FDI in India
Policy Update March 2010

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I. Introduction

With high growth expected in the Indian economy and weak recovery in developed economies, global investors continue to bullish on India. Now Japanese firms increasingly prefer India as an investment destination over China since China is getting saturated as a market.

Though the present Chinese market for Japanese companies is much larger than the Indian one - roughly 30-times over- but the gap is expected to reduce in the coming few years.

II. Expected changes in FDI rules

The following changes in FDI rules are expected in the near future:

1. Government may allow higher FDI in Defence Sector

In a potential policy shift of enormous significance, the government is planning to open up the defence manufacturing sector for 100 per cent FDI.The purpose is to encourage established players in the armament industry to set up their manufacturing facilities and integration of systems in the country by permitting 100 per cent equity through the FDI route.

The move is expecyed to cut down the role of touts and middlemen in weapons deals.

http://www.thehindu.com/2010/03/25/stories/2010032561000100.htm

2. Foreign investors may be allowed to set up LLPs

Foreign investors may be allowed to set up Limited Liability Partnerships (LLPs) in India, as the government is all set to allow FDI in this new form of business organisation. The move will help in making this form of business organisation more popular.

Initially, FDI up to 49% is expected to be allowed in LLPs in select sectors such as manufacturing.

LLPs are business entities that are a hybrid between companies and partnership firms and partners' liability is limited to the extent of their stake in LLP.

Unlike private limited companies where number of shareholders is limited to 50, an LLP can have unlimited number of partners. Besides, LLPs are not burdened with cumbersome compliance such as meetings and maintenance of statutory records.

http://economictimes.indiatimes.com/news/economy/policy/Select-LLPs-may-get-49-FDI/articleshow/5669889.cms

3. New Norms to Check test-marketing misuse

The government is planning to impose strict norms to check test-marketing licences for doing large-scale retail business and even for product manufacturing. These violations are most rampant in the retail sector where FDI in multi-brand is not permitted but 100 percent FDI is allowed in cash-and-carry trade and 51 percent in single brand retail. Another widely prevalent form of FDI rule violation is that of companies importing products and selling them in the retail market using their test-marketing licences.

At present, foreign companies first seek permission to test-market their products in the country and later apply for licences for retailing and/or setting up of manufacturing facilities. Under the new norms companies seeking test-marketing permission would also have to simultaneously set up manufacturing facilities or seek proper retail licence as the case may be. Such companies would have to submit detailed manufacturing and investment plans to the DIPP before they are accorded permission to test-market products.

http://www.financialexpress.com/news/New-norms-to-check-test-marketing-misuse/587987/

4. Local Companies may have to hold 26% in Captive Mines

The government is plannining to change existing FDI norms for captive mining. Now steel, cement or power companies that are allocated captive coal mines will own minimum 26 percent equity in their mining venture.

At present government allows 100 percent FDI in exploration or mining of coal and lignite for captive consumption of iron, steel and cement producers.Under the proposed
changes, an Indian company having a captive block would be able to attract a maximum of 74% FDI in the mining venture.

http://economictimes.indiatimes.com/news/news-by-industry/indl-goods-/-svs/metals-mining/26-equity-rule-for-captive-mines-soon/articleshow/5655932.cms

5. Tight norms for FDI in sensitive sectors

To improve the scrutiny of FDI for sensitive sectors, the government has come out with a new set of norms for applicants. Now it would be mandatory for foreign companies that wish to invest in telecom, defence and security services in India to provide details of all directors. Till now, while it was a desirable criterion for the companies seeking FIPB approval, the norm was mandatory only for telecommunications. However, in its new portal to be hosted for launching electronic filing of FIPB applications, this criterion would be mandatory for all applicants in these sectors.

http://www.business-standard.com/india/news/fipb-tightens-norms-for-fdi-in-sensitive-sectors/388239/

6. More sectors on automatic approval route

To speed up the FDI flow and make the FDI policy user friendly, the government plans to shift several sectors from the approval route to the easier automatic route. The move is expected to improve governance.

The sectors where FDI is allowed under the approval route include plantation, manufacturing, cigars & cigarettes, defence, existing airports, asset reconstruction companies, banking, commodity exchanges and infrastructure company in the securities market.

FDI can come via the automatic route into sectors such as agriculture & animal husbandry, mining, coal & lignite, coffee & rubber processing and warehousing, electric generation, transmission, distribution & trading, advertising, greenfield airports, industrial parks, insurance and non-banking finance companies.

http://www.financialexpress.com/news/More-sectors-will-be-shifted-to-automatic-approval-route/589790/

III News & Views

1 Goverment may soon Ban FDI in cigarette manufacturing

The Cabinet Committee on Economic Affairs (CCEA) approved the proposal from the DIPP to ban FDI in the tobacco sector. With this ban, India would be the only country in the World to go in for such a stringent move.

It is being debated that the ban would shut the door permanently on Japan Tobacco’s proposal to invest $100 million into its Indian subsidiary. The move will leave the field wide open for ITC to increase its dominance in the growing cigarette market. In India, three major cigarette players dominate the market, primarily ITC with more than 50 percent market share. Godfrey Phillips and VST are two major players after ITC.

Although India is the second largest producer of tobacco in the world after China but cigarettes account for less than a fifth of total tobacco consumption. Most of the tobacco produce is suitable for the manufacture of chewing tobacco, bidis and other cheap tobacco products, which have no demand outside the country.

http://www.financialexpress.com/news/fdiintobaccoindustrybanned/602062/

2 Ministries Lock Horns on FDI Limit in Aviation

Even as private players in India's ailing airline business scout around for foreign partners to bail them out, strenuous lobbying efforts by them to have foreign investment limits in the aviation sector hiked to 75 per cent from 49 per cent have run smack into inter-ministerial turbulence.

As of now, FDI in civil aviation is allowed in airports and domestic scheduled passenger airlines, non-scheduled airlines, chartered airlines, cargo airlines and helicopter and seaplane services. For airlines, FDI allowed in the aviation sector is 49 per cent. However, non-resident Indians can own 100 per cent in an airline, but no direct or indirect equity participation by foreign airlines is allowed.

http://www.thehindu.com/2010/03/26/stories/2010032657781700.htm

3 Invest India on front foot to Attract More FDI

Capitalising on the investor-friendly climate that the government has generated by the way of liberal economic policies, a joint venture of DIPP-ministry of commerce & industry, FICCI and state governments is making all efforts to hard sell India as a prospective FDI destination and encourage Indian MNCs to invest abroad.

In a step to promote foreign investments, Invest India venture is set up under Section 25 of the Companies Act, 1956.This is a non-profit company which is responsible for promoting foreign investments into the country in a more focused, comprehensive and structured manner.

This company will act as the first reference point for any investor interested in India and will also facilitate in setting up business within the country, by making available sector-wise consultants and coordinating with the state government on feasible measures

Even as countries across the world compete fiercely to attract FDI, setting up an Investment Promotion Agency is a key part of their strategy to attract foreign Investors.

http://www.financialexpress.com/news/investindiaonfrontfoottoattractmorefdi/597749/

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