Indian economy

India is the world’s fifth largest economy by GDP¹ and with a projected growth of 6.1%,² one of the fastest growing developing economies.

This exponential growth is attributable to factors such as:
• strong macroeconomic fundamentals due to controlled fiscal and current account deficit
• demographic advantage
• deeply embedded digital revolution across the country
• Government-driven enablers such as Production Linked Incentive (PLI) schemes
• an independent judiciary and autonomous democratic institutions.

India remains one of the largest recipients of foreign investments categorised, from a regulatory perspective, into the following baskets:
• foreign direct investment (FDI)
• foreign portfolio investment
• foreign venture capital investment (FVCI).

Foreign portfolio investors (FPIs)

FPIs play a crucial role in India’s financial landscape as they help deepen the Indian capital markets for listed securities, bonds, derivatives, etc. Given India’s robust growth prospects, FPIs have continued to show confidence in Indian markets despite the uncertain global macroeconomic backdrop. Apart from the cash equities segment, FPIs are actively investing in the debt market due to the attractive yield offered by Indian debt securities.

Trends in FPI investment³

1. Forbes India - The top 10 largest economies in the world in 2023 - https://www.forbesindia.com/article/explainers/top-10-largest-economies-in-the-world/86159/1
3. NSDL FPI Monitor
Eligibility criteria for registering as an FPI

01 Applicant should not be resident in India or a non-resident Indian.

02 Applicant should be a resident of a country:
• whose securities market regulator is a signatory to the International Organization of Securities Commissions’ (IOSCO’s) Multilateral MOU or a signatory to the bilateral MOU with SEBI
• whose central bank is a member of the Bank for International Settlements
• against whom the Financial Action Task Force (FATF) has not issued any warnings.

03 Applicant can also be incorporated or established in the International Financial Services Centre.

04 Applicant must be a ‘fit and proper’ person as prescribed.

Overview of categories of FPIs

Category I
• Foreign governments and government-related investors
• International and multilateral organisations
• Pension and university funds
• Banks, brokers, asset managers and other appropriately regulated entities
• Other entities where the investment manager is from a FATF member country and registered as a Category I FPI or
• Entities that are at least 75% owned by a Category I FPI

Category II
• Regulated funds from a non-FATF member country
• Endowments, foundations and charitable organisations
• Corporate bodies, family offices, individuals and unregulated funds in the form of limited partnerships and trusts
• Appropriately regulated entities investing on behalf of clients

User registration

Applicant should not be resident in India or a non-resident Indian.

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Applicant must be a ‘fit and proper’ person as prescribed.

FPI registration process

User registration

User registration authorisation by designated depository participant (DDP)

User login in Common Application Form (CAF) – online to capture details

Upload documents and submit online to DDP

DDP sends PAN generation request to Income Tax Department (ITD)

CAF review and registration by DDP

Sign and send CAF to DDP

PAN allotment by ITD
Aggregate holdings in equity shares of any Indian company by an FPI and its ‘investor group’ should not exceed 10% of the total paid-up equity capital on a fully diluted basis of the company. Multiple entities registered as FPIs shall be treated as part of same investor group and the investment limit of all such FPIs shall be clubbed where such entities:

- have common ownership of more than 50%
- or have common control

The clubbing provisions do not apply to FPIs which are:
- appropriately regulated public retail funds
- public retail funds where the majority stake is owned by an appropriately regulated public retail fund on a look-through basis or investment managers of such FPIs are appropriately regulated.

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4. Public retail funds include –
   1. mutual funds or unit trusts which are open for subscription to retail investors and which do not have specific investor type requirements like accredited investors;
   2. insurance companies where segregated portfolio with one to one correlation with a single investor is not maintained; and
   3. pension funds
Reporting requirements

Reporting of beneficial owners (BOs): Any person holding more than 10% shares, capital or profits of the company or 10% beneficial ownership of a trust shall be treated as a BO. FPIs to intimate such BOs to the DDP and/or Securities and Exchange Board of India (SEBI).

Additional disclosures: In order to mitigate the concerns around concentrated investments by FPIs in a single investee company or corporate group and threshold for identification of BOs, some objectively identified FPIs to provide specified granular information of persons to SEBI.

On the cards:
NRI to be permitted to own 100% of an FPI which is based out of International Financial Services Centre (IFSC) in India and regulated by IFSCA.

Tax framework for FPIs

Securities Transaction Tax (STT)
STT is required to be paid in respect of dealings in Indian securities purchased or sold on Indian stock exchanges. The STT levy is collected by the respective stock exchange at the time of trade. STT rates are as follows:

<table>
<thead>
<tr>
<th>Taxable securities transaction</th>
<th>STT rate</th>
<th>Payable by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase or sale of equity shares</td>
<td>0.1 %</td>
<td>Purchaser and seller</td>
</tr>
<tr>
<td>Sale of futures</td>
<td>0.0125 %</td>
<td>Seller</td>
</tr>
<tr>
<td>Sale of options</td>
<td>0.0625 %</td>
<td>Seller</td>
</tr>
<tr>
<td>Sale of options, where exercised</td>
<td>0.125 %</td>
<td>Purchaser</td>
</tr>
<tr>
<td>Sale of a unit of equity-oriented fund to the mutual fund</td>
<td>0.001 %</td>
<td>Seller</td>
</tr>
</tbody>
</table>
Income tax

- Any security held by an FPI is treated as a ‘capital asset’. Thus, any income arising from the transfer of such security by an FPI is in the nature of ‘capital gains’.
- FPIs may earn the following streams of income:
  - ‘capital gains’, i.e. income on transfer of capital assets
  - ‘income from other sources’ such as dividend income and interest income.
- FPIs are required to compute the tax liability on income in Indian rupees and are obligated to discharge taxes on income prior to repatriation of proceeds out of India.
- Classification of capital assets:

<table>
<thead>
<tr>
<th>Nature of asset</th>
<th>Short-term capital asset</th>
<th>Long-term capital asset</th>
</tr>
</thead>
<tbody>
<tr>
<td>For a security (other than a unit) listed in a recognised stock exchange in India</td>
<td>Held for not more than 12 months</td>
<td>Held for more than 12 months</td>
</tr>
<tr>
<td>Unlisted shares</td>
<td>Held for not more than 24 months</td>
<td>Held for more than 24 months</td>
</tr>
<tr>
<td>For assets other than those specified above</td>
<td>Held for not more than 36 months</td>
<td>Held for more than 36 months</td>
</tr>
</tbody>
</table>

- Overview of tax rates*#
  - Long-term capital gains: 10%
  - Short-term capital gains: 15% or 30%
  - Income in respect of securities – includes dividends and interest: 20%

*In addition, applicable surcharge (ranges from 2–37%) and health and education cess (4%) are leviable.
#The above indicated base tax rates are subject to the applicability of the respective country’s Double Taxation Avoidance Agreement (DTAA) with India. This is subject to fulfilment of the prescribed conditions under anti-avoidance rules and any conditions applicable under the respective treaties.
### Key tax compliance requirements

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obtaining a Tax identification Number in India</td>
</tr>
<tr>
<td>Obtaining computation from an appointed India tax consultant on tax payable on gains or income</td>
</tr>
<tr>
<td>Payment of taxes before remittance of funds or on a quarterly basis in the form of advance taxes, whichever is earlier</td>
</tr>
<tr>
<td>Filing annual India tax returns – 31 July/31 October/30 November (as applicable)</td>
</tr>
<tr>
<td>Tax audit by Revenue authorities</td>
</tr>
</tbody>
</table>

### General Anti-avoidance rules (GAAR)

An FPI is eligible to avail the benefits of the DTAA of the respective country it is a resident of and with which India has a DTAA.

The provisions of the DTAA prevail over the provisions of the Indian tax laws to the extent that the DTAA provisions are beneficial.

- GAAR provisions are codified to counter aggressive tax planning arrangements and would get triggered if the ‘main purpose’ is obtaining tax benefit and any of the specified conditions are met.
- Threshold provided for tax benefit on aggregate basis > USD 363K (approximately) in a year.

### Emerging opportunities in the IFSC

- The IFSC predominantly caters to customers outside the domestic economy and deals with the flow of finance, financial products and services across borders.
- The current ecosystem extends across the entire financial services spectrum, including banking, capital markets, insurance, asset management and other ancillary services.
- Preferential tax treatment available to funds set up in the India IFSC:
  - Capital gains on debt/derivatives or units of mutual funds – exempt
  - Dividend and interest – 10%
About PwC

At PwC, our purpose is to build trust in society and solve important problems. We’re a network of firms in 152 countries with over 328,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com.

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<table>
<thead>
<tr>
<th>Largest team of over 350 qualified and experienced professionals based in Mumbai and GIFT City, with a focus on the financial services sector</th>
<th>Excellent in-house software for efficient data processing – FPI tax tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>Currently serving over 3,000 FPIs Good connect with FPI ecosystem in India</td>
<td>Highly automated processes with robust data security protocols capable of keeping pace with T+1 trade settlement cycle</td>
</tr>
<tr>
<td>A strong dedicated team of litigation professionals to help clients with tax litigation</td>
<td>In-house centre of excellence to carry out in-depth research on technical issues</td>
</tr>
</tbody>
</table>

**ISO certified**


Contact us

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