



**G S P U & ASSOCIATES**  
CHARTERED ACCOUNTANTS

# COMPANY FORMATION INDIA

## BRANCH OFFICE



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# BRANCH OFFICE

If a Foreign Company wants to execute trading/commercial activities in India without establishing/investing into an Indian company, then a Branch Office is established with RBI approval.

## Permitted Activities

1. Perform export & import of goods.
2. Execute professional or consultancy services
3. Perform the research works in the field of parent company.
4. Promote technical /financial collaborations between parent/group companies and companies in India
5. Execute services of Information technology and Software development in India.
6. Execute technical support for the products or services of parent/group companies
7. Represent the parent/group companies in India & act as buying or/and selling agents.
8. Function as a foreign airline/shipping company



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A stand-alone branch in a SEZ is allowed to set up 100% FDI. As a branch office will be isolated and restricted to the SEZ alone and no business activity/transaction will be allowed outside the SEZ (this includes branches/subsidiaries of its parent office in India), a branch has to be set up on a stand-alone basis.

### **Approval process**

For establishing a branch office in India an application in the prescribed form has to be submitted to RBI. The processing time for a branch office is 4-5 weeks. If the application is directed to the administrative ministry considering the Government of India for its comments, then the processing time may be longer.

Under SEZ Act, no prior approval of RBI is required to set up a branch in a SEZ.

### **Income and Outcome**

Under the RBI approval, a branch office can open a bank account for meeting expenses related to Indian activities, as well as crediting proceeds/income generated in India. The profits generated in India on an ongoing basis, can be repatriated by the branches, after complying with required procedures.

### **TAX payments**

A branch office is considered as the extension of a foreign company in India and thus the income is Taxable as the taxation provisions applicable to foreign companies. If provisions of a tax treaty between India and the country of which the foreign company is resident and more beneficial, then it is open to the foreign company to elect being taxed under the provisions of the relevant tax treaty.

### **Closure**

Closure takes a time period of 6-8 weeks. A closure application along with required documents is submitted to Centre office of RBI.

Other than RBI, a Foreign Company should also register with ROC (Registrar of Companies). Within 30 days of office establishment an application as per the prescribed format has to be filed. On which ROC will provide an Establishment Certificate.

### **Eligibility Criteria**

*Public Limited Company:* A Public limited Company offers shares to the public. Under The Companies Act 1956 their main eligibility criteria before establishment are:

- ♣ Minimum of 7 shareholders.
- ♣ Should have at least 3 directors in Board.
- ♣ Company should issue a prospectus or a statement to sell its securities.

- ♣ Company should execute statutory meeting from time to time.
- ♣ Public company can start business activities only after getting 'Certificate of Commencement of Business'. Incorporation Certificate will not serve the purpose.

**Private Limited Company:** A Private limited Company Offers does not offer shares to the public or does not have the power to transfer or trade their shares publicly as it is owned by any governmental body. The number of shareholders for a private limited company is restricted to a maximum 50, whereas the minimum required is 2.