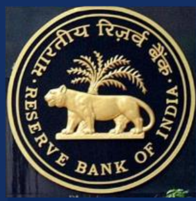
TAX CONNECT

# SERIES ON DOING BUSINESS IN INDIA

## 10TH RELEASE ON DECIPHERING 20% LOCAL VALUE ADDITION REQUIRED BY PSUs



*FEMA. FDI. INCOME TAX. GST. LAND. LABOUR*


## TAX CONNECT

**Mumbai** : A/1001, Cirrus Bldg, Cosmos Paradise; Pokhran Road No. 1, Thane (West), Maharashtra – 400606
**Bangalore** : A-414,Carlton Towers,19th Main; Road Hal Old Airport Rd, Domlur, Bengaluru, Karnataka-560008
**New Delhi** : C73, 2nd Floor, Sector 50, Mayfield Garden, Gurgaon 122001
**Kolkata** :1, Old Court House Corner, "Tobacco House" 1st Floor, R.No.-13 (North), Kolkata-700001
: Room No 119; 1st Floor; Diamond Arcade; 1/72, Cal Jessore Road; Kolkata – 700055

**Dubai** :Azizi Feirouz, 803, 8th Floor, AL Furjan, Opposite Discovery Pavillion, Dubai, UAE

**Contact** : **+9133 4001 6761**

**Website** : www.taxconnect.co.in
**Email** : info@taxconnect.co.in

## WHY 20% VALUE ADDITION IN INDIA AS PER DPIIT CIRCULAR FOR ATMANIRBHAR BHARAT

Recently the Govt of India has taken a fresh initiative for **Atmanirbhar Bharat** and as a major policy initiative PPP-MII Order 2017 has been amended to provide that only items with **minimum 20% domestic value addition/local content** can participate in public procurement unless global bids are invited. Also items with **more than 50% local content** will get purchase preference over other items. As such Secretary DPIIT, Ministry of Commerce, has advised all Secretaries **GOI to advise all PSUs or bodies** under control of The Government to comply with this requirement. With this, the Government clearly wishes **to enhance income and employment of its citizens**. This can be done by establishing manufacturing units in India, or purchasing goods or services from local suppliers.

The above shall be applicable for only Orders more than **Rs.5 Lakhs** (per Order). Further, in case of Orders more than **Rs.10 Crores**, a CA/CMA Certificate will be required to be produced by the supplier. In case of smaller Orders, a '**self declaration**' may be required.

### WHAT IS 20% VALUE ADDITION?

Value Addition is value of item minus imported content.

**Domestic Value addition = Value of Item – imported content**

Hence, in case the Selling price of the item is Rs.100/-, then the cost of purchase of goods or services from local vendors in India should be between Rs.20/- To Rs.50/-, to be eligible for preferential treatment. Now if the profit in India is Rs.20/- (say) then the Value of import should be Rs. 60/- only in an item whose selling price is Rs.100/-.

### WAY AHEAD OR FOR FOREIGN SUPPLIERS

1. First of all, foreign suppliers need to **Create an Organization** in India. It is important to note that now, the taxation rate for companies in India is one of the lowest across the world and combined with a huge market, it is an attractive destination to do business.

2. There are four forms of **setting up business in India under FEMA** i.e. Branch Office, Liaison / Representative Office, Project Office or by Forming a Company in India. Generally forming a Company in India is found most suitable.

3. The suppliers should try to do a **processing of such goods** in India. It may be packing or repacking, labeling or re-labeling or adoption of any other treatment on the goods which can be shifted to India. The cost of such process should be 20%-50% of cost of Import as follows-

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4. It is again important to note that the foreign suppliers should take care of **Valuation Rules under Customs and transfer pricing norms** in Income Tax in India. It is pertinent to note that the foreign supplier and this entity in India shall be considered related parties in most cases as the shareholders will generally be same.

5. The foreign suppliers may also do **partnerships or Joint Ventures** with Indian Companies to get the deal through.

6. Now-a-days getting trade license, GST Registration, PAN No., MCA registration of a company, professional tax registration, Bank A/c opened and other formalities take hardly **30 days**.

7. Doing business in India was never easier and with its huge market, the foreign suppliers must take this as an **opportunity to expand their business** further with a local presence.

## PROCESS OF SETTING UP FOREIGN COMPANY IN INDIA

To set up a Foreign Company in India, Foreign Suppliers need RBI approval under **FEMA Regulations**. After **obtaining RBI approval**, foreign suppliers need to apply for registration of Company formation. Such Foreign Company needs file **SPICE+ in MCA site** along with the following list of documents mentioned hereunder-

**Note : As per Section 380 of Companies Act, following documents shall be filled :**

- Certified copy of the charter, statutes or memorandum and articles, of the company or other instrument constituting or defining the constitution of the company and, if the instrument is not in the English language, a certified translation thereof in the English language;
- Full address of the registered or principal office of the company
- List of the directors and secretary of the company containing such particulars as prescribed under Rule 3.
- Name and address or the names and addresses of one or more persons resident in India authorised to accept on behalf of the company service of process and any notices or other documents required to be served on the company
- Full address of the office of the company in India which is deemed to be its principal place of business in India
- Particulars of opening and closing of a place of business in India on earlier occasion or

occasions

- Declaration that none of the directors of the company or the authorized representative in India has ever been convicted or debarred from formation of companies and management in India or abroad.

Other Documents as may be prescribed.

In the above application, Company will get registered under **MCA, PAN Registration, GST Registration** and Company's Registration whole process will be done under one roof.

After that Foreign Company will require **Trade License and Professional Tax** Registration.

**NOTE:**

**RBI approval required** in following cases:

(i) Applicant is a citizen of or is registered/incorporated in Pakistan ;
(ii) Applicant is a citizen of or is registered/incorporated in Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong or Macau and the application is for opening a BO/LO/PO in Jammu and Kashmir, North East region and Andaman and Nicobar Islands;
(iii) Principal business of the applicant falls in the four sectors namely Defence, Telecom, Private Security and Information and Broadcasting (s.t. certain relaxations) and
(iv) Applicant is a Non-Government Organization (NGO), a Non-Profit Organization, or a Body/ Agency/ Department of a foreign government.

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## OUR OFFICES:


**MUMBAI**

Building No.9, Flat- 403, Lodha Eternis, 11th Road, MIDC, Andheri(E)-400093

Contact Person: Rajanikant Choudhury

Contact No: +91 7003572336

Email: rajnikant.choudhary@taxconnectdelhi.co.in

**BANGALORE**

A-414, Carlton Towers, 19th Main; Road Hal Old Airport Rd, Domlur, Bengaluru, Karnataka-560008

Contact Person: Manmit Sinha

Contact No: +91 8820573111

Email: manmit.sinha@taxconnectdelhi.co.in

**DELHI**

C73, 2nd Floor, Sector 50, Mayfield Garden, Gurgaon 122001

Contact Person: Rohit Sharma

Contact No: +91 9800224546

Email: rohit.sharma@taxconnect.co.in

**KOLKATA**

1, Old Court House Corner, "Tobacco House", 1st Floor, Room No. 13 (N), Kolkata-700001

Contact Person: Vivek Jalan

Contact No: +91 9831594980

Email: vivek.jalan@taxconnect.co.in

**KOLKATA**

R No 119; 1st Floor; Diamond Arcade; 1/72, Cal Jessore Road; Kolkata – 700055

Contact Person: Vivek Jalan

Contact No: +91 9831594980

Email: vivek.jalan@taxconnect.co.in

**DUBAI**

Azizi Feirouz, 803, 8th Floor, AL Furjan, Opposite Discovery Pavillion, Dubai, UAE

Contact Person: Nitesh Shaw

Contact No: +91 9038211150

Email: nitesh.shaw@taxconnectdelhi.co.in


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