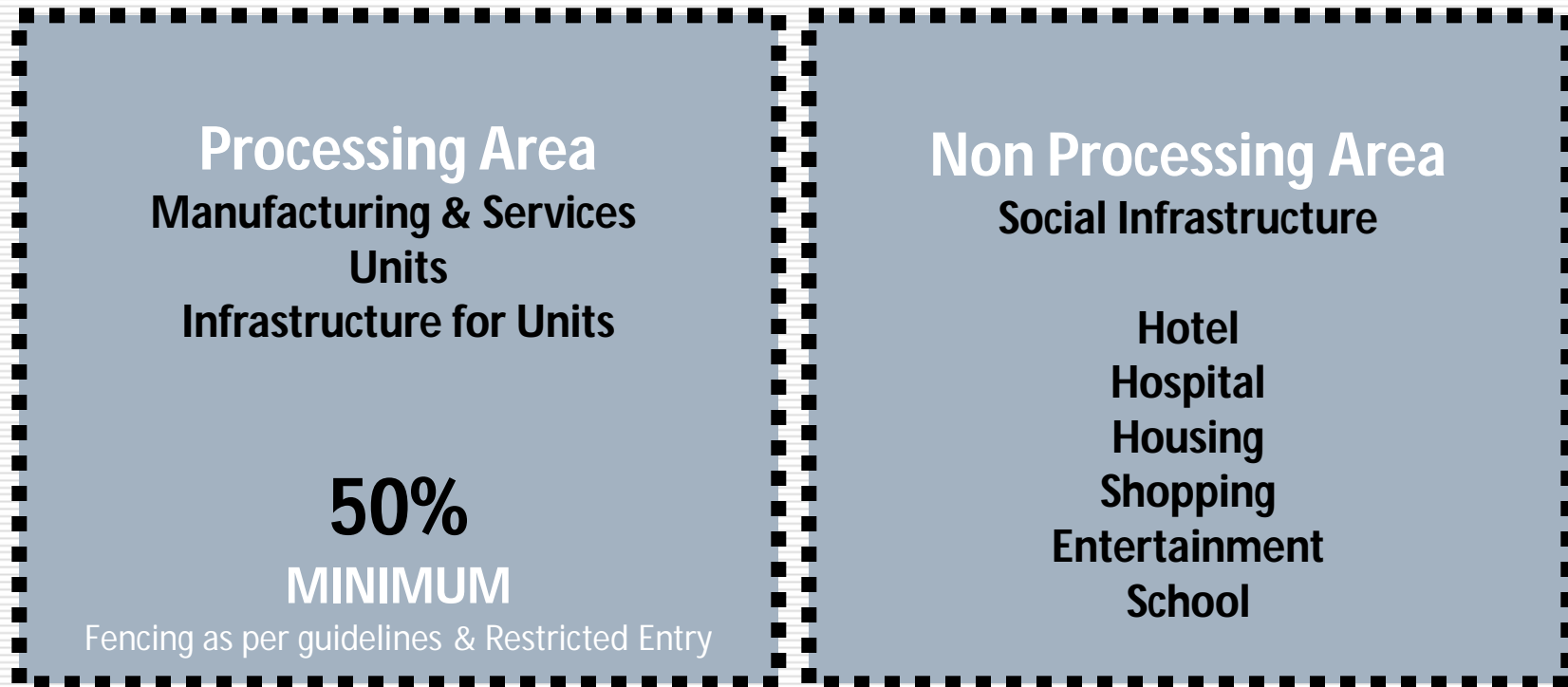
Special Economic Zone (SEZ)

Tax Benefits

Type of Tax	Developers/Co-Developers	SEZ Units
Service Tax	Exempted on authorised operations.	Exempted on authorised operations.
Central Sales Tax	Exempted on Input goods, consumables, stores etc	Exempted on Input goods, consumables, stores etc
Local Tax (Vat, Octroi, Entry Tax, Electricity duty, Stamp duty)	Exempted but subject to provisions in State/SEZ Acts	Exempted but subject to provisions in State/SEZ Acts

Special Economic Zone (SEZ)

Bird's Eye View:



Question



