Doing business in India

June 2020

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Foreword

The COVID-19 pandemic is having an overwhelming impact on global fiscal policies. These are testing times for nations. For India and for most other countries, the outbreak presents twin challenges which is not only containing the spread of the virus, but also limiting the economic impact in an already slowing economy. But extraordinary times call for extraordinary measures. A timely evaluated ease out from the lockdown, along with a well-calibrated monetary and fiscal stimulus would be critical to survive the severe blow of the pandemic.

India's growth prospects are also quite challenging as it has entered the crisis on the back of an economic downslide. The first month of FY21, that is, April 2020, has been effectively wiped out, as far as economic activities are concerned, due to the near-complete lockdown.

The Indian Government has announced several relief measures, especially on statutory and regulatory compliance matters under Income Tax, Goods and Service Tax, Customs, Corporate affairs, Insolvency and Bankruptcy Code. Similar measures have been introduced in other sectors. To spur investments, relaxation of Foreign Direct Investment limit in defence, privatization of six more airports, and fully opening coal mining to the private sector, is part of an expansive economic stimulus package to offset the impact of COVID-19 outbreak. This was followed with a relief package announced under the *Pradhan Mantri Garib Kalyan Yojana* for the poor. To support the hard-hitting economy and all the sections of the society at large, the government announced mega relief packages to create *Aatmnirbhar Bharat* (self-reliant India).

As per the Doing Business Report, 2020 released by the World Bank, India ranked among the top 10 improvers for the third consecutive time. From the 77th rank last year, the country jumped 14 places to the 63rd position. With this improvement, India is making it easier to do business. The economic stimulus packages and current environment present additional opportunities for the private sectors to set up their manufacturing hubs in India as skilled managerial and technical manpower matches the best available in the world at a cheaper price.

EY has developed this guide with the intent of giving stakeholders an overview of the demographic profile of India and its key sectors. The report also provides an insight into the regulatory framework, form of business enterprises, funding options and relevant tax regimes in India in a concise manner.

The companies that are doing business in India, or are planning to do so, may be well advised to obtain current and detailed information from our experienced professionals.

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Inside this report

A India: at a glance

India's fact sheet

Geographical Profile	Capital	New Delhi
	Administration	28 states and 8 union territories[1]
	Neighboring countries	Afghanistan, Bangladesh, Bhutan, China, Myanmar, Nepal, Pakistan and Sri Lanka
	Total area	3.29 million sq km[1] (90% land, 10% water)
	Climate	Temperate in the north and tropical monsoon in the south
	Natural resources	Coal (fourth-largest reserves in the world), iron ore, manganese ore, mica, bauxite, chromite, natural gas, diamonds and limestone
	Railways	68,442 km[2]
	Roadways	5.89 million km[3]
	Waterways	14,500 km[4]
	Airports	464[5]
Demographic Profile	Population (2020 estimates)	▶ 1.38 billion[6] (urban: 34.5%, rural: 65.5%)[7] ▶ Population growth[4]: 0.99% (y-o-y)
	Sex ratio	1.08[6] males per female
	Age structure	0-14 years (26.16%), 15-24 years (18.01%), 25-64 years (49.26%), 65 years and over (6.57%)[6]
	Median age	Median age: 28.43 years[6]

Education and labor force	Literacy rate	▶ 74% (male: 82%, female: 65%)[8] ▶ India has one of the world's largest school-age population and a well-developed education system
	Labor force	494.26 million[9] in 2019
Political profile	President	Ram Nath Kovind (tenure: five years)
	Prime Minister	Narendra Modi (tenure: five years)
Economic profile	GDP	US$2.71 trillion[10] (current prices, FY19), GDP growth: 6% in FY19[11]
	Private consumption	US$1.61 trillion [10] in FY19
	Trade (FY20 estimates[12])	▶ Merchandise imports: US$467.2 billion ▶ Merchandise exports: US$314.3 billion ▶ Merchandise Trade deficit: US$152.9 billion
Financial market	Central bank	Reserve Bank of India, established in 1935
	Capital markets regulator	Securities and Exchange Board of India, established in 1992
	Major stock exchanges	▶ Bombay Stock Exchange established in 1875 ▶ National Stock Exchange established in 1992

B Key sectors: overview

Aerospace and defence

India has the fourth-largest armed forces in the world[1]. It has become one of the largest importer of defence goods and services in the world. Its defence budget is US$66.9 billion which is around 2.1% of its GDP[2].

The government, as part of its *Make in India* program, has given a new impetus to development of defence production in the country. Several initiatives have been taken in the last four years to promote greater participation of industry. As per the recent draft Defence Procurement Procedure (DPP) 2020, the key features towards promoting this program include[3]:

- Introduction of new procurement categories, such as, Buy (Global – Manufacture in India) and Leasing.
- Indigenous content percentages (%) in all procurement categories, wherever applicable, have been increased from 40% to a uniform 50% or more.
- Additional categories like design and development (D&D) and Make-III to promote innovation and research and development (R&D).
- Establishment of an innovation and indigenization organization, which will spearhead in identifying projects for indigenous design and development including import substitutions.

Other key policy relaxations include, increase in FDI through automatic route to 74%, restricting licensing requirements for critical items only and denotifying several items previously produced only by Ordinance Factory Boards (OFBs) for production by industry. The government has also come up with scheme for promotion of MSMEs in defence[4].

The government is working on the formulation of the policy for defence industrial corridors to be set-up in Tamil Nadu and Uttar Pradesh[5].

Automobile

Automotive industry in India is one of the prime drivers of the economy and is the fourth largest in the world[6]. India is expected to be the world's third-largest automotive market in terms of volume by 2026[7]. Indian automotive industry (including component manufacturing) is expected to reach US$251.4-282.8 billion by 2026[6]. The Government of India encourages foreign investment in the automobile sector and allows 100% FDI under the automatic route. The industry has attracted FDI worth US$23.89 billion during April 2000 to December 2019[8]. The Government of India approved the *Faster Adoption and Manufacturing of Electric Vehicles in India Scheme Phase II* with a fund requirement of US$1.39 billion for FY20-22[9].

Banking

The Indian banking system consists of 18 public sector banks, 22 private sector banks, 46 foreign banks, 53 regional rural banks, 1,542 urban cooperative banks and 94,384 rural cooperative banks as of September 2019[6]. During FY07–19, deposits grew at a Compound Annual Growth Rate (CAGR) of 11.11% and reached US$1.86 trillion by FY19. Deposits as of February 2020, stood at US$1,893.77 billion[6].

The Reserve Bank of India (RBI) regulates the sector. Key enactments governing this sector include the Banking Regulation Act, 1949; the RBI Act, 1934; and the Companies Act, 2013. RBI regularly reviews and refines the regulatory and supervisory policies to enable a strong capital base, effective risk management and best corporate governance standards in the banking sector.

Foreign investment in private banks is capped to 49% of the total equity under the automatic route and maximum of 74% after getting an approval from the government. Further, at all times, at least 26% of the paid-up capital will have to be held by residents, except in case of a wholly-owned subsidiary of a foreign bank[10].

Capital market

The Indian capital markets have made significant progress which span into development in terms of accessibility, regulatory framework, market infrastructure, transparency, liquidity and the types of instruments available. All these factors have culminated in the emergence of a much deeper and resilient primary as well as secondary capital market in India. The Securities and Exchange Board of India (SEBI), the capital market regulator, is established to protect the interests of the investors in securities as well as to promote development of the capital market. It regulates all intermediaries of the capital market (such as stockbrokers, merchant bankers, underwriters, etc.), as well as prohibits unfair trade practices in the securities market.

India recorded 10 IPOs in first quarter of 2020 with Indian stock exchanges (BSE and NSE including SMEs) ranking eighth globally in terms of number of IPOs[11]. The recent amendments made to the Companies Act, 2013 in March 2020, allow Indian companies to directly list on certain foreign stock exchanges, providing easier access to deeper and diversified pools of capital, broader investor base, better valuations and in turn, boosting the India brand globally.

Healthcare

The Indian healthcare industry is one of the largest and rapidly growing markets in the Asia-Pacific region[7]. Healthcare comprises primarily of pharmaceutical, biotech, hospitals and medical equipment. While the government was always focused on healthcare, COVID-19 has given a greater focus to this sector.

Pharmaceuticals

Meets **50%** global demand for vaccines.

India is the largest provider of generic medicines globally, occupying a 20% share in global supply by volume. It also meets 50% of global demand for vaccines. India ranks third in the world for production of pharmaceuticals by volume and 13th by value, thereby accounting for around 10% of world's production by volume and 1.5% by value[7].

The Department of Pharmaceuticals aims to make the country a hub for end-to-end drug discovery under its *Pharma Vision 2020*[7].

FDI is permitted up to 100% in greenfield projects and up to 74% in brownfield projects under automatic route and beyond 74% in such projects requires government approval.

In order to retain India's position as a world leader in pharmaceuticals, the **Government of India has undertaken the following initiatives in the month of March 2020 and April 2020 in the wake of the COVID-19 pandemic[7]:**

- Environmental clearances to be granted expeditiously to projects related to active pharmaceutical ingredients and bulk drug intermediates.
- Export policy for APIs such as vitamins B1, B6 and B12, tinidazole, metronidazole, acyclovir, progesterone and chloramphenicol, etc. has been amended to make it restriction free.

Further, for boosting this sector, the government, with a budget of US$0.4 billion for the next five years, aims to develop three mega bulk drug parks in India in partnership with the Indian states[7].

Biotechnology

India is among the top 12 destinations for biotechnology in the world, with approximately 3% share in the global biotechnology industry[7]. India is also the leader in the global supply of DPT, BCG and measles vaccines. By 2025, the Indian biotechnology industry is expected to reach US$150 billion[7].

Medical devices

The Indian medical devices industry consists of large multinationals, with extensive service networks, as well as small and medium enterprises (SMEs). The current market size of the medical devices industry in India is estimated to be US$11 billion and is expected to reach US$50 billion by 2025[7]. Currently, FDI is permitted up to 100% under automatic route in medical devices sector.

To propel this segment for further growth, the Government of India has undertaken the following initiatives[12]:

A.

Production Linked Incentive Scheme: aimed at promotion of domestic manufacturing of medical devices (with a proposed budget outlet of US$0.45 billion), the potential incentive at 5% of incremental sales over base year FY 2019-20 would be provided on specified categories of medical devices manufactured under the scheme.

B.

Medical devices park: it is aimed at development of medical device parks in India (with a proposed budget outlet of US$0.05 billion). It would provide for common infrastructure facilities, which is expected to reduce cost of manufacturing of the medical devices in the country.

Hospitals

The hospital industry in India accounts for 80% of the total healthcare market. It is witnessing a huge investor demand from both global as well as domestic investors. The hospital industry is expected to reach US$132 billion by 2023 from US$61.8 billion in 2017; growing at a CAGR of 16%-17%[7].

Currently, FDI is permitted up to 100% under the automatic route.

Information technology

India is the largest offshoring destination for information technology (IT) companies across the world[6]. The IT industry in India consists of two major components, namely, IT services and business process outsourcing (BPO). India's IT and ITeS companies have set up over 1,000 global delivery centers in over 80 countries around the world. India's talent pool of technical graduates is one of the largest in the world. It has a low-cost advantage by being five to six times inexpensive than the US[6]. The country's cost competitiveness in providing ITeS, which is approximately three to four times cheaper than the US, continues to be its unique selling proposition (USP) in the global sourcing market[7]. The IT-BPM industry stood at US$177 billion in 2019 and is expected to grow to US$350 billion by 2025. Total revenue from IT services and BPM for FY2019-20 accounts for US$135 billion[7].

The Government of India is taking various initiatives to promote IT and ITes sector in India. Some of these are:

- The government plans to set up a national level program to enable efforts in Artificial Intelligence (AI) and to help leverage it for development work in the country.
- The union cabinet approved the National Policy on Software Products-2019 to develop India as a software product hub.

Insurance

Insurance is an important sector in the Indian economy. It consists of 57 companies of which 24 are in life insurance business and 33 are in non-life insurance[6]. The measure of insurance industry's penetration and density reflects the development the insurance sector has made. Insurance penetration is measured as a percentage of insurance premium to GDP and insurance density is calculated as ratio of insurance premium to the total population.

The sector is regulated by the Insurance Regulatory and Development Authority of India (IRDA). The authority has introduced a number of reforms for creating a level playing field for insurance companies in India. The overall insurance industry is expected to reach US$280 billion by 2020. Life insurance industry in the country is expected grow by 14%-15% annually for the next three to five years[6].

FDI in this sector is allowed up to 49% under the automatic route. Under the automatic route, 100% FDI has now been permitted for insurance intermediaries and the requirement of control being with Indian residents in case of insurance intermediaries has also been relaxed.

Media and entertainment

The Indian media and entertainment (M&E) industry is one of the fastest growing sectors in India. The industry has been largely driven by increasing digitization and higher internet usage over the last decade. It reached US$25.7 billion in 2019, a growth of almost 9% over 2018 . With its current trajectory, it is set to expand at a CAGR of 13.5% over 2019-24 and is expected to reach around US$43.93 million by 2024[6].

Digital advertising grew 24% to US$2.72 billion in 2019 driven by increased consumption of content on digital platforms and marketers' tilt towards measurability and performance[13]. Paid digital subscribers crossed 10 million and subscription revenue grew 106% as Indians paid for online quality content. Subscription, which was 3.3% of the segment in 2017, increased to 13% in 2019 to US$0.41 billion[13]. Wireless subscriptions decreased 2% from 1,176 million in December 2018 to 1,154 million in November 2019. The fall in subscriptions is largely on account of rationalization and deactivation of multiple-sim consumers by some of the telecom operators.

The Foreign Direct Investment (FDI) inflows in the information and broadcasting sector (including print media) in the period April 2000–December 2019 stood at US$8.71 billion, as per data released by the Department for Promotion of Industry and Internal Trade[8].

Oil and gas

The oil and gas industry is among India's eight core industries. India is the third largest consumer of crude oil and petroleum products in the world and second largest refiner in Asia[6].

The industry is under the administrative ambit of the Ministry of Petroleum and Natural Gas. The government has enacted policies such as Hydrocarbon Exploration and Licensing Policy, Discovered Small Field Policy and CBM policy to encourage investments. FDI under the automatic route is permitted up to 100% in upstream and private sector refining projects. The FDI limit for public sector refining is up to 49% without any disinvestment or dilution of domestic equity in the existing public sector undertakings (PSUs).

Ports

India is the 16th largest maritime country in the world with coastline of about 7,517 km, which encompasses 12 major and 205 notified non-major ports[6]. The total traffic handled at major ports from April to March 2020 was 704.63 million tonnes as against 699.10 million tonnes handled during the corresponding period of the previous year, showing an overall growth of 0.82%[14].

In India, ports are under the administration of the concurrent list of the Indian constitution. The major ports are governed by the Government of India, while non- major ports are administered by state governments. Some of the key legislations formulated to govern Indian ports include the Major Port Trusts Act, 1963 and the Major Ports Regulatory Authority Act, 2009.

In the Budget 2020, allocation to the Ministry of Shipping stands at US$0.25 billion[15]. The government has allowed FDI up to 100% under the automatic route for projects related to the construction and maintenance of ports and harbors.

In addition to the above, the Government of India is aiming to create port capacity of 3,200 million metro tonnes by 2020[6]. The Major Port Authorities Bill, 2020 is pending with the lower house of the Indian Parliament. The bill seeks to provide for regulation, operation and planning of major ports in India and to vest the administration, control and management of such ports upon the boards of major port authorities. In addition, the Indian Ports Association, under the aegis of the Ministry of Shipping, has taken steps towards digitizing some of trade-related processes through implementation of Port Community System.

Power and utilities

India's power sector is one of the most diversified sectors in the world. Sources of power generation range from conventional sources such as coal, lignite, natural gas, oil, hydro and nuclear power to viable non-conventional sources such as wind, solar, and agricultural and domestic waste.

India's installed capacity for power generation as on 31 March 2020 is estimated at around 370.11 Giga Watt (GW), with private sector's contribution of around 46.8% of the installed capacity[16]. Fuel based thermal power plants form a major portion (i.e., 62.8%) of the installed capacity, accounting for nearly 230.60 GW of the total installed capacity in the country[16].

For a developing economy like India, power continues to be a valuable and essential commodity. The country is experiencing continuous surge in demand for power. FDI up to 100% is permissible in the power segments (excluding atomic energy).

Real estate

The contribution of real estate sector to India's GDP is estimated to be about 13% by 2025[6]. The sector consisting of housing, retail, hospitality and commercial continues to play a critical role in building the requisite infrastructure for India to match its growth ambitions. The market size of Indian real estate sector is estimated to reach US$1 trillion by 2030[6].

FDI is prohibited in real estate business. However, it does not include development of townships, construction of residential/ commercial premises, roads or bridges and Real Estate Investment Trusts (REITs) registered and regulated under the SEBI (REITs) Regulations, 2014.

Retail industry and consumer products

The Indian retail[17] sector is estimated to be around US$700 billion in 2019-2020 and employs about 10% of India's working population[18]. It is one of the fastest growing major market in the world and is fifth-largest global destination in the retail space[6].

To provide boost to the sector, the Indian Government has been relaxing FDI norms. Currently, 51% FDI in multi-brand retail and 100% in single brand retail under the automatic route is permitted. As per the Retailers Association of India, the market is estimated to cross US$1 trillion by 2025, growing at a CAGR of 9%-11%, driven by socio-demographic and economic factors such as urbanization, income growth and rise in nuclear families[19].

Roads and highways

India has one of the largest road networks in the world, spanning a total of 5.89 million kms. More than 64.5% of all goods in the country are transported through roads and 90% of passenger traffic in the country is handled by roads. India has 132,500 kms[20] of national highways. During FY 2019-20, NHAI has accomplished highest-ever highway construction of 3,979 kms[21] . The Government of India aims to construct 65,000 kms of national highways at the cost of US$741.51 billion by 2022[6].

In Budget 2020, US$12.84 billion has been allocated to Ministry of Road Transport and Highways for FY 2020-21. FDI up to 100% is allowed under the automatic route in the road and highways sector.

Telecommunications

India is currently the world's second-largest telecommunications market with a subscriber base of 1.18 billion[22]. The country's growing mobile economy now constitutes about 98% of all telephone subscriptions. The mobile industry supports about 6.5% of India's GDP. Telecom industry's contribution to GDP is expected to reach 8.2% by 2020[23].

The country has 1174.66 million telephone connections, including 1154.39 million wireless telephone connections. The overall tele-density of the country is 88.81%[22].

The FDI is deregulated and relaxed to 100% in telecom sector, 49% is through the automatic route and higher investment limits through approval route. During 2019-20 (up to December,2019) FDI equity inflow touched US $ 4.29 billion.[8]

The National Digital Communications Policy – 2018 (NDCP-2018) envisions a digitally empowered economy and society. The policy's key objectives are broadband for all by 2022, creating four million additional jobs in the digital communications sector and increasing the contribution of digital communication to 8% of India's GDP. The other ambition is to propel India to the top 50 nations in the ICT Development Index of International Telecommunication Union from 134 in 2017. These goals are aligned to the Sustainable Development Goals of United Nations[22].

Digital and e-commerce

Owing to the growth in internet penetration, smartphone users and digital payments options, India has been experiencing high growth in the e-commerce sector. It is expected to surpass the US to become the second largest e-commerce market in the world by 2034. According to India Brand Equity Foundation (IBEF), the Indian e-commerce market is expected to grow to US$200 billion by 2027[6]. The Government of India under the *Digital India campaign* is aiming to generate a trillion dollar online economy by 2025[6]. The business-to-business model in e-commerce marketplace in India allows up to 100% FDI, subject to certain operating conditions.

C Investment climate and foreign trade

Foreign Exchange Management Act, as it stands today, encompasses provisions relating to transactions which have international financial implications. The act envisages RBI to have a controlling role in the management of foreign exchange. Currently, RBI has delegated majority of its powers to authorized dealer bankers who are required to exercise their jurisprudence and discretion to adhere to the given regulatory framework.

Most of the policies have been adopted by the government to make India an investor-friendly destination. These policies also reflect a progressive movement towards the government's Make in India initiative that recognizes ease of doing business as a key factor to promote entrepreneurship. The initiative encourages companies to manufacture their products in India.

Components of foreign investment in India

Foreign investment in India can broadly be categorized as follows:

01 Foreign Direct Investment

02 Foreign investment under Portfolio Investment Scheme

03 Investments on a non-repatriation basis by NRIs and PIOs

Total FDI equity inflows in India from various sectors has nearly doubled from US$22.42 billion in 2012-13 to US$44.37 billion in 2018-19[1]. The top three countries (Mauritius, followed by Singapore and Japan) invest 59% of the total FDI in India[1]. The major sectors that attract investments are service sector[2], computer software and hardware and telecommunications, receiving almost 36% of the total FDI[1].

Foreign trade

Over the years, India has entered into several bilateral and regional trade agreements with its key trading partners. Apart from offering preferential tariff rates on trading of goods to the member countries, these agreements also enable increased economic cooperation in trade and services, as well as in investment and intellectual property.

India's overall exports during April-March 2019-20[3] are estimated to be US$528.45 billion, exhibiting a negative growth of (-) 1.36% over the same period last year[4]. Non-petroleum and non-gems and jewelry exports in April-March 2019-20[3] were valued at US$235.73 billion as compared to US$243.27 billion for the same period last year, exhibiting a fall of (-) 3.10%[4].

India's overall imports during April-March 2019-20[3] are estimated to be US$598.61 billion, exhibiting a negative growth of (-) 6.33% over the same period last year[4]. Oil imports during April-March 2019-2020[3] were valued at US$129.43 billion, which was 8.15% lower in terms of dollar compared to the oil imports of US$140.92 billion over the same period last year[4]. Non-oil imports during April-March 2019-20[3] were valued at US$337.76 billion which was 9.49% lower in terms of dollar compared to those of US$373.16 billion over the same period last year[4].

Mauritius
Singapore
Japan

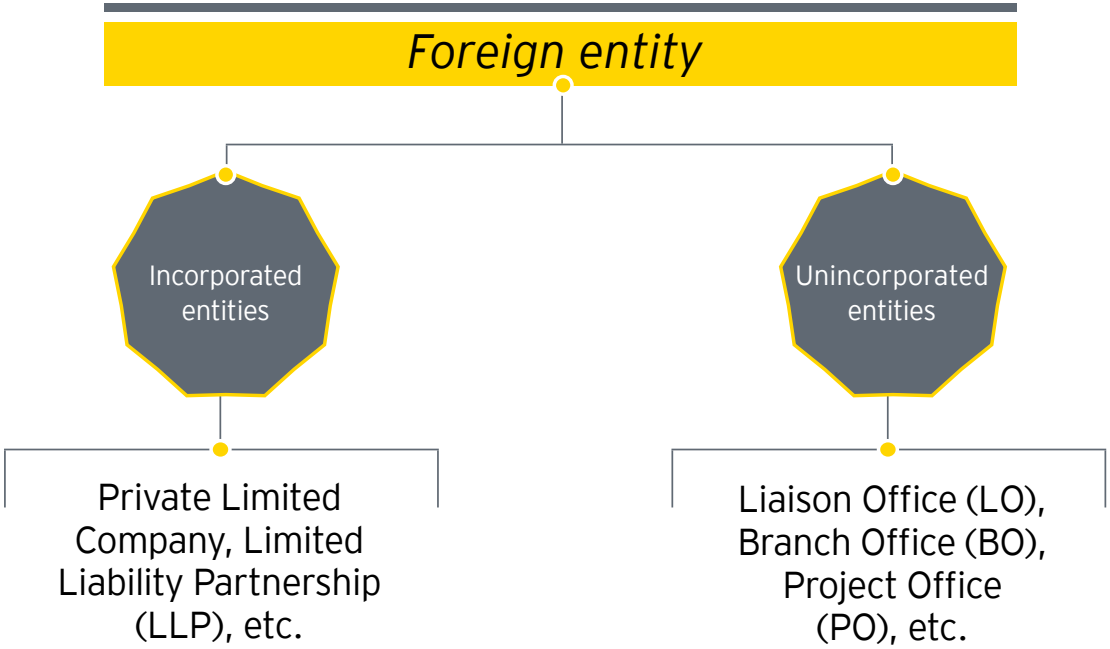
59%

of the total FDI in India[1].

D Entry options in India

Every foreign investor planning to enter India should select an appropriate form of business presence, keeping in mind the business objective of its foreign entity in India. The right selection is likely to go a long way to ensure efficiency (from an operational/ legal/regulatory/tax perspective) and would also help to ensure that the business can be financed and run efficiently.

A foreign entity can set up their business operations in India either as an incorporated or unincorporated entity.



The following table gives a snapshot of some of the commonly preferred business forms in India

Particulars	Liaison office (LO)	Project office (PO)/Branch office (BO)	Private Limited Company	Limited Liability Partnership (LLP)
Legal	Represents the parent company and acts only as a communication channel of the foreign parent company.	Both BO and PO are extended arms of the parent company. A PO is generally set-up for specific projects, whereas a BO is set-up for carrying activities in the course of the business[1].	Independent status	Independent status
Approval for commencement	▶ Required from an authorized dealer bank (AD Bank), which is subject to fulfilment of prescribed conditions[2]. ▶ Required from RBI in exceptional scenarios.	▶ Required from an AD Bank, which is subject to fulfilment of the prescribed conditions[2]. ▶ Required from RBI in exceptional scenarios.	A company can be set up subject to FDI guidelines.	An LLP can be set up subject to FDI guidelines.
Permitted activities	Liaison activities No commercial/business activities are permitted.	Restricted scope Activities listed by RBI are only allowed to be undertaken.	Activities specified in Memorandum of Association of the company, subject to FDI guidelines.	Activities specified in LLP agreement, subject to FDI guidelines.
Income tax rate	An LO is not subject to tax in India, since it is not permitted to undertake any business activity.	Liable to tax on income earned in India @ 40%[3].	▶ Liable to tax on global income @ different corporate tax rates (15%/22%/25%/30%)[3] depending upon the nature of activities, annual turnover and fulfilment of certain conditions (please refer section 'L' for details on applicable tax rates). ▶ Company is liable to Minimum Alternate Tax (MAT) @ 15%[3] on its book profit.	▶ Liable to tax on global income @ 30%[3]. ▶ An LLP is liable to Alternate Minimum Tax (AMT) @ 18.5%[3] on its book profits.
Repatriation of accumulated profits	Not applicable as LO is not permitted to undertake any business activity.	A BO/PO is permitted to remit post-tax profits outside India upon fulfilling procedural compliances.	No statutory approval required; procedural compliances to be undertaken.	No statutory approval required; procedural compliances to be undertaken.
Ease of exit	Prior approval of AD Bank and ROC authorities is required.	Prior approval of AD Bank and ROC authorities is required.	▶ It may be complex depending on the strategy adopted. ▶ Exit can be through sale of shares or liquidation.	▶ It may be complex depending on the strategy adopted. ▶ Exit can be through sale of interest or dissolution.

Funding of Indian businesses

Equity share capital

Features

- Voting rights are given to shareholders in proportion to the shareholding.
- Pay-out via dividend, buyback, capital reduction, etc.
- Freely transferable, subject to sector-specific lock-in-conditions.

Additional capital can be raised by any of the following modes subject to regulatory conditions:

1. ***Rights issue:*** issue of shares to existing shareholders in proportion of their shareholdings
2. ***Employee stock options:*** issue of shares to employees under a stock option scheme
3. ***Private placement of shares:*** issue of shares to an identified group of persons/entities
4. ***Partly paid equity shares/ share warrants:*** issue and transfer of equity shares may be subject to pricing guidelines

Preference share capital

- Compulsorily fully convertible into equity (CCPS) → Treated as equity under the FDI policy
- Non convertible or optionally convertible in equity (NCPS/ OCPS) → Treated as external commercial borrowings

Preference shareholders are entitled to preferential right over equity shareholders with respect to dividend and repayment of capital.

External Commercial Borrowings (ECBs)

- ECBs are commercial loans raised by eligible resident entities from recognized non-resident entities and should conform to the parameters such as minimum maturity, permitted and non-permitted end-uses, maximum all-in-cost ceiling, etc.
- **The framework for raising loans through ECB comprises of the following two options:**
  - Foreign currency dominated ECBs in any freely convertible foreign exchange
  - Indian Rupee dominated ECBs
- The minimum average maturity period for an ECB is three years except for certain specified categories (such as ECBs raised for working capital purpose or general corporate purpose, ECB raised by manufacturing companies, etc.), where average maturity period can range between 1 year to 10 years.
- ECBs can be availed under two routes, namely, automatic route and approval route. All ECBs can be raised under the automatic route if they conform to the parameters prescribed under the ECB framework. Under the approval route, the prospective borrowers are required to send their requests to RBI through their AD Bank for examination.

Debentures and borrowings

- Companies can also raise funds by issuing debentures, bonds and other debt securities or by accepting deposits from the public. Debentures can be redeemable, bearer or registered, and convertible or non-convertible.
- Compulsorily fully convertible debentures are treated as equity under the FDI policy. Non-convertible/optionally convertible debentures are construed as ECBs and should conform to the ECB guidelines.

Listed debentures/bonds

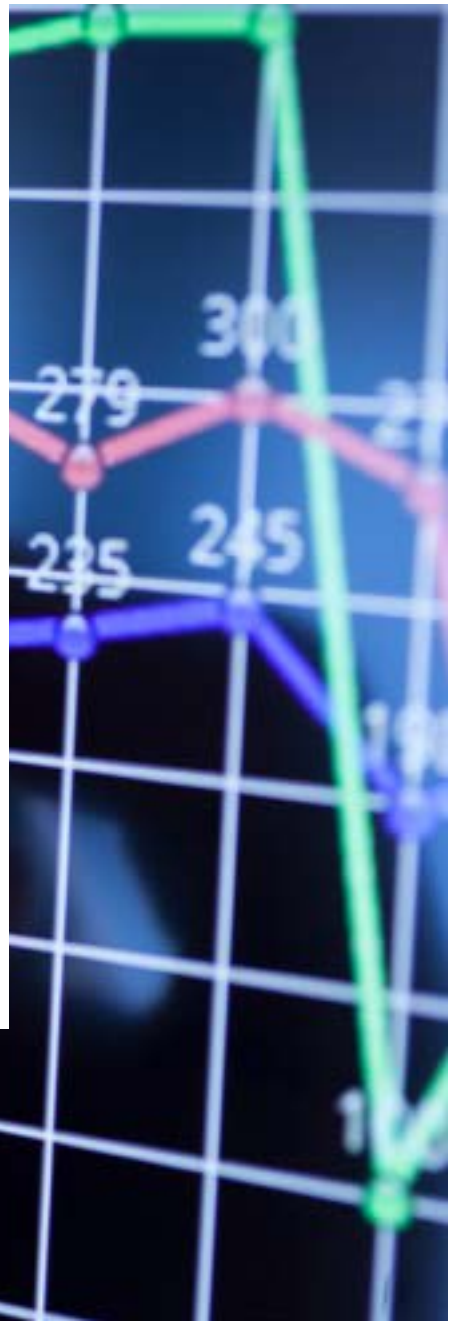
- SEBI registered Foreign Institutional Investors (FIIs)/Qualified Foreign Investors (QFIs)/Foreign Portfolio Investments (FPIs) are allowed to invest in listed debt securities, subject to regulatory conditions.

American Depositary Receipts (ADRs), Global Depository Receipts (GDRs) and foreign currency convertible bonds (FCCBs)

- Qualifying Indian companies can raise equity capital overseas by issuing ADRs, GDRs or FCCBs (rupee denominated equity shares/ bonds) which are subject to sectoral caps and end-use restrictions under the FDI regulations.
- The FCCBs need to conform to ECB guidelines as specified above.

Funding of an LLP

- Investment in an LLP is through capital contribution of partners and is subject to conditions under the FDI policy.
- FDI in LLPs is permitted in sectors where 100% FDI is allowed under automatic route and there are no FDI-linked performance conditions.



F Repatriation of funds

Repatriation from an Indian company

Foreign capital invested in India is generally allowed to be repatriated along with capital appreciation, if any, after payment of taxes due. The repatriation is allowed, provided the investment was made on a repatriation basis in terms of FDI/FEMA regulations, and is subject to any lock-in conditions that may be applicable under FDI/FEMA regulations.

Typical modes of repatriation in an Indian company

01 Dividend

- Profits earned by an Indian company can be repatriated as dividend, subject to availability of sufficient free reserves without RBI's permission. The repatriation is also subject to compliance with other specified conditions.
- Dividend is taxable at 20% (plus applicable surcharge and cess), subject to beneficial tax rates provided in the applicable treaty in the hands of shareholders.
- Repatriation can be completed within a week.

02 Buy back

- Buy back restricted up to 25% of the share capital and free reserves in a financial year subject to satisfaction of the prescribed conditions.
- Companies who are buying back shares are liable to pay tax @ 20% (plus applicable surcharge and cess) on consideration paid less amount received on issue of shares[1].
- No tax on shareholders in case of buy back of shares.
- Buy back price will be subject to pricing conditions prescribed under the FDI regulations in case of non- resident shareholders.
- Buy back of unlisted shares can be completed within six weeks.

03 Capital reduction

- NCLT driven process, subject to conditions prescribed under FDI regulations.
- Consideration to the extent of accumulated profits is taxable at the rate of 20% (plus applicable surcharge and cess) in the hands of shareholders subject to the beneficial tax rates provided in the applicable treaty.
- Consideration in excess of accumulated profits subject to capital gains tax in the hands of shareholders.
- Capital reduction can be completed within four to six months (subject to NCLT's vacations and protracted litigation).
- Capital reduction should be in compliance with the FEMA guidelines.

Royalties and fee for technical services

Indian entities are permitted to make payments to foreign entities under foreign collaboration agreements, subject to certain prescribed conditions. The payment can be for:

- Royalties and technical know-how
- Fees for technical services

The entities need to substantiate genuineness of such payments.

Remittances to foreign entities in the nature of royalties and fees for technical services are subject to tax withholding at 10% (plus applicable surcharge and cess) as per section 115A of the Income-tax Act, 1961 subject to beneficial tax rates provided in the applicable treaty. Furthermore, the said payments will be subject to arm's length test in case the transaction is between associated enterprises.

Other remittances

- Profits earned by Indian branches of foreign companies (other than banks) can be repatriated to their head offices subject to payment of the applicable taxes. Proceeds from the winding-up of a branch of a foreign company in India can also be repatriated.
- Profit earned by LLPs can be repatriated by way of distribution of profits to partners/ withdrawal of capital. Repatriation of the profit by the LLP to its partners is exempted from tax in the hands of the partners.

Forms of business enterprises

Sole proprietorship

Sole proprietorships are businesses owned and managed by individuals.

Features

- Profits or losses are borne by the owner solely
- No separate legal existence
- Unlimited liability of the proprietor
- In case a sole proprietor is an NRI or a PIO residing outside India, it is eligible to carry business in India
- NRIs/PIOs cannot invest in proprietary concerns engaged in specified sectors
- Investments can be made through inward remittance or out of specified accounts held by an NRI or a PIO

Partnership firms

Persons who have agreed to share the profits/ losses of a business conducted by them or any of them on their behalf is called partnership.

Features

- Partners' liability is unlimited
- Minimum two partners and maximum 50
- The firm and its partners are legally a single entity
- Partnership interest is non-transferable (except for existing partners)
- NRIs/PIOs residing outside India are allowed to invest in an Indian partnership firm on non-repatriable basis. Repatriation benefits are available with prior approval from the RBI
- NRIs or PIOs cannot invest in a partnership firm engaged in specified sectors
- A person resident outside India (other than an NRI or a PIO) can make investments in a partnership firm after obtaining an approval of the RBI or Foreign Investment Promotion Board (FIPB)

Limited Liability Partnership

An LLP is a hybrid entity with combined features of a company and a partnership firm.

Features

- It has a perpetual succession
- It has a legal identity separate from its partners
- Partners' liability is limited to their contribution
- FDI into an LLP is permitted under the automatic route subject to investment conditions[1]
- LLPs with FDI eligible to make downstream investments into a company or an LLP. Such downstream company/LLP to satisfy investment condition[1]
- Conversion of a company with FDI into an LLP is permitted under automatic route. Such LLP to comply with investment conditions[1]
- Minimum two designated partners who are individuals and at least one being a resident of India
- Designated partners responsible for an LLP should comply with the provisions of LLP laws in India
- Where the LLP has a body corporate (BC) as a partner, then the BC will have to nominate an individual to act as a designated partner
- An LLP incorporated in India is permitted to make outbound investments, subject to applicable Indian exchange control conditions

Companies

The Companies Act, 2013 and sub-ordinate rules therein, regulate incorporation of a company, manner of conducting its affairs, responsibilities of its directors and dissolution of a company. The Ministry of Corporate Affairs has the responsibility of ensuring compliance with the provisions of the Companies Act through the offices of Registrar of Companies and the Regional Directors. Securities and Exchange Board of India (SEBI), on the other hand, ensures compliance by the listed companies.

Types of companies

Companies in India can be broadly classified as public and private companies. A company can be registered with its liability as limited or unlimited. It can also be registered as a company limited by guarantee.

One person company

- Only one member (should be an Indian citizen and resident)
- At least one director

Small company

- Not a public company
- Paid up capital not more than INR5 million and turnover according to latest Profit and Loss account does not exceed INR20 million

Private limited company

- Company members (2 to 200), minimum two directors
- Restriction on transfer of shares

Public company

- Minimum seven members, minimum three directors
- Limits placed on remuneration paid to the directors

Section 8 Company

- Company established for charitable purpose
- Profits to be used for charitable purpose and not to be distributed

Share capital

The Companies Act permits companies to issue two kinds of shares to its members:

01 *Equity shares (common stock)*

02 *Preference shares (preferred stock)*

Equity share capital with differential rights as to dividend, voting or otherwise can be issued, subject to prescribed conditions and rules

Board of directors

- The management of a company is entrusted to its board of directors. The board acts on behalf of the company's members and is entrusted with the overall responsibility for conducting its business activities and day-to-day operations.
- It seeks the confirmation and approval of the company's members on major decisions, by way of passing resolutions at general meetings or through postal ballot.
- The board may also delegate its powers to a committee of directors or managing director by passing a resolution to this effect.

E-filing

All statutory filings, intimations to Registrar of Companies and central government and other service requests are required to be made online by submitting the e-Forms available on the Ministry of Corporate Affairs website using a digital signature.

Corporate Social Responsibility (CSR)

Eligible Indian and foreign companies working in India are required to ensure that they spend, in every FY, at least 2% of the average net profits of the company, as calculated in accordance with the Companies Act, 2013 towards the CSR activities specified in Schedule VII of the act.

CSR » at least 2%

Financial reporting and audit requirements

- The government has notified Ind AS[1] for Indian companies, other than those in banking and insurance, to apply in a phased manner. Application of Ind AS is now mandatory for all listed companies and non- listed companies having a net worth of INR2.5 billion and their holding, subsidiary, joint venture or associate companies.
- Banking and insurance regulators in India have deferred implementation of Ind AS. The implementation timeline for these entities will be notified separately by the respective regulators.
- Ind AS applies to both standalone and consolidated financial statements of the companies covered above. Companies that are not covered above can either apply Ind AS voluntarily or continue to apply their existing standards, i.e., accounting standards notified under the Companies (Accounting Standards) Rules, 2006. Any such company opting to apply Ind AS will need to prepare its financial statements according to Ind AS consistently. Once Ind AS are applied voluntarily, this option will be irrevocable and such companies will not be required to prepare another set of statutory financial statements in accordance with the existing standards.
- India has adopted the convergence approach instead of fully adopting International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB). As a result, financial statements prepared in accordance with Ind AS may not be fully compliant with IASB IFRS.

Uniform financial year

Companies/LLPs need to uniformly adopt financial year ending 31 March. However, a company which is a holding/subsidiary/associate company of a company incorporated outside India and is required to follow different financial year for consolidation of its accounts outside India, may approach central government to allow different period as its financial year.

Audit

All companies need to get their accounts audited by an auditor who is a practicing member of the ICAI. Under the Companies Act, 2013, an auditor is appointed for a term of five years. Furthermore, all listed companies and those belonging to a prescribed class cannot appoint or reappoint the auditor for more than two terms of five consecutive years, if the auditor is an audit firm or for more than one term of five consecutive years, if the auditor is an individual.

Financial statement

Every company needs to prepare financial statements for every financial year, which gives true and fair view of the state of affairs of the company. Financial statement in relation to a company includes:

- Balance sheet at the end of the financial year
- Profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year
- Cash flow statement for the financial year
- A statement of changes in equity, if applicable
- Any explanatory note annexed to, or forming a part of, any document referred to above

In case a company has one or more subsidiaries, associate or joint venture companies, it is also required to prepare a consolidated financial statement in addition to the standalone financial statements (subject to a few exceptions).

Tax reporting

Income Computation and Disclosure Standards (ICDS) notified by the Central Board of Direct Taxation (CBDT) needs to be followed by all assessees following the mercantile system of accounting for the purpose of computation of business income or income from other sources chargeable to income tax in India.

ICDS are applicable to all taxpayers, including non-resident taxpayers (corporate or non-corporate), irrespective of the turnover or quantum of income. Presently, 10 ICDSs have been notified by the central government.

Separate maintenance of books is not required for the purpose of ICDS. However, it may necessitate maintenance of memorandum records. Disclosures required under ICDS is to be included in the annual Tax Audit Report (TAR) and return of income (ROI).

ICDS does not impact MAT for corporate taxpayers, which can continue to be based on book profit determined on the basis of the applicable accounting standards.

I Economic laws and regulations

The Indian Contract Act, 1872 (ICA)

The ICA governs the formation, implementation and conclusion of a contract. It also provides remedies in case there is breach of a contract. ICA defines a contract as an agreement enforceable by law. To be enforceable by law, a contract must contain the following essential elements:

- Free consent of the parties
- Parties must be competent to a contract
- A contract should be for a lawful consideration
- A contract must be with a lawful object
- A contract should not be expressly declared by the ICA to be void

Along with dealing in the general principles of law of contract, ICA also deals with special kind of contracts such as contract of indemnity and guarantee; contract of bailment and pledge; and contract of agency. However, it does not cover contracts covered in separate independent legislations such as contract of partnership, contract for sale of goods, etc.

Protection of intellectual property rights

India, being a signatory to the General Agreement on Tariffs and Trade (GATT) and Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement, has complied with the obligations therein by enacting necessary statutes governing the following:

- Copyrights and other related rights
- Trademarks
- Geographical indications
- Patents
- Industrial designs

The Copyright Act, 1957 and The Copyright Rules, 1958

The Copyright Act, 1957 read with the Copyright Rules, 1958 governs copyright protection in India. As per the said law, copyright subsists with the author of the original literary, dramatic, musical and artistic work, a cinematographic film and sound recording. In India, copyright is an inherent right of the author towards its creation and therefore, the registration of copyright is not sine qua non.

The Copyright Act provides for both civil and criminal remedies for an infringement of a copyright. When an infringement is proved, the copyright owner is entitled to the remedies by way of injunction, damages and order for seizure as well as destruction of infringing articles.

The Trade Marks Act, 1999 (TM Act) and The Trade Marks Rules, 2017 (TM Rules)

The TM Act and TM Rules provides for protection of trademarks for services and goods, including collective marks and for the assignment and transmission of trademarks. The registration of the trademark is sine qua non for a person claiming to be the proprietor of a trademark wherein, the prior use of the trademark is not a pre-requisite for its registration.

The Geographical Indications of Goods (Registration and Protection) Act, 1999 (GI Act) and The Geographical Indication of Goods (Regulation and Protection) Rules, 2002 (GI Rules)

In compliance with the obligations in the TRIPS agreement and the Paris Convention for the Protection of Industrial Property, India enacted the GI Act along with the GI Rules that governs the present geographical indications regime in India.

As per the GI Act, a *geographical indication* means an indication which identifies particular goods as agricultural, natural or manufactured goods that originated or manufactured in the territory of a country or a region or locality, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin.

The Indian Patents Act, 1970

The Patents Act, 1970 provides for grant, revocation, registration, license, assignment and infringement of patents in India. Any infringement of a patent is punishable under the Patents Act.

The Designs Act, 2000 (Designs Act) and the Design Rules, 2001 (Design Rules)

The Designs Act and the Design Rules were enacted to fulfill India's obligations under WTO agreements. The Designs Act protects novel designs formulated by an owner with the objective of applying them to specific articles, to be manufactured and marketed commercially for a specific period of time.

Labor laws

India is a member of the International Labour Organization (ILO) and complies with the conventions that it has ratified. The key labor laws that are applicable are mentioned below:

Legislation	Details of the legislation
The Industrial Disputes Act, 1947	It provides for an investigation and settlement of industrial disputes, between employers and employees relating to employment or non-employment, the terms of employment, or conditions of labor.
The Trade Unions Act, 1926	The act provides for registration of trade unions of workers and is administered by state governments. It confers legal and corporate status on registered trade unions and promotes civil and political interest of its members.
The Plantation Labour Act, 1951	It provides for the welfare of plantation labor and regulates the condition of work in plantations. According to the act, the term "plantation" means any plantation to which this Act, whether wholly or in part, applies and includes offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with such plantation, but does not include any factory on the premises to which the provisions of the Factories Act, 1948 apply.
The Payment of Bonus Act, 1965	It provides for payment of bonuses to persons employed in certain establishments on the basis of profits or on production or productivity, as well as for matters connected therewith. This act is applicable to every factory and establishment that has employed 20 or more persons.

Legislation	Details of the legislation
The Payment of Gratuity Act, 1972	It provides a scheme for the payment of gratuity to all employees (whether or not employed in a managerial or administrative capacity) engaged in a factory, shop and other establishment.
The Employees Compensation Act, 1923	Its objective is to compensate employees or their survivors in the event of an accident resulting in disablement or death during the course of an employment.
The Industrial Employment (Standing Orders) Act, 1946	It provides for the employers to define the conditions of employment of the workers by issuing standing orders or implementing service rules with respect to classification of workmen, payment of wages, termination of service, etc.
The Minimum Wages Act, 1948	The act seeks to determine the minimum rates of wages in certain employments specified in the schedule to the act.
The Payment of Wages Act, 1936	It seeks to regulate the payment of wages to certain classes of employees in an industry such that the wages are disbursed within the prescribed time limit and without any unauthorized deductions.
The Factories Act, 1948	It governs the health, safety and welfare of the factory workers. It also comprises of a regulation for the functioning of factories and detailed procedures related to the inspection, registration and licensing of factories.

Legislation	Details of the legislation
The Employees' Provident Fund and Miscellaneous Provisions Act, 1952	It seeks to ensure financial security of employees by providing compulsory savings through a contributory fund payable at retirement. Applicable to international workers subject to exemptions given in act.
The Maternity Benefit Act, 1961	The act regulates the employment of women in certain establishments for a prescribed period before and after a childbirth, abortion or surrogacy. The act is applicable to all establishments employing 10 or more persons. Women are entitled to a paid maternity leave of 26 weeks.
The Employees' State Insurance Act, 1948	It provides for health care and cash benefits to employees in the event of sickness, maternity or injury suffered during employment and for other matters relating thereto. The act is applicable to factories and other establishments employing 10 or more persons. Employees drawing monthly wages up to INR21,000 are entitled to a social security cover under the said act.
The Contract Labour (Regulation and Abolition) Act, 1970 (CLRA)	The act was promulgated to regulate the employment of contractual labor. The establishments covered under the CLRA are required to be registered as principal employers with appropriate authorities. Every contractor is required to obtain a license and cannot undertake or execute any work through contract labor, except in accordance with the license issued by the licensing officer.
The Shops and Establishment Act, 1954	The act regulates working hours, minimum standards of working conditions and overtime, leave-salary payments to workers in certain categories of shops and other establishments.

Anti-trust regulation

In line with the global norms to prevent monopolies from creating trade barriers and reducing competition in India, the government has evolved an anti-trust regulatory framework that principally relates to the following legislations:

The Competition Act, 2002

This has been enacted to achieve objectives such as promote and sustain competition in markets, protect the interest of consumers, ensure freedom of trade carried on by participants, and prevent practices having an appreciable adverse effect on competition. Competition Commission of India was established for adjudication on any anti-competitive practice and for scrutinizing the qualifying acquisitions or mergers or amalgamations which have an effect on relevant markets in India.

The Consumer Protection Act, 1986

This act was enacted for the protection of consumer interest against the manufacturers or service providers providing defective goods or deficient services or for undertaking any trade practice that is likely to be classified as unfair or restrictive under the said act.

The Negotiable Instruments Act, 1881 (NI Act)

The NI Act, governs the law relating to the promissory notes, bills of exchange and cheques. The NI Act prescribes the liabilities of a drawer, a drawee and a holder in due course. The NI Act provides for criminal prosecution, which may extend up to a period of two years and/or a fine which may extend to twice the amount of the negotiable instrument for any default in encashment of any negotiable instrument in India.

The Sale of Goods Act, 1930

The act is complimentary to the ICA. The basic provisions of ICA, i.e., offer and acceptance, legally enforceable agreements, mutual consent, parties competent to contract, free consent, lawful object, consideration, etc., apply to every contract of sale of goods.

The Arbitration and Conciliation Act, 1996

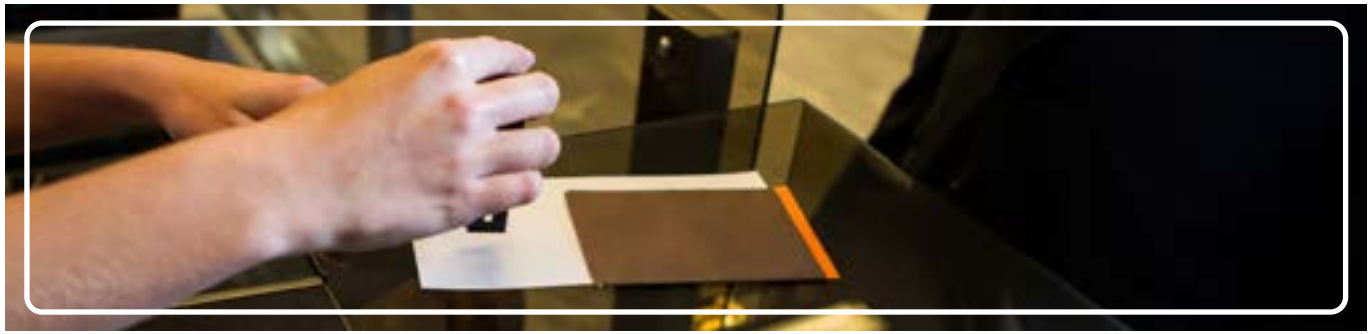
In India, the law relating to arbitration and conciliation is embodied in the act that provides, inter alia, for a mechanism for appointment of arbitrators, objections against an arbitral award as well as enforcement of an arbitral award. Unless the parties otherwise agree, the provisions of the said act will govern every agreement containing arbitration clause.

J Mergers and acquisitions

Mode	Merger	Demerger	Slump sale	Share acquisition
Nature	Consolidation of businesses/ entities by pooling of all financial and other resources.	Segregation of one business from another with the objective of value appreciation.	Lock, stock and barrel transfer of a business undertaking for a lump sum consideration.	Gaining direct/indirect control over a company by acquiring its shares with voting rights.
Ideal for	Generally, for a group's reorganization at the time of acquisition and divestment.		Third-party acquisition	
Implementation	Vide a scheme to be approved by jurisdictional National Company Law Tribunal (NCLT).		Vide a business transfer agreement (BTA)/scheme approved by jurisdictional NCLT.	Vide a share purchase agreement.
Regulatory considerations	Approvals of shareholders, creditors, NCLT and various regulatory bodies (RBI, SEBI, CCI, stock exchanges, corporate law authorities and ITA) is required.		Approval required from shareholders and competent authorities under the Income-tax Act, 1961. Also, sectoral caps under FDI regulations will apply.	Generally, prior approval is not required. It is subject to sectoral caps and pricing conditions prescribed under the FDI regulations.
Relaxations under the Companies Act, 2013	NCLT's approval is not mandatory for merger/ demerger between small companies and between wholly-owned subsidiaries and their parent companies. In such case, approval from corporate law authorities is required. NCLT may allow an unlisted transferee company to remain unlisted post-merger/demerger of a listed company. Cross-border mergers undertaken in accordance with the prescribed[1] regulations to be deemed to be approved by the RBI.		Not applicable	Recognizes enforceable contracts among shareholders such as right of first refusal, liquidation preference, tag/ drag along rights, etc.
Taxation	Generally, tax neutral for shareholders and companies, subject to fulfilment of prescribed conditions.		Gains on transfer are subject to capital gains tax[2].	Gains on transfer are subject to capital gains tax[3]. Indirect transfer of shares are subject to capital gains tax in India if prescribed conditions are met[4].

Mode	Merger	Demerger	Slump sale	Share acquisition
Carry forward of losses	Available, subject to fulfilment of prescribed conditions.		Not available	Available in certain scenarios.
Trigger of takeover code (SEBI)[5]	Exemption available to merger/demerger, subject to fulfilment of prescribed conditions.		Possible only if shares of a listed company are issued in consideration.	Possible if prescribed limits are breached in case of acquisition (direct/ indirect) of shares of listed company through transfer/issue.
Competition Commission of India's approval	Approval is required if prescribed thresholds are breached.			
Time limit[6] (approximate time limit)	Six to seven months in case of unlisted companies. Eight to ten months in case of listed companies.		One to two months through BTA. Same timeline as merger/demerger if undertaken through scheme approved by jurisdictional NCLT.	One to two months

K Personal tax and immigration



Visa and registration requirements

A foreign national visiting India needs to obtain an appropriate visa to enter India. Type of visa to be obtained depends upon the purpose of the visit to India. Below are a few types of Indian visas issued to foreigners.

Business visa

Establishing or exploring the possibility of setting-up of businesses, attending meetings, liaising with potential business partners or functioning as a partner/ director, negotiating supplies, conducting trade of goods and providing high-level technical guidance on ongoing projects.

Employment visa

Employment in India, executing projects or contracts, providing technical support or services, transfer of know-how for which royalty is paid and consulting on a contract basis in highly-skilled services.

Project visa

Execution of projects in the power and steel sectors.

Intern visa

Pursuing internship in Indian companies, educational institutions and non-governmental organizations (NGOs), subject to certain checks and conditions specified.

Tourist visa

Recreation, sightseeing, casual visit to meet friends and relatives, etc.

e-Visa

Sub-divided into five categories: e-Tourist Visa, e-Business Visa, e-Conference Visa, e-Medical Visa and e-Medical Attendant Visa. Available for nationals of specified countries for specified durations.

Others: Other types of visas issued for visits to India include transit, medical, entry (X), student, conference, journalist, research, missionary, sports, mountaineering, film visa, etc. Visa on arrival facility is available for nationals of Japan, South Korea and the UAE for specified purposes.

Residential permit

Foreign nationals must register with the local FRRO/FRO within 14 days from their date of arrival in India if their visa is valid for longer than 180 days or if the visa stamp specifically requires this registration. Certain categories of visitors are also required to register with the police authorities.

Family and personal considerations

Accompanying legal spouses and dependent children of the individuals visiting India for the purpose of business or employment, are required to apply the visas such as *business visa-dependents* or *employment visa-dependent*. Spouses or dependents of working expatriates must obtain a separate employment visa if they need to be employed in India.

Social security

Social security in India is governed by The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act). The EPF Act applies to the following establishments:

- An establishment employing 20 or more persons engaged in a specific industry or any other establishment employing 20 or more persons or class of such establishments as notified by the central government.
- An establishment employing less than 20 persons that voluntarily opts to be covered by the EPF Act.

The covered employers must contribute towards the provident fund and pension scheme for their employees, including employees who are eligible as international workers.

Taxation

Liability for income tax

Liability for income tax is governed by the residential status of individuals during the tax year. Residential status of an individual is determined based on the conditions prescribed in the table below:

Period of stay in India	Residential status		
Basic conditions	**Non-resident (NR)**	**Resident**	
≥ 182 days in the tax year (1 April to 31 March)	Satisfies None	Satisfies any one	
≥ 60* days in the tax year and ≥ 365 days in four years immediately preceding the tax year			
A citizen of India, having total income, other than income from foreign sources, exceeding INR15 lakh during the tax year, who is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature		Deemed Resident	
Additional conditions		**Not ordinarily resident (NOR)**	**Resident and ordinarily resident (ROR)**
NR as per basic conditions in at least 9 out of 10 immediately preceding tax years		Satisfies one or both	Does not satisfy both
≤729 days in India in seven years immediately preceding tax years			
A citizen of India or a person of Indian origin, having total income, other than income from foreign sources, exceeding INR15 lakh during the tax year, who has been in India for a period or periods amounting in all to 120 days or more but less than 182 days		NOR	
A citizen of India, having total income, other than income from foreign sources, exceeding INR15 lakh during the tax year, who is not liable to tax in any other country or territory by reason of its domicile or residence or any other criteria of similar nature		NOR	

***60 days is substituted by**

(a) 120 days for a citizen of India or a person of Indian origin, who being outside India, comes on a visit to India in any tax year, having total income other than the income from foreign sources exceeding INR15 lakh.

(b) 182 days for a citizen of India or a person of Indian origin, other than the one referred in (a) above, who being outside India, comes on a visit to India in any tax year.

(c) 182 days for a citizen of India who being in India, leaves India in any tax year for the purpose of employment outside India.

Rates of income tax for tax year 2020-21

A new and simplified personal income tax regime has been introduced which is optional. Under this scheme, a taxpayer will have an option to pay taxes at the reduced slab rates (mentioned below) which are applicable without certain exemptions and deductions. This option can be exercised every year by furnishing the return of income.

Taxpayers earning business or professional income, can opt into the regime only once on irrevocable basis. Such option will apply to all the subsequent tax years and in case where such an option is withdrawn by the taxpayer, it shall not be eligible to avail the concessional slab rates in subsequent years until it ceases to have business or professional income.

The old slab rates along with its comparison with the new slab rates are as below:

Income levels (INR)	Old rate	New rate
0- 250,000*	Nil	Nil
250,001-500,000	5%	5%
500,001-750,000	20%	10%
750,001-1,000,000	20%	15%
1,000,001-1,250,000	30%	20%
1,250,001-1,500,000	30%	25%
1,500,001-above	30%	30%

*INR250,000 is substituted by INR300,000 for resident individuals who are 60 years old or more but less than 80 years, and INR500,000 in the case of resident individuals of 80 years of age or more.

A rebate of INR12,500 or actual tax payable, whichever is less, is available for resident individuals with total income up to INR500,000.

Surcharge is applicable as in the table below:

Income levels (INR)	Surcharge
0-5,000,000	Nil
5,000,001-10,000,000	10% of total income tax liability
10,000,001-20,000,000	15% of total income tax liability
20,000,001-50,000,000	25% of total income tax liability
50,000,001-above	37% of total income tax liability

In cases where surcharge is applicable, marginal relief is allowed to ensure that the additional amount of income tax payable, including surcharge, on the excess of income over the respective limits of INR5,000,000, INR10,000,000, INR20,000,000 and INR50,000,000 is limited to the amount by which the income exceeds such limits.

Certain specified incomes are taxable at specified rates.

Long-term capital gains are not taxed according to the above slab rates but are generally taxed at a base rate of 20% plus applicable surcharge and cess.

Long-term capital gains exceeding INR100,000 arising from the sale of the following specified assets, on which securities transaction tax (STT) is paid, are chargeable to tax at special rates of 10%:

- Equity shares in a company
- Units of equity oriented mutual fund
- Units of business trust

Short-term capital gains on aforesaid specified assets on which STT is paid (if assets are sold within one year) are chargeable at a special rate of 15%.

The increased rates of surcharge of 25% and 37% are not applicable on the capital gains taxable at special rates in relation to specified assets as provided above and on the dividend income for a taxpayer being an individual, a Hindu undivided family (HUF) and an association of persons, a body of individuals and an artificial juridical person.

The income tax and surcharge calculated, based on the rates specified above, is further increased by health and education cess of 4%.

Income tax filing

All taxpayers, including non-residents (NRs), must file a RoI if their income exceeds the maximum amount that is not liable to tax. Residents (excluding not ordinary residents), who hold foreign assets or income from any source outside India are required to furnish RoI even if the income does not exceed the maximum amount that is liable to tax.

Generally RoI for salaried individuals needs to be filed by 31 July of the year succeeding the tax year. RoI for self-employment or business income must also be filed by 31 July of the year succeeding the tax year or, if accounts are subject to a tax audit, by 31 October of the year succeeding the tax year. However, in the wake of COVID-19 pandemic, the due date for filing of RoI for FY 2019-20 has been extended till 30 November 2020[1]. Return forms are notified by the tax authorities on a year-on-year basis.

Direct taxes

The central government levies direct taxes by way of income tax. Its administration, supervision and control lie with the Central Board of Direct Taxes (CBDT).

Administration

The Indian tax year starts from 1 April of a year and ends at 31 March of the subsequent year. **The due date for filing return of income (RoI) is as follows:**

Categories	Date of filing of RoI[1]
A company/an LLP that is required to submit a transfer pricing certificate in Form 3CEB with respect to international transactions	30 November
Other companies/ LLPs	31 October (extended to 30 November 2020 for tax year 2019-20 in the wake of COVID-19 pandemic)

Non-resident corporations are also required to file a RoI in India if they earn income in India or have a physical presence or economic nexus with India. However, RoI is not required to be filed in India in case the income earned from India consists of only interest or dividend or royalty or fee for technical services subject to fulfillment of certain conditions.

Corporate tax liability needs to be estimated and discharged by way of advance tax on a quarterly basis.

Late filing of an RoI and delay in payment or shortfall in taxes attract penalty/interest.

Corporate income tax

For Indian income tax purposes, a corporation's income comprises of the following heads of income:

- Income from house property
- Income from business
- Capital gains on disposition of capital assets
- Residual income arising from non-business activities (i.e. income from other sources)

Corporations residents in India are taxed on their worldwide income arising from all sources.

Non-resident corporations are taxed on the income earned through a business connection in India or any source in India or transfer of a capital asset situated in India.

The term business connection is used in Indian IT Act instead of a PE, as in tax treaties, to tax profits from business. The term business connection is considered wider in its scope than PE.

Double Taxation Avoidance Agreement (DTAA)

Provisions of the IT Act or the DTAA, whichever is more beneficial are applicable to a non-resident taxpayer. Accordingly, the taxability is likely to be restricted or modified.

Rate of corporate tax

Domestic and foreign corporations are subject to a tax at a specified basic tax rate and depending upon the total income, the basic rate is increased with a surcharge. There is an additional levy of health and education cess at the rate of 4% of the tax payable.

Base tax rates for tax year 2020-2021

Particulars	Base tax rate[2]
Domestic company	
Companies having turnover ≤ INR4 billion in FY 2018-19	25%
Companies having turnover > INR4 billion in FY 2018-19	30%
New manufacturing companies established and registered on or after 1 October 2019 and commencing manufacturing up to 31 March 2023 without availing specified deductions or incentives (optional regime)	15%
Domestic companies may opt for concessional tax rate provided they do not avail specified deductions or incentives	22%
Foreign company	40%
LLP	30%

Surcharge rates for tax year 2020-2021

Status	Income from INR10 million to INR100 million	Above INR100 million
Domestic company opting for concessional tax rate of 15% or 22%	10%	10%
Domestic company (other than above)	7%	12%
Foreign company	2%	5%
LLP	12%	12%

There is no repatriation tax cost when profits are distributed by an LLP, as the share of such profits in the hands of the partner(s) is exempt.

Withholding tax rates

Withholding tax rates	Tax rates in % (corresponding note)	
	Paid to a domestic company	Paid to a foreign company
Dividends	10 (d)(g)	20 (a)
Interest	10 (d)(g)	20/5 (a)(b)(d)
Royalty from patents, know-how, etc.	10/2 (d)(e)(g)	10 (a)(c)(d)
Fee for technical services (FTS)	10/2 (d)(f)(g)	10 (a)(c)(d)

Notes

(a) The rates listed above for withholding tax must be increased by applicable surcharge with reference to the income slabs as indicated in the surcharge table above and health and education cess of 4%.

(b) This rate of 5% only applies to interest on foreign currency loans. Any other interest is subject to tax at a normal applicable rate of 20% to foreign corporations.

(c) Royalty or FTS: foreign corporations are taxed with respect to royalties or FTS at the rate of 10% on a gross basis.

(d) If PAN of the payee (PAN or other specified details/documents in case of a non-resident payee) is not available, tax will be withheld at an applicable rate or at a penal rate of 20%, whichever is higher.

(e) Reduced withholding tax rate of 2% to apply on royalty paid to residents in consideration for sale, distribution or exhibition of cinematographic films.

(f) Withholding tax rate of 2% will apply in case of fees for technical services (not being a professional service) and 10% in other cases.

(g) Withholding tax rates applicable for tax year 2020-21 for payment to domestic company has been reduced by 25% w.e.f. 14 May 2020 in the wake of COVID-19 pandemic.

Depreciation

Depreciation on capital assets is allowed on the basis of reducing balance method using varying rates, depending on the nature of assets.

Tax on dividend income

From 1 April 2020, dividend received from domestic companies is taxable in the hands of shareholders. Interest expenses up to 20% of dividend income are deductible expenses.

Earlier domestic companies were liable to pay dividend distribution tax at the rate of 20.56% (basic rate of 15% on the gross amount of dividend payable plus the 12% surcharge and the 4% cess) on dividends declared, distributed or paid by them. Dividend distributing companies are required to withhold taxes at the applicable rates (refer withholding tax rate given above) w.e.f. 1 April 2020.

Books of accounts and tax audit

Every company engaged in a business is required to maintain books of accounts and get them audited by an accountant if its total sales, turnover or gross receipts exceed INR10 million (INR50 million provided cash transactions are less than 5% in value) during the year.

Relief for losses

Business losses, other than from speculation businesses, are permitted to be set off against income from any other source (except income from employment, i.e., salary income) in the same year. Business losses, which cannot be so set off, are permitted to be carried forward for setting off against business profits arising in the eight subsequent years. Unabsorbed depreciation is permitted to be carried forward for an unlimited period.

Indirect transfer of shares of domestic corporations

Non-residents are also taxed on capital gains arising on any share or interest in a company or entity registered or incorporated outside India, deriving its value substantially from assets located in India, where the fair market value (FMV) of an Indian asset on a specified date exceeds INR100 million and represents at least 50% of the value of all assets owned by a foreign corporation.

Small shareholders holding 5% or less of the total voting power/share capital, in the foreign corporation or entity directly holding the Indian assets are exempted from indirect transfer tax. Moreover, indirect transfer of shares of an Indian corporation pursuant to merger/demerger of foreign corporations, subject to satisfaction of specified conditions is not taxable.

MAT/Alternate Minimum Tax (AMT)

Indian tax law requires MAT to be paid by corporations on the basis of profits disclosed in their financial statements where the tax payable according to regular tax provisions is less than 15% (excluding surcharge and cess) of their book profits. MAT is not applicable on domestic companies opting for concessional tax rate of 15% or 22%.

The credit for MAT paid is allowed to be carried forward for 15 years and set off against the income tax payable under the normal provisions of the IT Act to the extent of the difference between tax according to normal provisions and tax according to MAT.

A modified version of MAT, AMT at 18.5% (excluding surcharge and cess) is applicable to LLPs and certain other taxpayers (other than companies) who are availing specified profit-linked tax incentives. Unadjusted AMT credit can be carried forward for 15 years and set off against income tax payable under the normal provisions of the IT Act to the extent of the difference between tax according to normal provisions and tax according to AMT.

Equalization levy

In line with OECD's BEPS project Action Plan 1 (digital economy), India has introduced an equalization levy on the following transactions:

Equalization levy of 6% is chargeable on the payment made by a resident carrying on a business or profession or the Indian PE of a non-resident to a non-resident providing specified services. Specified service has been defined as an online advertisement, or provision for digital advertising space or any other facility or service for the purpose of online advertisement, and also includes any other service notified by the central government.

6%

From 1 April 2020, equalization levy of 2% is chargeable on the amount of consideration received/receivable by a non-resident (NR) e-commerce operator from e-commerce supply or services made, provided or facilitated by such an NR beyond threshold of INR20 million during a tax year to:

- A person resident in India or
- An NR which entails sale of advertisement targeted at a customer resident in India or accessing such advertisement through an Indian IP address or
- An NR which entails sale of data collected from a person resident in India or from a person who uses Indian IP address or
- A person who buys goods or services using an Indian IP address

2%

Foreign tax relief

DTAAs entered into by India with several other countries govern foreign tax relief to avoid double taxation. If there is no such agreement, resident corporations can claim a foreign tax credit for the tax paid by them in other countries subject to fulfillment of certain requirements. The credit amount is the lower of Indian effective rate of tax or the tax rate of the said country on the doubly taxed income.

Authority for Advance Ruling (AAR)

An advance ruling scheme is available to achieve certainty on the income tax liability of eligible taxpayers (including non-residents), to plan their income tax well in advance and to avoid lengthy and expensive litigation.

A ruling can be obtained by an applicant (resident or non-resident) with respect to any question of law or fact in relation to the tax liability of the non-resident arising out of a transaction undertaken or proposed to be undertaken. Additionally, a resident applicant can also approach the AAR for determining its tax liability arising out of a transaction undertaken or proposed to be undertaken with a non-resident valuing INR1000 million or more in aggregate.

General Anti-Avoidance Rule (GAAR)

The IT Act contains anti-avoidance provisions in the form of GAAR, which provides extensive powers to the tax authority to declare an arrangement entered by a taxpayer to be an Impermissible Avoidance Arrangement (IAA). The consequences include denial of tax benefit either under the provisions of the IT Act or the applicable tax treaty. The provisions can be invoked for any step in or part of an arrangement entered, and the arrangement or step may be declared an IAA. However, these provisions only apply if the main purpose of the arrangement or the step is to obtain a tax benefit.

The provisions of GAAR will not apply where the tax benefit (for all parties) from an arrangement in a relevant tax year does not exceed INR30 million.

M Transfer Pricing

Transfer pricing (TP) provisions in India are in line with the TP guidelines for multinational companies and tax administrators issued by the OECD, except with certain noteworthy differences.

Under transfer pricing regulations (TPRs), any international transaction and specified domestic transaction between two or more associated enterprises (AEs) (including PEs) must be conducted at arm's length price (ALP).

Relevant provisions regarding TPR:

International transactions

TPRs define an international transaction as the one that takes between two or more AEs, either or both of whom are non-residents and have a bearing on the profits, income, losses or assets of such enterprises. Furthermore, a transaction with a non-AE may also be deemed as an international transaction if a prior agreement or arrangement pertaining to such transaction exists between the non-AE and the taxpayer's AE.

Specified domestic transactions (SDT)

In case the aggregate value of SDT exceeds INR200 million, within the ambit of TPRs, the same shall be computed having regard to ALP. The transactions covered under TPR(s) include all transactions with related domestic companies or units eligible for tax holiday, or new domestic manufacturing companies chargeable to a lower tax rate.

Safe Harbor Rule (SHR)

SHR indicates circumstances under which tax authorities accept a transfer price declared by a taxpayer to be at arm's length. The SHR (applicable for the period FY 2016-17 to FY 2018-19) has been made applicable for FY 2019-20.

Advance Pricing Agreement (APA)

There is an APA program available in India, wherein the transfer price of goods and services transacted between group entities is determined in advance by the tax authorities (i.e., CBDT in India) and the taxpayers, so as to prevent any dispute arising from controlled transactions between AEs. Application can be filed for unilateral/bilateral/multilateral APAs.

Three-tiered documentation

The Indian Government has adopted a three-tiered documentation structure, comprising of TP documentation, master file and country-by-country (CbC) reporting to implement the recommendations contained in the OECD's BEPS report on Action 13.

Secondary adjustment

In case, there is an increase in the total income or reduction in the loss due to the primary adjustment to the transfer price, the excess money which is available with its AE, if not repatriated to India within the prescribed time, shall be deemed to be an advance made by the taxpayer to such AE (subject to fulfilment of certain conditions). The interest thereon shall be computed in the prescribed manner.

Interest limitation rules

These provisions limit the amount of deductible interest expenditure (in respect of amount lent by a non-resident AE or a third-party debt guaranteed by an AE) to 30% of EBITDA. Excess interest, if any, shall be allowed to be carried forward up to eight successive years.

N Indirect taxes

GST legislation

Goods and Services Tax (GST) was introduced in India from 1 July 2017. It is considered as the biggest indirect tax reform of India and has been a major transition in the Indian tax framework. It is a destination-based tax that replaces the earlier central taxes and duties such as central excise and a multitude of state levies like VAT/CST on majority of goods, entry tax, purchase tax, octroi, etc. It has been envisaged as a more efficient tax system, neutral in its application and attractive in distribution.

The GST is based on a dual levy model. Both the center and the state are empowered to levy equal amounts of tax (in the form of Central Goods and Services Tax (CGST) and State Goods and Services Tax (SGST)) on the same taxable base (supply of goods and services). In case of inter-state transitions, center has the authority to levy Integrated Goods and Service Tax (IGST), a part whereof is transferred by the central government to the destination state.

Further, imports would be subject to IGST, while exports would continue to be zero-rated.

Rate classification for goods

Exempt	Electrical energy, newspapers, milk, credit scrips, food grains
5%	Apparels valued less than INR1,000, fly ash, fishing net and fishing hooks, aircraft engines, biogas
12%	Articles of apparels exceeding INR1,000, biodiesel, printing ink, specified parts of sewing machine, furniture wholly made of bamboo or cane
18%	Forklift, lifting and handling equipment, electrical apparatus for radio and television broadcasting, chocolates, slabs of marbles and granite, transmission apparatus for radio broadcasting
28%	Air-conditioners, dish washing machines, digital cameras, monitors and projectors, motor car
28% + cess	Cars, pan masala, cigars

Rate classification for services

Exempt

- Education
- Healthcare
- Residential accommodation
- Hotel/Lodges with tariff below INR1,000

5%

- Goods transport
- Rail tickets (other than sleeper class)
- Economy class air tickets

12%-18%

- Works contract
- Business Class air travel
- Telecom services
- Financial services
- Hotel/lodges

28%

- Betting
- Gambling

New returns and electronic invoicing

New return filing system

A new GST return system replaces the earlier system in order to ease the compliance and administration process. The new system is aimed towards fulfilling the government's initial intent of curbing revenue leakage by allowing recipient to get the credit as soon as the tax is paid by the supplier.

The new system which is proposed to be implemented from October 2020 shall be required to be filed monthly by the taxpayers whose aggregate turnover exceeds more INR50 million in the preceding financial year, whereas other taxpayers can opt for quarterly return filing. This system has three main components – one main return (Form GST RET-01) and two separate annexures (Form GST ANX-1 and Form GST ANX-2) for outward and inward providing invoice level details.

Electronic invoicing

At present, there is no standard format for an invoice in the country. Accordingly, the Government of India has made electronic invoices mandatory w.e.f. 1 October 2020 for certain registered persons.

Electronic invoicing aims to bring interoperability of invoices across the entire GST ecosystem and data consistency across the different government platforms. It also curbs issuance of fake invoices.

Electronic invoicing shall primarily involve generation of an invoice in a standard format, which shall in-turn be reported to the central system (called Invoice Registration Portal), for the purpose of de-duplication check of the invoice, to ensure that unique invoice reference number (IRN) is generated for each invoice.

Relaxation from IRN and QR code generation has been passed on to the following category of suppliers:

- Supplier of taxable services being insurers/banking institution/financial institution/non-banking financial companies (NBFCs)
- Goods transport agencies
- Suppliers engaged in passenger transportation services
- Suppliers engaged in exhibition of cinematographic film in multiplex screens

Other indirect taxes

Other than GST, the central government levies indirect taxes comprising of customs duty, stamp duty, profession tax and property tax. Post the implementation of GST, the states continue to levy profession tax and state Value Added Tax only on selected items like petroleum products alcohol, etc. Various other taxes that were hitherto levied by the states like entry tax, octroi, etc. have been subsumed with GST.

Tax	Standard rate	Applicability
Customs duty	Rate of customs duty - 30.98% (actual rate varies depending on classification under the customs tariff, which is aligned with the International Harmonized System of Nomenclature)	Customs duty is levied on import of goods into India and is typically payable by the importer. Components of customs duty: ▸ Basic customs duty ▸ IGST leviable under the Customs Tariff Act, 1975 ▸ Social welfare surcharge
Stamp duty	Varies across the states	It is a tax on transactions in the form of stamps on instruments affecting such transactions.
Profession tax	Varies across the states	It is a state levy on persons engaged in any profession, trade, or employment in a state.
Property tax	Varies with each municipal authority	It is a municipal tax imposed on the owner of the property (usually real estate) for the maintenance of basic civic services in a city. The amount of tax is calculated on the value of the property that is sought to be taxed (ad valorem basis) as prescribed by each municipal authority.
Entertainment tax	Varies across states	Local governments, with the authority of the respective state government can levy entertain-ment tax on various entertainment and amusement activities such as exhibitions, cable or DTH subscriptions, video games, amusement parks and events.

Tax incentives in India

Make in India scheme

On 25 September 2014, the Indian Prime Minister, Narendra Modi unveiled the ambitious Make in India campaign with an aim to turn India into a global manufacturing hub. The campaign is a major national program designed to facilitate investment, foster innovation, enhance skill development, protect intellectual property and build best-in-class manufacturing infrastructure.

The government has come out with several policy initiatives such as rationalizing duty structure for a wide range of products, extending differential duty structure to components, corporate tax exemptions, increasing ease of doing business with a focus on start-ups, promoting skill development, research and development (R&D) and innovation. These announcements have been well-received by industry partners and manufacturers.

In order to resonate well with the Make in India program, various tax incentives are available for existing and newly setup companies in India. These are broadly divided into three categories:

Location based

- Special Economic Zone incentives
- Tax holiday in specified locations, viz., the northeastern regions of India
- State-level incentives like stamp duty exemption, electricity duty exemptions, etc.

Export linked

- Benefit for R&D expenditure
- Employment of new workmen
- Business of collecting and processing bio- degradable waste
- Project Import Scheme for initial set-up or substantial expansion of specified projects

Industry specific

- Infrastructure and power facilities
- Oil and gas
- Cold chain and warehousing
- Hospitals
- Fertilizer production
- Affordable housing project schemes
- Hospitality and tourism, etc.

Some of the recent tax deductions and tax incentives have been highlighted below:

Activity	Benefits (subject to specified conditions)
All taxpayers, whose total sales, turnover or gross receipts exceed INR10 million	Additional deduction of 30% of the cost incurred on a new employee
Scientific research and development	Weighted deduction of 150% of the expenditure till 31 March 2020 (thereafter, 100% deduction)
Deduction in respect of specified business categories such as cold chain facilities, warehousing facilities for storage of agricultural produce, cross-country distribution of natural gas oil, infrastructure facilities, etc[1].	100% deduction on capital expenditure
Expenditure on skill development projects	Weighted deduction of 150% till 31 March 2020 (thereafter, 100% deduction) on expenditure incurred on a notified skill development project by a company
Start-up businesses engaged in innovation, development, deployment or commercialization of new technology- or intellectual property- driven products, processes or services	100% tax holiday for three consecutive years out of 10 years, deduction to eligible start-ups set-up by 1 April 2021 with a turnover of less than INR1000 million
Companies located in International Financial Service Centers (IFSCs)	▶ 100% tax holiday for 10 consecutive years out of 15 years ▶ Exemption from paying Dividend Distribution Tax ▶ Reduced Minimum Alternate Tax rate of 9% ▶ Specified relaxation from Securities Transaction Tax, Long-term Capital Gains Tax and Commodities Tax

Special Economic Zones (SEZs) in India

SEZs are specifically delineated duty-free enclaves deemed to be a foreign territory for the limited purpose of trade operations, duties/tariffs. With the SEZ scheme, the government aims to create hassle-free environment for exports, supported by an integrated simplified infrastructure and a package of incentives to attract foreign and domestic investment.

Direct tax incentives for SEZ

Nature of business

Undertakings/units located in SEZs and engaged in the manufacture or production/ provision of services.

Quantum of deduction

Deduction is available to units' setup in a SEZ in a phased manner as under:

- 100% deduction in respect of export profits for first five years
- 50% deduction in respect of export profits for the next five years
- 50% of export profits, provided that the profits are transferred to a Special Economic Zone Reinvestment Reserve Account for the purpose of acquiring plant or machinery within three years

(The aforesaid tax holiday is only available for SEZ units approved by 31 March 2020 and which commence operation by 30 September 2020)

MAT/AMT of 15% (plus surcharge and cess) is applicable on book profits/taxable income of the SEZ unit. However, MAT/AMT credit can be carried forward for 15 years and set-off against tax liability in future.

Indirect tax benefits available to SEZ developers/units

Import of goods and services

Exemption: Import of goods and services has been specifically exempted from levy of IGST. However, the SEZ developer/unit shall be required to execute a bond-cum-legal undertaking for claiming an upfront custom duty exemption on import of goods.

Domestic procurement of goods and services

An SEZ developer/SEZ unit shall be eligible to avail tax benefit on domestic procurements from a registered dealer under the following options:

- Upfront exemption by way of execution of a bond or a legal undertaking
- GST paid by a registered dealer/service provider and refund shall be claimed subsequently by the registered dealer/service provider

Stamp duty exemption/reimbursement

States offer additional incentives in the form of stamp duty exemption on land related transactions in an SEZ (subject to state laws).

Incentives under Foreign Trade Policy 2015-20 (FTP)

Trade facilitation is a priority of the government to cut down the transaction cost, thereby rendering Indian exports more competitive. To achieve the said objective, the Government of India has provided various incentives for the benefit of stakeholders of import and export trade vide FTP. The FTP provides a framework for increasing exports of goods and services as well as generation of employment and increasing value addition in the country thereby integrating the Make in India, Digital India and Skill India initiatives of the government.

In the wake of current situation arising out of the COVID-19 pandemic, FTP (2015-20) has been extended by one year, i.e. up to 31 March 2021. Accordingly, various benefits (except Service Export from India Scheme) provided under the current FTP (2015-20) shall remain in force up to 31 March 2021, unless otherwise specified.

Rebate of state and central taxes and levies

The Cabinet Committee on Economic Affairs has given its approval for the Scheme for Remission of Duties and Taxes on Exported Products (RoDTEP)[2] under which a mechanism would be created for reimbursement of taxes/ duties/levies, at the central, state and local level, which are currently not being refunded under any other mechanism, but which are incurred in the process of manufacture and distribution of exported products.

This scheme is going to give a boost to the domestic industry and Indian exports, providing a level playing field for Indian producers in the International market so that domestic taxes/duties are not exported.

- Under the Scheme an inter-ministerial committee will determine the rates and items for which the reimbursement of taxes and duties would be provided. In line with Digital India, refund under the scheme, in the form of transferable duty credit/electronic scrip will be issued to the exporters, which will be maintained in an electronic ledger.
- The refunds under the RoDTEP scheme would be a step towards zero-rating of exports in the form of drawback and IGST refund. This would lead to cost competitiveness of exported products in international markets and would provide better employment opportunities in export-oriented manufacturing industries.
- The sequence of introduction of the scheme across sectors, prioritization of the sectors to be covered and degree of benefit to be given on various items within the rates set by the committee will be decided and notified by the Department of Commerce (DoC).

Service Exports from India Scheme

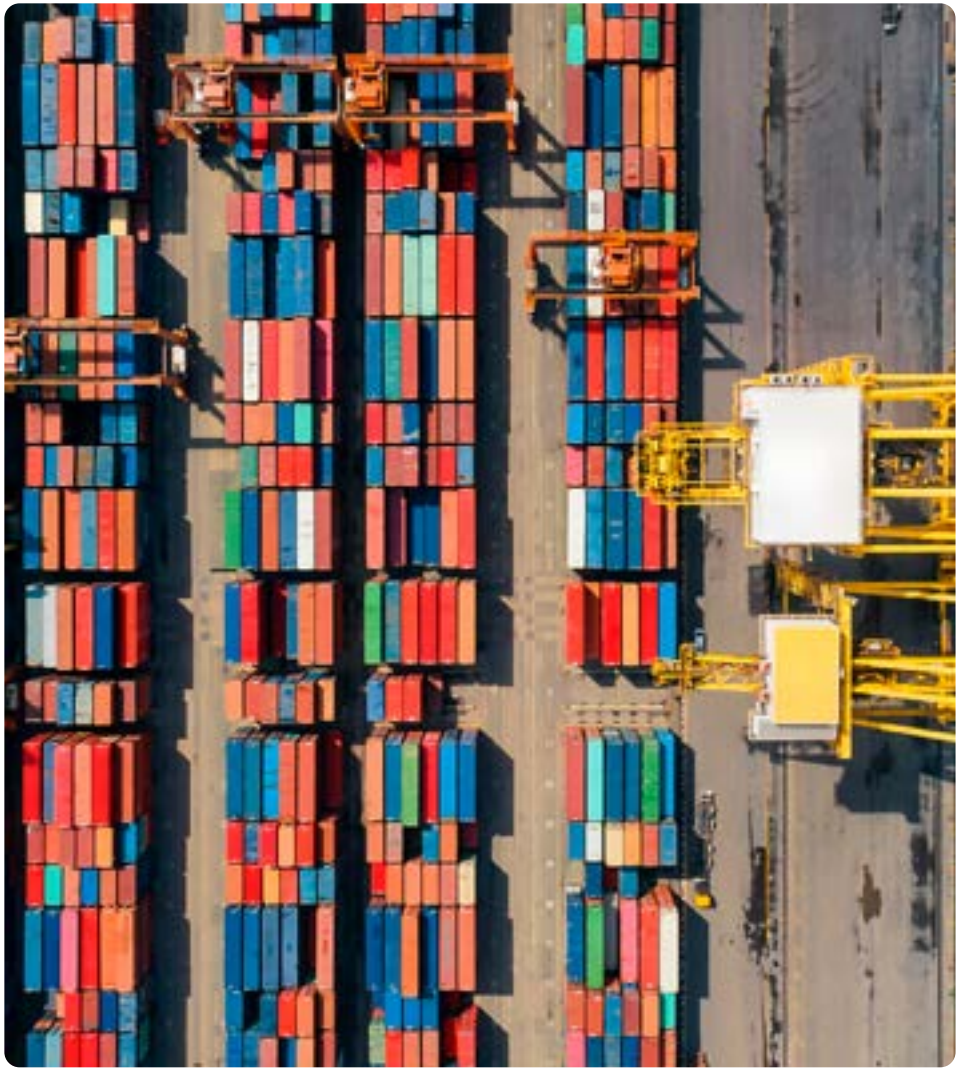
- In the FTP 2015-2020 announced on 1 April 2015, Service Exports from India Scheme (SEIS) replaces the erstwhile Served From India Scheme (SFIS).
- The objective of the SEIS is to encourage export of notified services from India.
- Under SEIS, rewards for notified services shall be available as per notified percentage of net foreign exchange (NFE) earned in the form of duty credit scrip (scrip).
- Considering the current coronavirus outbreak, the decision on continuation of Service Export from India Scheme for FY 2020-21 is yet to be taken and notified.

Incentive available to exporter (including SEZ units) for notified services

This can be calculated by:

(Gross earnings of foreign exchange) minus (total expenses/payment/remittances of foreign exchange) by the IEC holder, relating to service rendered in the financial year.

Features/ conditions	Standard rate
Benefit of duty scrip	▶ Scrip is freely transferrable ▶ It can be used for payment of customs duty on procurements
Value of incentive	5% or 7% of NFE available as duty scrip for notified services
Preferential features	▶ No actual user condition on goods procured through the scrip ▶ Scrip is freely transferable, can be sold in open market
Eligibility	▶ Available to exporters of notified services only ▶ Exporters with minimum of US$15,000 NFE in the previous year
Validity period of the scrip	24 months from the date of issue



Key tax compliance calendar

1 April 2020 to 31 March 2021

April 2020

11	Electronically filing details of outward supplies of taxable goods and/or services in Form GSTR-1 for March 2020[3]
20	Electronically filing Form GSTR-3B to discharge GST tax liability for March 2020 by taxpayers having turnover above INR50 million in the preceding financial year[2(b)]
22	Electronically filing Form GSTR-3B to discharge GST tax liability for March 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the specified states[1,2(a)]
24	Electronically filing Form GSTR-3B to discharge GST tax liability for March 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the States/UTs other than those mentioned above[2(a)]
30	Payment of taxes withheld in March 2020
30	Electronically filing details of outward supplies of taxable goods and/or services in Form GSTR-1 for the quarter January 2020 to March 2020 by taxpayers having turnover less than INR15 million in preceding financial year[3]

May 2020

7	Payment of taxes withheld in April 2020
11	Electronically filing details of outward supplies of taxable goods and/or services in Form GSTR-1 for April 2020[3]
20	Electronically filing Form GSTR-3B to discharge GST tax liability for April 2020 by taxpayers having turnover above INR50 million in the preceding financial year[2(b)]
22	Electronically filing Form GSTR-3B to discharge GST tax liability for April 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the specified states[1,2(a)]
24	Electronically filing Form GSTR-3B to discharge GST tax liability for April 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the States/UTs other than those mentioned above[2(a)]

June 2020

7	Payment of taxes withheld in May 2020
11	Electronically filing details of outward supplies of taxable goods and/or services in Form GSTR-1 for May 2020[3]
15	Payment of advance tax (not less than 15% of the estimated tax for the tax year 2020-21)
27	Electronically filing Form GSTR-3B to discharge GST tax liability for May 2020 by taxpayers having aggregate turnover of more than INR50 million[4].

July 2020

7	Payment of taxes withheld in June 2020
11	Electronically filing details of outward supplies of taxable goods and/or services in Form GSTR-1 for June 2020
12	Electronically filing Form GSTR-3B to discharge GST tax liability for May 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the specified states[1,4]
14	Electronically filing Form GSTR-3B to discharge GST tax liability for May 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the States/UTs other than those mentioned above[4]
20	Electronically filing Form GSTR-3B to discharge GST tax liability for June 2020 by taxpayers having turnover above INR50 million in the preceding financial year
22	Electronically filing Form GSTR-3B to discharge GST tax liability for June 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the specified states[1]
24	Electronically filing Form GSTR-3B to discharge GST tax liability for June 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the states/UTs other than those mentioned above

Key tax compliance calendar

1 April 2020 to 31 March 2021

31	Electronically filing details of outward supplies of taxable goods and/or services in Form GSTR-1 for the quarter April 2020 to June 2020 by taxpayers having turnover less than INR15 million in preceding financial year
31	Electronically filing the quarterly (January 2020 to March 2020) withholding tax returns in Form 24Q/26Q/27Q[4]
31	Electronically file quarterly (April to June 2020) withholding tax returns in Form 24Q/26Q/27Q
31	Filing of revised income tax return for the tax year 2018-19[4]
31	Filing of belated income tax return for the tax year 2018-19[4]

August 2020

7	Payment of taxes withheld in July 2020
11	Electronically filing details of outward supplies of taxable goods and/or services in Form GSTR-1 for the month of July 2020
20	Electronically filing Form GSTR-3B to discharge GST tax liability for July 2020 by taxpayers having turnover above INR50 million in the preceding financial year
22	Electronically filing Form GSTR-3B to discharge GST tax liability for July 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the specified states[1]
24	Electronically filing Form GSTR-3B to discharge GST tax liability for July 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the states/UTs other than those mentioned above

September 2020

7	Payment of taxes withheld in August 2020
11	Electronically filing details of outward supplies of taxable goods and/or services in Form GSTR-1 for the month of August 2020
15	Payment of advance tax (not less than 45% of the estimated tax for the tax year 2020-21)
20	Electronically filing Form GSTR-3B to discharge GST tax liability for August 2020 by taxpayers having turnover above INR50 million in the preceding financial year
30	Electronically file GST Annual return and audit report (if applicable) for the period 2018-19 in form GSTR-9 and GSTR-9C, respectively

October 2020

1	Electronically filing Form GSTR-3B to discharge GST tax liability for the month of August 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the specified states[1,4]
3	Electronically filing Form GSTR-3B to discharge GST tax liability for August 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the states/UTs other than those mentioned above[4]
7	Payment of taxes withheld in September 2020
11	Electronically filing details of outward supplies of taxable goods and/or services in Form GSTR-1 for September 2020
20	Electronically filing Form GSTR-3B to discharge GST tax liability for September 2020 by taxpayers having turnover above INR50 million in the preceding financial year
22	Electronically filing Form GSTR-3B to discharge GST tax liability for September 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the specified states[1]
24	Electronically filing Form GSTR-3B to discharge GST tax liability for September 2020 by taxpayers having turnover up to INR50 million in the preceding financial year for the states/UTs other than those mentioned above
31	Electronically filing details of outward supplies of taxable goods and/or services in Form GSTR-1 for the quarter July 2020 to September 2020 by taxpayers having turnover less than INR15 million in preceding financial year
31	Filing of tax audit report (in Form 3CD)[4] and/or TP certification (in Form 3CEB) for taxpayers subject to TP compliance and maintenance of TP documentation, for the tax year 2019-20
31	Electronically file quarterly (July to September 2020) withholding tax returns in Form 24Q/26Q/27Q

Key tax compliance calendar

1 April 2020 to 31 March 2021

November 2020

7	Payment of taxes withheld in October 2020
17	Electronically saving details of outward supplies of taxable goods and/or services in Form GST ANX-1 for October 2020[5] by taxpayers having aggregate turnover of more than INR50 million in the preceding financial year (though input tax credit can be availed by the recipient basis the details uploaded until 10th of the following month)
20	Electronically filing return Form GST RET-1 to discharge GST tax liability for October 2020[5] by taxpayers having aggregate turnover of more than INR50 million in the preceding financial year
20	Electronically filing Form GST PMT-08 to discharge GST tax liability for October 2020[5] by taxpayers having aggregate turnover up to INR50 million in the preceding financial year
30	Report in Form No. 3CEAA by a constituent entity of an international group for the tax year 2019-2020
30	Filing of income tax return by taxpayers for the tax year 2019-20[4]

December 2020

7	Payment of taxes withheld in November 2020
15	Payment of advance tax (not less than 75% of the estimated tax for tax year 2020-21)
17	Electronically saving the details of outward supplies of taxable goods and/or services in Form GST ANX-1 for November 2020[5] by taxpayers having aggregate turnover of more than INR50 million in the preceding financial year (though input tax credit can be availed by the recipient basis the details uploaded until 10th of the following month)
20	Electronically filing Return Form GST RET-1 to discharge GST tax liability for November 2020 by taxpayers having aggregate turnover more than INR50 million in the preceding financial year
20	Electronically filing Form GST PMT-08 to discharge GST tax liability for November 2020[5] by taxpayers having an aggregate turnover up to INR50 million in the preceding financial year
31	Electronically file GST annual return and audit report (if applicable) for the period 2019-20 in form GSTR-9 and GSTR-9C, respectively

January 2021

7	Payment of taxes withheld in December 2020
17	Electronically saving the details of outward supplies of taxable goods and/or services in Form GST ANX-1 for December 2020[5] by taxpayers having aggregate turnover of more than INR50 million in the preceding financial year (though input tax credit can be availed by the recipient, basis the details uploaded until 10th of the following month)
20	Electronically filing Return Form GST RET-1 to discharge GST tax liability for December 2020 by taxpayers having aggregate turnover of more than INR50 million in the preceding financial year
20	Electronically filing Form GST PMT-08 to discharge GST tax liability for December 2020[5] by taxpayers having aggregate turnover up to INR50 million in the preceding financial year

February 2021

7	Payment of taxes withheld in January 2021
17	Electronically saving the details of outward supplies of taxable goods and/or services in Form GST ANX-1 for January 2021[5] by taxpayers having aggregate turnover of more than INR50 million in the preceding financial year (though input tax credit can be availed by the recipient, basis the details uploaded until 10th of the following month)
20	Electronically filing Return Form GST RET-1 to discharge GST tax liability for January 2021 by taxpayers having aggregate turnover of more than INR50 million in the preceding financial year
20	Electronically filing Form GST PMT-08 to discharge GST tax liability for January 2021[5] by taxpayers having aggregate turnover up to INR50 million in the preceding financial year

Key tax compliance calendar

1 April 2020 to 31 March 2021

March 2021

7	Payment of taxes withheld in February 2021
15	Payment of advance taxes up to estimated tax liability for the tax year 2020-2021
17	Electronically saving the details of outward supplies of taxable goods and/or services in Form GST ANX-1 for February 2021[5] by taxpayers having aggregate turnover of more than INR50 million in the preceding financial year (though input tax credit can be availed by the recipient, basis the details uploaded until 10th of the following month)
20	Electronically filing Return Form GST RET-1 to discharge GST tax liability for February 2021 by taxpayers having aggregate turnover of more than INR50 million in the preceding financial year
20	Electronically filing Form GST PMT-08 to discharge GST tax liability for February 2021[5] by taxpayers having aggregate turnover up to INR50 million in the preceding financial year
31	Filing of a Country-by-Country (CbC) Report by an Indian parent entity or Indian constituent entities of an international group where exchange of information agreement has not been signed, in respect of tax years 2018-19[4] and 2019-20 (in Form 3CEAD) (Assuming consolidated financial statements ending on 31 March)
31	Intimation to be filed by a resident constituent entity of an international group whose parent is a non-resident (CbC Report) for the tax year 2019-20 (Assuming consolidated financial statements ending on 31 December) [Form 3CEAC]

Note

The calendar pertains to compliances to be undertaken under the central laws.

1. Specified states are Chhattisgarh, Madhya Pradesh, Gujarat, Daman and Diu, Dadra and Nagar Haveli, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, Tamil Nadu, Puducherry, the Andaman and Nicobar Islands, Telangana and Andhra Pradesh.
2. In view of COVID-19 outbreak, the following relief measures have been notified for statutory compliance under GST law:

(a) Nil interest or interest at the reduced rate of 9%, if taxpayers file their returns within the time period as tabulated below:

Aggregate turnover	Tax Period	Form GSTR-3B can be filed on or before (without any interest and late fee)	Form GSTR-3B can be filed on or before (upon payment of interest at the reduced rate of 9%)
Less than INR50 million (Taxpayers located in specified states[1])	February 2020	30 June 2020	30 September 2020
	March 2020	3 July 2020	
	April 2020	6 July 2020	
	May 2020	12 September 2020	
	June 2020	23 September 2020	
	July 2020	27 September 2020	
Less than INR50 million (Taxpayers located in other than specified states[1])	February 2020	30 June 2020	30 September 2020
	March 2020	5 July 2020	
	April 2020	9 July 2020	
	May 2020	15 September 2020	
	June 2020	25 September 2020	
	July 2020	29 September 2020	

(b) Taxpayers, other than above, can also file the said returns in Form GSTR-3B by 24 June 2020. In such cases, interest would be payable at reduced rate of 9% on tax paid after 15 days from the due date. If returns are filed post 24 June 2020, normal rate of interest shall be levied. No late fee and penalty shall be levied if returns are filed before the extended date.

3. In view of COVID-19 outbreak, late fee and penalty for delay in filing Form GSTR-1 has been waived subject to the condition that the FORM GSTR-1 is filed within the time period as tabulated below:

Month/ Quarter	Form GSTR-01 can be filed upto
March, 2020	10 July 2020
April, 2020	24 July 2020
May, 2020	28 July 2020
June, 2020	05 August 2020
January 2020 to March 2020	17 July 2020
April 2020 to June 2020	03 August 2020

4. This is the extended due date in view of the pandemic.

5. Presently, the due dates under GST legislation are notified for the period until September 2020. Also, the recipient is required to take action (accept/reject/pending) in GST ANX-2 in respect of the details of invoices uploaded by the supplier in GST ANX-1 within the stipulated due date to determine the input credit available for each month.

6 The above calendar does not comprise of any state specific extensions (e.g., extension for GST compliances for the persons registered in the union territories of Jammu and Kashmir and Ladakh) provided by the government.

7 The due dates may get extended on account of the pandemic and needs to be revisited in view of any press release/notification issued after 24 June 2020.

Glossary

Abbreviation	Description
A&C Act	Arbitration and Conciliation Act, 1996
AAR	Authority for Advance Ruling
AD Bank	authorized dealer bank
ADR	American Depositary Receipt
AE	associated enterprises
AI	Artificial Intelligence
ALP	arm's length price
AMT	Alternate Minimum Tax
APA	Advance Pricing Agreement
API	active pharmaceutical ingredients
BC	body corporate
BCG	Bacillus Calmette–Guérin
BEPS	Base Erosion and Profit Shifting
BO	branch office
BPM	Business Process Management
BPO	Business Process Outsourcing
BSE	Bombay Stock Exchange
BTA	Business Transfer Agreement
CAGR	Compound Annual Growth Rate
CbC	country-by-country
CBDT	Central Board of Direct Taxation
CBM	coal bed methane
CCI	Competition Commission of India
CCPS	compulsorily fully convertible preference shares
CGST	Central Goods and Service Tax

Abbreviation	Description
CLRA	Contract Labour (Regulation and Abolition) Act, 1970
COVID-19	Coronavirus Disease 2019
CP Act	Consumer Protection Act, 1986
Cr	crore
CSR	Corporate Social Responsibility
CST	Central Sales Tax
D&D	design and development
DoC	Department of Commerce
DPP	Defence Procurement Procedure
DPT	Diphtheria, Pertussis and Tetanus
DTAA	Double Taxation Avoidance Agreement
DTH	Direct-to-Home Television
EBITDA	Earnings before interest, tax, depreciation and amortization
ECB	External Commercial Borrowings
EPF Act	Employee Provident Fund and Miscellaneous Provisions Act, 1952
ESI Act	Employees' State Insurance Act, 1948
ESOP	employees stock ownership plan
F Co	foreign company
FCCB	Foreign Currency Convertible Bond
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act
FII/FPI	foreign institutional investor/foreign portfolio investor
FIPB	Foreign Investment Promotion Board

Abbreviation	Description
FMV	fair market value
FRO	foreigner's registration office
FRRO	Foreigner Regional Registration Offices
FTP	Foreign Trade Policy
FTS	fee for technical services
FY	financial year
GAAR	General Anti-Avoidance Rule
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GDR	Global Depository Receipt
GI Act	Geographical Indications of Goods (Registration and Protection) Act, 1999
GI Rules	Geographical Indication of Goods (Regulation and Protection) Rules, 2002
GoI/ government	Government of India
GST	Goods and Service Tax
GW	gigawatt
IAA	Impermissible Avoidance Arrangement
IASB	International Accounting Standards Board
IBEF	India Brand Equity Foundation
ICA	Indian Contract Act, 1872
ICAI	Institute of Chartered Accountants of India
ICDS	Income Computation and Disclosure Standards

Abbreviation	Description
ICT	Information and Communications Technology
IEC	Import-Export Code
IFRS	International Financial Reporting Standards
IFSC	International Financial Service Centre
IGST	Integrated Goods and Services Tax
ILO	International Labor Organization
Ind AS	Indian Accounting Standard
INR	Indian Rupee
IPO	Initial Public Offering
IRDA	Insurance Regulatory and Development Authority of India
IRN	Invoice Reference Number
IT and ITeS	information technology and Information technology enabled services
IT Act	Income Tax Act, 1961
ITU	International Telecommunication Union
km	kilometers
LLP	Limited Liability Partnership
LO	liaison office
M&E	the Indian media and entertainment industry
MAT	Minimum Alternate Tax
MCA	Ministry of Corporate Affairs
MNC	multi-national companies
MoSPI	Ministry of Statistics and Programme Implementation
MSME	Micro, Small and Medium Enterprises
MWA	Minimum Wages Act, 1948
NCLT	National Company Law Tribunal

Abbreviation	Description
NCPS	non-convertible preference shares
NDCP	National Digital Communications Policy – 2018
NFE	Net Foreign Exchange
NGO	Non-Governmental Organizations
NHAI	National Highways Authority of India
NI Act	Negotiable Instruments Act, 1881
NOR	Not Ordinarily Resident
NR	non-resident
NRI	Non-resident Individual
NSE	National Stock Exchange
OCPS	optionally convertible preference shares
OECD	Organisation for Economic Co-operation and Development
OFB	Ordnance Factories Board
OPC	one person company
PAN	Permanent Account Number
PE	Permanent Establishment
PIO	Person of Indian Origin
PO	project office
PSU	Public Sector Undertaking
QFI	Qualified Foreign Investors
R&D	research and development
RBI	Reserve Bank of India
REIT	Real Estate Investment Trusts
ROC	Registrar of Companies
RoDTEP	Remission of Duties and Taxes on Exported Products
ROI	Return of Income

Abbreviation	Description
ROR	resident and ordinarily resident
SDT	Specified Domestic Transaction
SEBI	Securities and Exchange Board of India
SEIS	Service Exports from India Scheme
SEZ	Special Economic Zone
SFIS	Served from India Scheme
SG Act	Sale of Goods Act, 1930
SGST	State Goods and Service Tax
SHR	Safe Harbor Rule
SME	small and medium enterprises
sq	square
STT	Securities Transaction Tax
TAR	Tax Audit Report
TDS	Tax Deducted at Source
TM Act	Trade Mark Act, 1999
TM Rules	Trade Marks Rules, 2017
TP	Transfer Pricing
TPR	Transfer Pricing Regulations
TRIPS	Trade-Related Aspects of Intellectual Property Rights
US	The United States of America
US$	US Dollar
USP	Unique Selling Proposition
UT	union territory
VAT	Value Added Tax
WTO	World Trade Organization

Sources

Click on the button and return to the article

A

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4. www.iwai.nic.in
5. www.investindia.gov.in
6. World Population Prospects 2019, United Nations
7. www.worldometers.info
8. www.worldpopulationreview.com
9. As per the World Bank Group estimates
10. Estimated using figures in INR from Ministry of Statistics and Programme Implementation (MoSPI), Government of India (GoI) and an average exchange rate of 70.9 INR/US$ for FY19
11. MoSPI, GoI
12. Ministry of Commerce and Industry, GoI

B

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2. www.idsa.in
3. www.pib.gov.in
4. www.ddpmod.gov.in
5. Ministry of Defence's press release dated 11 March 2020
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9. www.dhi.nic.in
10. Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017
11. EY India IPO Trends Report Q1 2020
12. The Government of India's press release dated 21 March 2020 on promotion of the domestic manufacturing of medical devices in country
13. The era of consumer A.R.T. - India's Media & Entertainment sector – by EY and FICCI (March 2020). Average exchange rate of 70.42 INR/US$ for 2019 has been used for converting INR figures into US$.
14. Press release by Ministry of Shipping dated 7 April 2020)
15. www.indiabudget.gov.in (Average exchange rate of 71.5 INR/US$ has been used for converting INR figures into US$)
16. Monthly Review of Power Sector Reports (Executive Summary), March 2020
17. It includes subsectors - alcoholic drinks, beauty and personal care, consumer health, home care, hot drinks, foods, soft drinks, tissue and hygiene, tobacco products, apparel, footwear, furniture and furnishings, appliances, books, stationary and others.
18. Oxford Economics
19. www.outlookindia.com
20. As on April 2019
21. Ministry of Road Transport & Highways press release dated 6 April 2020
22. www.trai.gov.in
23. Department of Telecommunications, Annual report 2019-20

C

1. FDI statistics published by the Department for Promotion of Industry and Internal Trade for the period starting from April, 2000 till December 2019
2. Services sector includes financial, banking, insurance, non-financial / business, outsourcing, research & development, courier, technology testing and analysis
3. The data for March 2020 is an estimation, which will be revised based on RBI's subsequent release.
4. Press Information Bureau - India's Foreign Trade: March 2020

D

1. BOs are permitted to represent the parent company and undertake activities, such as export/import of goods, rendering professional services, carrying out research work, etc. in India.
2. For setting up a BO/LO, a foreign entity should further have a financially sound track record and should satisfy profitability and net worth conditions and other conditions prescribed under the Master Directions issued by the RBI for establishment of a BO/LO/PO or any other place of business in India by foreign entities dated 01 January 2016 (updated on 29 March 2019).
3. Rates mentioned above needs to be increased by applicable surcharge rate as well as by health and education cess of4%. (Please refer section 'L' for more details).

F

1. Rule 40BB of the Income-tax Rules, 1962 states the provisions for calculation of 'amount received on issue of shares' in scenarios such as mergers, asset acquisition, ESOPs, etc.

G

1. An LLP to be engaged in sectors where 100% FDI is allowed under automatic route and FDI-linked performance conditions do not exist.

H

1. Companies (Indian Accounting Standards) Rules, 2015 and as amended from time to time.

J

1. As per Foreign Exchange Management (Cross Border Merger) Regulations, 2018 dated March 20, 2018
2. Capital gains tax rate may vary between 20%-40%, depending upon the period of holding and the residency status. The rates exclude a maximum surcharge of 5% in case of foreign entities, and 12% in case of domestic companies, and cess of 4%.
3. Capital gains tax rate may vary between 5%- 40%, depending upon the period of holding and the residency status. The rates exclude a maximum surcharge of 5% in case of foreign entities, and 12% in case of domestic companies, and cess of 4%
4. Indirect transfer tax implications are required to be evaluated basis separate mechanism and computation
5. Applicable to listed companies only
6. Subject to any NCLT vacations and protracted litigations

K

1. CBDT Notification No. 35/2020 dated 24 June 2020

L

1. The due dates may get extended on account of COVID-19 pandemic
2. The rates listed above must be increased by applicable surcharge rate (refer table for surcharge rates) and health and education cess of 4%.

O

1. Certain advanced technology areas such as semi-conductor fabrication, solar photo voltaic cells, lithium storage batteries, solar electric charging infrastructure, computer servers, laptops, etc. are yet to be notified.
2. www.pib.gov.in

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