



Law on Your Side

Establishing a Legal Presence in India through Unincorporated Entities

For those foreign investors looking to set up a ‘temporary presence’ in India, there are three kinds of offices they may consider opening.

1. Liaison Office. A liaison office, also commonly known as a representative office which acts as a channel of communication between its parent company abroad and parties in India. A liaison office is subject to several restrictions in India and cannot undertake any business activities or generate any income in India.

Liaison office represents the foreign parent company in India, promotes import to or export from India, supports financial or technical collaborations with the parent/group companies and Indian companies and acts as a channel of communication between the parent company and Indian companies.

In order to set up a liaison office in India, the foreign parent company must have: networth greater than or equal to USD 50,000 or its equivalent and a track record of profit during the immediately preceding three financial years in the home country.

A license to establish a liaison office in India is valid of a term of three years. However, the license can be renewed every three years. However, for non-banking financial companies or those companies engaged in the construction and development sectors, the validity period is only two years, and no extension for these sectors (excluding infrastructure development companies) are considered.

2. Branch Office. A branch office may carry on core activities as its parent company in India. A branch office may carry on trading activities in India. However, a branch office cannot be directly engage in manufacturing activities in India. No specific period of validity for the branch office license prescribed by law. However, in practice, generally such licenses are valid for a period of two to three years.

Branch office engages in providing professional or consultancy services, promotes import to or export from India, carries on research work in India, supports financial or technical collaborations with the parent/group companies and Indian companies, represents the parent company in India, acts as agents for trading purposes, provides services in relation to information technology and software development in India and provides technical support for the products manufactured by the parent company.

In order to set up a branch office in India the foreign parent company must have: networth greater than or equal to USD 100,000 or its equivalent and a track record of profit during the immediately preceding five financial years in the home country.

3. Project Office. A project office may be set up by those parent foreign companies that have validly secured a contract from an Indian company to execute a project in India. Such project offices are prohibited from undertaking any business activity other than the activities in relation to the execution of a project for which such office is established.

In order to set up a project office in India The foreign parent company must have: executed a contract in relation to the project with an Indian company and secured the related regulatory clearances for the project and the project must be directly funded by inward remittance from abroad or the project is funded by a bilateral or multilateral International Financing Agency or the entity in India awarding the contract has been granted Term Loan by a Public Financial Institution or a bank in India for the Project.

A project office remains valid for the entire tenure of the project (till the project is completed or wound up).

Additional rules

The name of the entity must be the same as the parent company. All liabilities incurred by a liaison office, branch office or project office (as the case may be) extends to the parent company. A liaison office, branch office and project office can freely hire local and/or foreign staff.

The parent company must hire an authorized representative in India. An authorized representative is a person residing in India with a valid tax identification number or as referred to as Permanent Account Number (PAN) in India.

A liaison office, branch office and project office in India must file annually its Annual Activity Certificates (AAC) from Chartered Accountants, at the end of every financial year i.e. by March 31, along with the audited Balance Sheet on or before September 30 of that year.