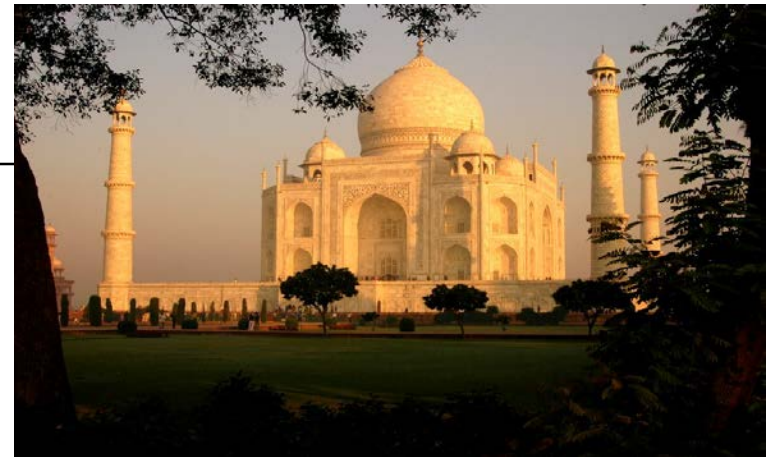




# Doing Business in India

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# India – Demographics

- Population 1.13 billion
- Rural/urban pop. 70% / 30%
- Birth rate 2.3%
- Mortality rate 0.7%
- Life expectancy (years) 66 (M) / 71 (F)
- Literacy rate 65%
- Unemployment rate 8%
- Population profile (years) < 15 / 15-64 / >64 32 / 63 / 5%



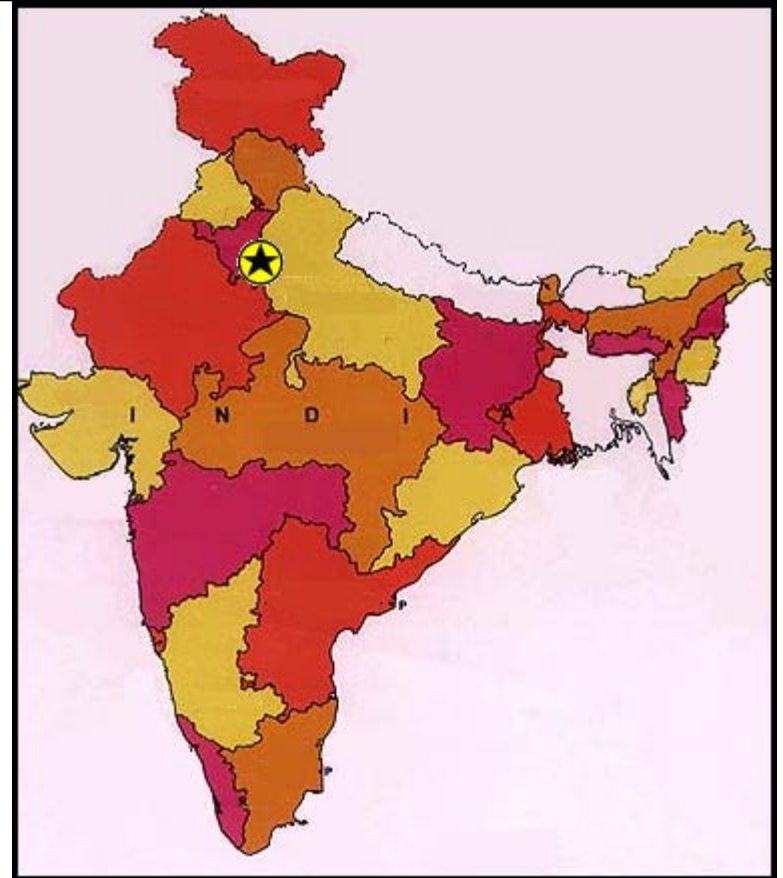
# India – Economic Indicators

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- GDP: US\$ 1100 bn.
- Per capita GDP: US\$ 964
- Per capita GDP (PPP): US\$ 3,000
- 2008/ 2009 GDP growth: 8.5/7%
- GDP composition:  
Services/Agriculture/Industry 55/ 19/26%
- Imports: US\$ 186 bn.
- Exports: US\$ 126 bn.

# India - Government

- ❑ Politically a federal system similar to the USA
- ❑ Central Government based in New Delhi with offices across the country
- ❑ State Governments and Union Territories (35 in all)
- ❑ Most major policy/legislation is central, but some is from states as well





# Political Climate

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- ❑ Ruling coalition of Congress and other parties
- ❑ National election due in April 2009
- ❑ Most parties committed to economic liberalization since 1991
- ❑ Disagreement over the pace of reform
- ❑ Some instability in the mid 90s, none since 1999

# Business Environment

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- ❑ Deregulation and lower taxes since 1991
- ❑ Imports liberalized
- ❑ Industrial licensing largely removed
- ❑ Foreign investment permitted in most areas
- ❑ Foreign portfolio investment permitted for institutions
- ❑ Price regulation / controls only in a few essential areas
- ❑ Manpower and managerial skills available

# Foreign Investment Policy (1)

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- ❑ Foreign company can set up in India as :
  - ❑ Liaison office (no revenue earning activity)
  - ❑ Branch office (can earn income but constraints on expansion, property ownership)
  - ❑ Project office (for executing specific project)
  - ❑ Indian registered company (private/ public limited)
    - ❑ 100% owned/ joint venture
    - ❑ New project/ Acquisition
  
- ❑ For a long-term involvement, Indian registered company is preferred

# Foreign Investment Policy (2)

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- ❑ Foreign Investment up to 100% is allowed in most industries/ activities and no minimum investment is specified
- ❑ Certain activities such as telecom, airlines, commercial property development, single-brand retail, defense equipment, insurance, electronic and print media have foreign ownership ceilings (between 26% and 74%)
- ❑ Most areas of investment fall under “Automatic Approval” i.e. no prior permission from the Government of India (Foreign Investment Promotion Investment Board or FIPB)
- ❑ Permission to invest (automatic or FIPB) does not mean that all other regulatory approvals are included
- ❑ However Indian entity can be formed and capitalized, personnel can be hired, while other permissions are sought



# Approvals / Compliances

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- Companies Act
- Income-tax Act
- Profession Tax
- Shops & Establishments Act
- Labor laws
- Foreign Trade & Development Act
- Land purchase/lease registration and building permission
- Factories Act registration, registration with State Director of Industries, Boilers Act
- Pollution Control Board clearance
- Industries Development & Regulation Act
- Electricity supply, water supply
- License to store petroleum/explosives
- VAT
- Excise Duty
- Industry regulator (e.g. for pharmaceuticals, telecom, airlines, power)

# Corporate Taxation in India

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- **Income tax on Indian registered companies and firms: 30%**  
(plus surcharge of 10% (if income exceeds US\$ 222,222) of tax and 3% education levy thereof)
  
- **Income tax on foreign companies and firms: 40%**  
(plus surcharge of 2.5% (if income exceeds US\$ 222,222) of tax and 3% education levy thereof)
  
- On royalty and technical service fees paid abroad: 10%**  
(plus surcharge and levy as above)  
(also depends on country-wise tax treaties)
  
- **The Fringe Benefit Tax (FBT) is also charged on benefits provided to employees:**  
**On specified percentage of benefit : 30%**  
(plus surcharge and levy as above)
  
- **Dividend distribution tax (company pays): 15%**  
(plus surcharge 10% (if income exceeds US\$ 222,222) and education levy 3% thereof)

**Note: Financial year for taxation ends March 31, for all entities.**

# Personal Taxation in India

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□ Graduated income tax brackets, after deductions:

<b>Below US \$ 3,333</b>	<b>0%</b>
<b>US\$ 3,333- 6,667</b>	<b>10%</b>
<b>US\$ 6,667- 11,111</b>	<b>20% + US\$ 333</b>
<b>Above US\$ 11,111</b>	<b>30% + US\$ 1,222</b>

**(surcharge of 10% of tax on those earning income over US\$ 22,222)**

**(additional education levy of 3% of total tax paid)**

- Employees' salary – both base salary and perquisites/benefits – are taxed according to valuations per the Income Tax Act
- Medical insurance and certain long-term savings are deductible from taxable income

# Indirect Taxation in India

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- ❑ Import duty: peak rate is 10% plus countervailing duty (equal to excise duty), additional duty (4% of the total) and education levy 3% thereof
- ❑ Excise duty : usual rate is 14% plus education levy 3% thereof
- ❑ Service tax: 12% plus education levy 3% thereof
- ❑ Central Sales tax (inter-state sales): 2%
- ❑ VAT (by State Government) : up to 12.5%, so far no VAT on imports but VAT when imported items are re-sold



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# Business Strategy

# Import Route

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- ❑ Product selection
- ❑ Pricing and import duties very important
- ❑ Appoint distributors – national/ regional
- ❑ Direction from HQ/ regional/India sales office
- ❑ Provide marketing strategy, share promotion costs
- ❑ Distributor targets and incentives
- ❑ Useful for small volume and/or higher priced goods
- ❑ Recognize that most categories are already here
- ❑ Local manufacturers also import
- ❑ Variant: import from third countries e.g. China, supplement local manufacture

# Sourcing from India

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- ❑ Identify quality/ cost advantage
- ❑ Search for source manufacturers
- ❑ Long-term contracts
- ❑ Invest in manufacturer through JV
- ❑ Provide technical inputs
- ❑ Challenge: maintaining reliability and quality
- ❑ Long term vision – have own subsidiary?
- ❑ Strategy useful for services, high-tech items, high-volume/ low-tech and India-centric products e.g. textiles
- ❑ Benefit from export incentives (taxes, duties)

# Local Manufacture

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- ❑ Identify quality/ cost advantage
- ❑ Skills available (management/ labor)
- ❑ Joint venture or 100% subsidiary
- ❑ Acquisition also an option
- ❑ Land can be a problem for large projects
- ❑ Challenge: maintaining reliability and quality
- ❑ Strategy useful for services, high-tech items, high-volume/ low-tech and India-centric products e.g. textiles
- ❑ Combine import and sourcing strategy also
- ❑ IPR better protected



# Revenue Streams

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- ❑ Technology transfer to JV / subsidiary fees up to US\$ 2 mn.
- ❑ Royalty of 5% of export sales, 8 % of export sales
- ❑ Fee for use of trademarks 1% of local sales, 2% of export sales
- ❑ Supplies to India (pricing should be “arms –length”)
- ❑ Purchases / services from India
- ❑ Dividends
- ❑ Sale of shares in JV

# Long- term Strategy

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- ❑ “Critical mass” business target in US \$M
- ❑ Total investment including initial study, research, bricks and mortar, pre-operative expenses
- ❑ Consider all potential opportunities
- ❑ Factor in but do not depend on Government incentives
- ❑ Example for medical device manufacturer:
  - ❑ Imports
  - ❑ Local manufacturing and sales
  - ❑ Export / sourcing back to home country
  - ❑ Catalogue maintenance / order management
  - ❑ Clinical trials
  - ❑ Software development
  - ❑ Product development

# Joint Ventures (1)

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- ❑ 26% shareholding can “block” important resolutions such as changing the memorandum and articles of association, starting a new business or disposing of an existing business
- ❑ 51% shareholding can “block” dividends, adopting the accounts, appointing directors
- ❑ Choice of partner is critical
- ❑ Should be financially stable
- ❑ High level of ethics
- ❑ Well-known in business circles
- ❑ Worked with US / Western companies before
- ❑ Knows the products or markets
- ❑ Confident but not too aggressive
- ❑ Government contacts
- ❑ Professional vs Family business

## Joint Ventures (2)

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- ❑ Agreements should be well documented
  - ❑ Joint venture agreement
  - ❑ Shareholders' agreement
  - ❑ Technology transfer agreement
  - ❑ Royalty agreement
- ❑ Important issues: appointment of directors, sale of shareholding, confidentiality, data protection, non-compete, conflict of interest, arbitration, jurisdiction
- ❑ Certain parts of the agreement can be incorporated in the Articles of Association of the company
- ❑ Starting a similar venture with another partner requires Government approval and a waiver from the current partner

# Distributors

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- ❑ Selection criteria similar to joint venture partner
- ❑ Agreements should be well documented
- ❑ Distributors cannot be left to decide strategy especially on pricing
- ❑ Need to be supported in terms of marketing, publicity, sponsorship of events, advertising
- ❑ If national and regional distributors are different then ratio of sharing profits is critical
- ❑ Sales target setting should be realistic, distributors sometimes commit to high targets but cannot deliver
- ❑ Distributors will try to reduce selling prices for competitive reasons
- ❑ Difficult to change distributors in general especially in regulated areas such as pharmaceuticals
- ❑ Distributor should have potential of being joint venture partner later
- ❑ Constant interface required with distributor

# Suppliers

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- ❑ Maintaining quality is the key
- ❑ Suppliers may cut quality to meet cost targets
- ❑ Reliability of supply is important
- ❑ Adherence to schedule is sometimes an issue, other priorities
- ❑ Business must be well –capitalized
- ❑ Small and medium companies depend heavily on the owner for management
- ❑ Family owned businesses can be vulnerable due to inter-personal issues
- ❑ Poor infrastructure can affect supply
- ❑ Labor problems disrupt production
- ❑ Supplier may not want to invest to upgrade facilities and methods
- ❑ Protecting IPR is important

# Business Contracts

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- ❑ Western-style legal system
- ❑ Indian Contracts Act 1872 is well established
- ❑ Principles – offer and acceptance
- ❑ Agreement in restraint of trade is void, hence non-compete and non-solicitation clauses must be carefully worded so as not to be “unreasonable” (exception if goodwill of a business is sold)
- ❑ Indian judicial pronouncements on both non-compete and non-solicitation should be studied
- ❑ Using standard agreements from overseas is not useful unless the terminology is made consistent with Indian usage and law
- ❑ Contracts can be enforced in Indian courts, but the procedure is slow
- ❑ Bankruptcy/ Liquidation law is not effective for debt recovery
- ❑ Awards by foreign courts can also be enforced
- ❑ However, preferable to have an arbitration clause- Indian Arbitration Act
- ❑ Where relevant protect IP, designs, trade secrets, data in the contract

# Assessing the market

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- ❑ The Indian market is complex and the following are important:
- ❑ Segmentation: rich/middle/poor, urban/rural, westernized/traditional, youth/senior, single/family, regional (all segments are substantial)
- ❑ Aspiration: consumers want better, international-grade products
- ❑ Valuation: will not over-pay, prolong product life, economize, less particular about packaging, may “down-trade”
- ❑ Estimation: Western averages of consumption are not valid (e.g. soft drinks), but demand can also “surprise” (e.g. mobile phones)
- ❑ Adaptation: e.g. in food recipes, service methods
- ❑ Localization: advertising, packaging may need to be “Indianized”
- ❑ Fractionation: Smaller portions (e.g. biscuits/ chocolates) or sharing products (e.g.. photocopiers, phone booths, net cafes, diagnostic facilities)
- ❑ Imitation: Very likely that similar products will be available soon
- ❑ Graduation: consumers want to “upgrade” / leapfrog



# Market Research

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- ❑ All types of market research are available
- ❑ Research has to be well targeted
- ❑ Secondary research
- ❑ Primary research
- ❑ Modeling
- ❑ Focus groups
- ❑ Test marketing
- ❑ Field work very important, hence all-India reach important
- ❑ Researcher should have worked for foreign companies before
- ❑ Research company should have analytical skills, understand strategy and overseas trends

# Location (Factory)

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- ❑ Choice of location critical
- ❑ Evaluate logistics, costs
- ❑ Not too far from metro / major town
- ❑ State Government's attitude to industry
- ❑ Avail of, don't depend on tax breaks / concessions
- ❑ Consider Government / private industrial park / EPZ /SEZ
- ❑ Electricity, water and power supply Road, rail, air connectivity
- ❑ Should be near other factories
- ❑ Consider security and local political situation

# General Approach

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- ❑ Articles, studies about difficulty of doing business in India are interesting but not to be taken literally
- ❑ Commitment to the task
- ❑ Do not bank on everything going to plan
- ❑ Core team must be in place throughout
- ❑ Some visits may not be very fruitful
- ❑ More “on-shore” than “off-shore”
- ❑ On the other hand, do not set up Indian office too soon
- ❑ Reasonable amount of publicity
- ❑ Select advisers carefully
- ❑ Be patient and persevering

# Planning

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- ❑ Assume things will take time – strict deadlines may not work
- ❑ Make project plan with adequate time for regulatory approvals – there are usually no specific time tables for approval
- ❑ Remember that things may not progress in “linear” fashion
- ❑ More likely “ever diminishing circles”
- ❑ In month 2, plan may be further from the target than month 1
- ❑ Government is relatively slow
- ❑ Engage the Government at the beginning and interest them in the project
- ❑ Continue engagement during the project and also thereafter
- ❑ Clarifications should be sought in discussion first before giving it in writing
- ❑ If asking for written approval be prepared for negative answer / fall back position

# HR Overview

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- ❑ Indian labor costs are generally lower than the West
- ❑ The environment also adds on other indirect costs to the labor cost such as transport, food, recreation, security, costs, power supply and dealing with Government
- ❑ Management in India requires more complex skills due to the environment
- ❑ Tasks take longer because of inadequate infrastructure
- ❑ Productivity appears to be lower

# India – Labor Laws (1)

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Some of the significant laws are:

- ❑ Contract Labor (Regulation and Abolition) Act, 1970
- ❑ Employees Provident Funds and Miscellaneous Provisions Act, 1952
- ❑ Employees State Insurance Act, 1948
- ❑ Equal Remuneration Act, 1976
- ❑ Factories Act, 1948
- ❑ Industrial Disputes Act, 1961
- ❑ Maternity Benefits Act, 1961
- ❑ Minimum Wages Act, 1948
- ❑ Payment of Bonus Act, 1965
- ❑ Payment of Gratuity Act, 1972

# India – Labor Laws (2)

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- ❑ Workmen's Compensation Act, 1923
- ❑ Trade Unions Act, 1926
- ❑ Fatal Injuries Act, 1855
- ❑ Payment of Wages Act, 1936
- ❑ Industrial Employment (Standing Orders) Act, 1946
- ❑ Shops and Establishments Acts of various States

# Management-Labor Relations (1)

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- ❑ Any seven or more employees can form a trade union, irrespective of salary or designation.
- ❑ Unions are not found in IT/ITES, new private-sector banks, or CROs, where salaries are high and lower-level tasks are contracted out.
- ❑ Management-labor relations in India are reasonably good.
- ❑ There is no unemployment insurance in India.



## Management-Labor Relations (2)

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- ❑ Management does not have the power to terminate a “workman” (blue-collar employee – unionized or otherwise) without formal proceedings, which can also be contested in court.
- ❑ Similarly, in certain types of establishments, it is not possible to terminate operations without permission from the State Government.
- ❑ On the other hand, strikes are illegal unless certain procedures are followed. Management may also declare a “lock-out” or temporary closure under certain circumstances.

# Management-Labor Relations (3)

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- ❑ Contract labor may be employed to carry out tasks, usually manual labor or unskilled jobs (i.e., on-site outsourcing).
- ❑ In these cases, the company (“principal employer”) is responsible for ensuring that the contractor complies with minimum wage legislation.
- ❑ Employer is also responsible for ensuring compliance with provident fund, employees’ state insurance and other statutory benefits.

# Working Conditions

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- Working conditions for workmen in specified establishments (usually factories, mines, plantations) are to be in compliance with law, union agreements, and/or management policy. Where required, these must be filed with the labor authorities. Sample conditions:
  - One paid holiday per week is mandatory, as well as observance of national holidays and religious holidays (optional). Annual paid leave is at least 19 days.
  - Salaries must be paid before the seventh day of the following month.
  - A working day should not exceed 12 hours, with earliest opening / latest closing times set by Government.

# India – Salary Levels (1)

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- Technical and managerial salaries are lower than in Western countries but rising steadily.
- Traditionally multinational companies paid more than local firms, but this difference is narrowing.
- In widely held companies, directors' salaries are capped at 5% of profit per director or 11% of profit for all directors. Exceptions require Governmental permission.
- Over 500 CEOs and senior executives of listed Indian companies are estimated to earn more than US\$ 250,000 per annum.

# India – Salary Levels (2)

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- At functional head level, Indian salaries are estimated to average between 20-25% of US levels.
- However, technical/managerial salaries have been rising between 15-30% annually since 2001, because of economic growth and fierce competition for experienced personnel
- In some industries such as IT, managers of over 15 years' experience were paid more than the US all-industry average (US\$ 220,000 in India vs. US\$ 150,000 in the US)

# India – Salary Levels (3)

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- At the entry level, salaries for graduates from good institutions have also risen:
  - MBA: US\$ 20,000 – 37,500 per annum; over US\$ 100,000 per annum for overseas placement
  - Engineer: US\$ 13,000 per annum
  - Chartered accountant: US\$ 15,000 per annum
  
- The IT industry is one of the best-paying sectors. Salaries for technical staff are as below, ranged by experience:
  - **Entry-level to 2 years:** US\$ 2,000-11,000 per annum
  - **2 to 5 years:** US\$ 2,000-14,000 per annum
  - **5 to 10 years:** US\$ 8,000-34,000 per annum
  - **Over 10 years:** US\$ 13,000-57,000 per annum

# India – Salary Levels (4)

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- CEO salaries are high and attractive to expatriates as well
- Indicative salaries related to sales of company

<b>Sales</b>	<b>Salary</b>
▪ < US\$ 250M	< US\$ 250,000 per annum
▪ > US\$ 250M < US\$ 1BN	< US\$ 500,000 per annum
▪ > US\$ 1BN	< US\$ 1,000,000 per annum

# Salary Structures in India (1)

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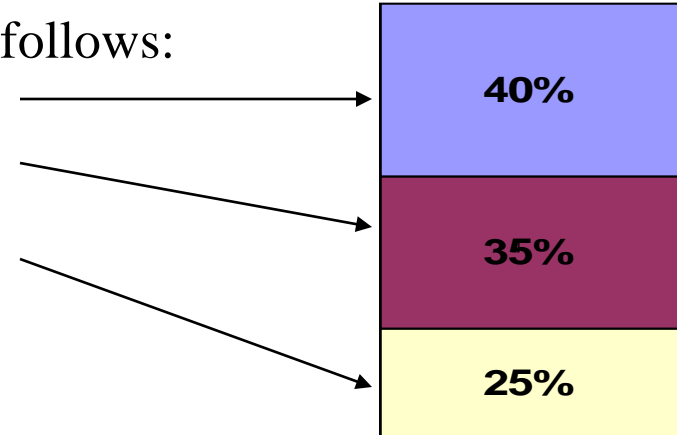
- Salary structures tend to be complex with a number of benefits in addition to base salary.
- In the past, with low salaries and lack of bank finance, company benefits were used as a way to provide employees with houses on better terms.
- Many benefits are tax exempt or concessionally valued (up to limits) including leave and travel allowance, health care, housing, and cars. However, their tax relief has been reduced incrementally, especially with FBT.
- Though benefits are being gradually reduced or fitted into a “cost to company” (CTC) basis, they are not being done away with completely.
- Companies are also introducing a large component of performance-based pay, supported by appraisal systems.
- Salaries are periodically reviewed against peer groups through formal or informal surveys of equivalent jobs.



# Salary Structures in India (2)

- Compensation (CTC) is structured as follows:

- **Base salary: 40%**
- **Flexible benefit plan (FBP): 35%**
- **Retirement benefits**
- **Performance based pay** } **25%**



- Base salary is controlled since some retirement benefits are linked to base salary. Base salary increases are provided on fulfilment of job competency attributes.
- Within the FBP, the employee may choose their benefits within limits, depending on how they work for their tax or other personal requirements. Alternatively, the company can provide a fixed FBP linked to grade or base salary.

# Flexible Benefits

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- The FBP consists of a large list of perks/benefits including:
  - Housing: rent allowance, company-leased house, house maintenance, etc.
  - Transportation: car lease, gasoline, driver, etc.
  - Medical: reimbursement of medical expenses, medical insurance
  - Recreation and travel: club membership, leave travel allowance, etc.
  - Education: education allowance for children, scholarship
  - Professional development: Books, periodicals, conferences
  - ESOP
- FBP expenses must be reasonable, and also should be within perquisite valuation limits. Some FBP items will be subject to fringe benefits tax.
- In case an employee cannot use benefits in kind, he can take the balance of his FBP quota as a special allowance, fully taxable.
- Depending on company policy, Fringe Benefit Tax may be taken from his personal FBP quota or borne by the company.

# Sources for Recruitment (1)

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Workers and supervisors in manufacturing and clerical positions are hired directly by in-house HR from:

- ❑ Technical training institutes
- ❑ Colleges and universities
- ❑ Supervisors: graduate engineers for training and confirmation
- ❑ Lateral hires
- ❑ Recruitment agencies (recent trend)
- ❑ Temporary workers from agencies such as Kelly, Team Lease, Manpower

# Sources for Recruitment (2)

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Management/ Technical personnel (entry level):

- ❑ Finance, systems, IT, production, marketing, HR and legal through campus recruitment
- ❑ Engineers, MBA, Chartered Accountants, Software Engineers, Law Graduates, Chemistry/ Pharmacy graduates are available through this route
- ❑ Campus candidates may have prior work experience
- ❑ Most reputed institutes have organized recruitment with facilities for presentation, tests, interviews
- ❑ Top institutions are Indian Institutes of Technology (IITs), Indian Institutes of Management (IIMs)
- ❑ Advertisements are sometimes used

# Sources for Recruitment (3)

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Experienced personnel and top management are recruited through advertisement or recruitment agencies

- ❑ Advertising is expensive, but response is good in special supplements of national newspapers; other media are technical journals and recruitment websites
- ❑ Recruitment websites such as Monster, Jobsahead, Timesjobs and Naukri are cost-effective and popular
- ❑ Companies also solicit applications through their own websites
- ❑ Recruitment agencies, both international and local, are available

# Sources for Recruitment (4)

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- ❑ Some agencies specialize in functional areas
- ❑ A few agencies do effective head-hunting
- ❑ Specialized agencies for CXO positions
- ❑ Confidential positions are advertised through recruitment agencies
- ❑ For non-managerial posts, walk-in interviews are common, especially in software and ITES industries
- ❑ Job fairs are also held: candidates register at stalls, submit applications and can be interviewed and offered on the spot.

# Recruitment Process

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- ❑ Screening applications
- ❑ Written test (junior and some technical positions)
- ❑ Interviews – preliminary and final
- ❑ Group discussion (for entry level positions)
- ❑ Psychometric evaluation
- ❑ Offer letter
- ❑ Medical examination
- ❑ Reference check
- ❑ Probation/training period (for junior level)
- ❑ Confirmation
- ❑ Some employers take a bond to cover training
- ❑ Recruitment processes can be outsourced to some extent

# Criteria for Candidates

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- ❑ Company reputation and profitability
- ❑ Preference for multinationals
- ❑ Salary and perquisites
- ❑ Designation
- ❑ Location and facilities
- ❑ Travel – local and overseas
- ❑ Overseas posting
- ❑ Career prospects and promotions
- ❑ Being considered as “management”
- ❑ Access to top management
- ❑ Job responsibility
- ❑ Training and development



# Employee Characteristics

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- ❑ Hardworking
- ❑ Not averse to travel or relocation
- ❑ Talkative
- ❑ Analytical but written communication needs improvement
- ❑ Used to extra hours and working on holidays
- ❑ Family-oriented; expect to socialize with colleagues and bosses periodically
- ❑ Expect a few company sponsored events/outings
- ❑ Religious
- ❑ Ethnic/language orientation (not a major issue however)
- ❑ Amenable to quality and training

# Employee Characteristics – Recent trends

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Competition among companies for good employees has resulted in:

- ❑ Employees no longer expect to work in one company for life
- ❑ Job changes are more frequent
- ❑ Employees constantly check their salaries against the market
- ❑ Can be induced to change jobs periodically for immediate gains
- ❑ In the software industry, some candidates posted overseas do not return
- ❑ Few instances of employees disclosing inside information

# Retention Strategies

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- ❑ Salary level in line with market
- ❑ Good in-company facilities for food, transport, leisure
- ❑ Training and development
- ❑ “Stay” interviews
- ❑ Flexible work hours / work from home
- ❑ Study leave and financing higher studies
- ❑ Open appraisal system
- ❑ Good working conditions (open plan offices are common, but seniors prefer to have rooms)
- ❑ Transparent personnel policy and formal manual
- ❑ Faster promotion and increasing responsibility

# Separation

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- ❑ Separation done diplomatically – no pink slip or email
- ❑ Discussion first
- ❑ Preferable to ask for resignation as opposed to termination
- ❑ Financial settlement is common
- ❑ Giving time for logistical reasons such as school year is also common
- ❑ Termination in case of ethics, confidentiality breach
- ❑ Legal action in certain cases
- ❑ Non-compete agreement/compensation for senior positions

# Expatriates and Returnees

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- As there is no shortage of managerial personnel in India, the proportion of expatriates is smaller than in other Asian countries.
- Expatriates are usually sent to India as part of multinationals' job experience/rotation policy. Going the other way, Indians employed in multinationals are often sent to other countries as expatriate managers.
- Indian companies often employing expatriates include pharma, hospitality, airlines; also financial services and some technology-based companies.
- Recently there is a trend in the IT industry for junior-level expatriates to apply for jobs in India. However, they will receive local salaries in this case.



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# Intellectual Property Rights

# Intellectual Property Rights (1)

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- ❑ India is a signatory to the WTO Uruguay Round TRIPS agreement (1995) and has laws in compliance India has had a Patent Law since 1856
- ❑ India also signatory to the Patents Convention Treaty (PCT)
- ❑ IPR is of two types:
  - ❑ industrial property (patents, trademarks, industrial design, geographical indications)
  - ❑ copyright
- ❑ Patents: Indian Patents Act, 1970 provides protection for 20 years from the date of filing application. 2-3 years time for grant of patent.
- ❑ Trademarks: Trademarks Act 1999 provides coverage for 10 years (renewable thereafter as long as mark is in use). 1-2 years for grant.
- ❑ Designs Act 2000 protection for 10 years, renewal for 5 years thereafter.

# Intellectual Property Rights (2)

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- Geographical Indications: Geographical Indications of Goods (Registration & Protection) Act 1999: protection for 10 years, can be renewed every 10 years in perpetuity
- Copyright: Copyright Act, 1957: life of author plus 60 years thereafter (for literary, musical or artistic work), 60 years from date of creation or availability to public (for photographs, films and computer programs)
- Other IPR laws: Protection of Layouts for Integrated Circuits Act, Plant Varieties Protection and Farmers Rights Act 2001, Bio-diversity Act 2002
- No legislation so far for data protection and trade secrets



# IPR Infringement

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- ❑ Main precaution is to register well before market entry
- ❑ Conduct a search for similar registrations through a patent attorney
- ❑ Also general searches from public sources, alert market research agencies to look for infringements in the course of their field study
- ❑ Be aware of “look- a -like” brands which may raise objections to registration, possibly expecting monetary compensation
- ❑ Oppose such infringements as are under registration through “opposition”
- ❑ Trademark and copyright violations can be remedied through civil suits claiming injunction, damages, impounding and criminal prosecution
- ❑ Patents infringement can be remedied similarly through civil suit



# Risk Factors

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- ❑ Government contracts
- ❑ Joint Venture Partner
- ❑ Land acquisition
- ❑ Unclear regulatory framework
- ❑ Minority holding in joint ventures
- ❑ Labor situation
- ❑ Change of Government Policy
- ❑ Political Risk
- ❑ Government Approvals
- ❑ Law and order
- ❑ Lobbying by competition
- ❑ Unethical practices
- ❑ Poor infrastructure

# Major Issues (1)

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- ❑ Follow corporate policy but avoid rigidity
- ❑ Comply with Government procedures
- ❑ Adhering to taxation laws
- ❑ Consider broader consequences of the project
- ❑ Respecting competition
- ❑ Partner selection
- ❑ Management from overseas not effective
- ❑ Personal interface needed
- ❑ Selection of top management
- ❑ Listen to advisers but make own judgment

# Major Issues (2)

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- ❑ Corporate social responsibility
- ❑ Foreign company faces greater scrutiny than a local one
- ❑ Recognize the importance of media
- ❑ Environmental issues
- ❑ Don't ignore politics
- ❑ Match product to market
- ❑ Do not expect to be market leader on the basis of overseas reputation
- ❑ Keep long-term perspective

# Cultural Issues

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- ❑ Recognize diversity – no “standard” Indian
- ❑ Discussions/negotiations take longer
- ❑ Start with general topics
- ❑ Won’t give “no” for answer
- ❑ Silence may mean bad news
- ❑ Politeness, diplomacy and tact in all circumstances
- ❑ Procedural orientation
- ❑ No unilateral decisions
- ❑ Social bonding is important –employees, suppliers, distributors
- ❑ Patience is a virtue
- ❑ IST – Indian “stretchable” time
- ❑ Delegation mixed with supervision
- ❑ Aggression to be used sparingly



# Thank you for your consideration!

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