

# Accounting & Taxation in India for Foreign Companies

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# About HCO

- Established in 1962
- 16 Chartered Accountants and about 100+ employees
- Registered with all major regulatory bodies in India
- Services Offered – Audit, Bookkeeping, Payroll, Tax , Corporate Law, Virtual CFO, Global Mobility
- 10 Offices across India
- Worldwide presence through network membership of Antea and UTN
- ISO 9001:2015 Certified



# Agenda

## **Session - I**

- Doing Business In India
- Indian Accounting System
- Indian Direct Tax System
- Live Demonstration of Income Tax Portal

## **Session –II**

- Social Security Obligations
- Payroll Compliances
- RBI Reporting
- Corporate Law Compliances
- Transfer Pricing

# Session - I

- **Doing Business In India**
- **Indian Accounting System**
- **Indian Tax System**
- **Live Demonstration of Income Tax Portal**

# Doing Business in India

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**Private Limited Company** -To register a private limited company, a minimum of two people are required to act as directors and shareholders. The directors must be natural persons, while the shareholders can be natural persons or corporate entities

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**Public Limited Company** - A Public Limited Company registration in India is the best suitable business structure for entrepreneurs who are planning for large-scale business operations.

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**Limited Liability Partnership** - In India, LLPs are governed by the Limited Liability Partnership Act, 2008. LLP is a body corporate and exists as a legal person separate from its partners

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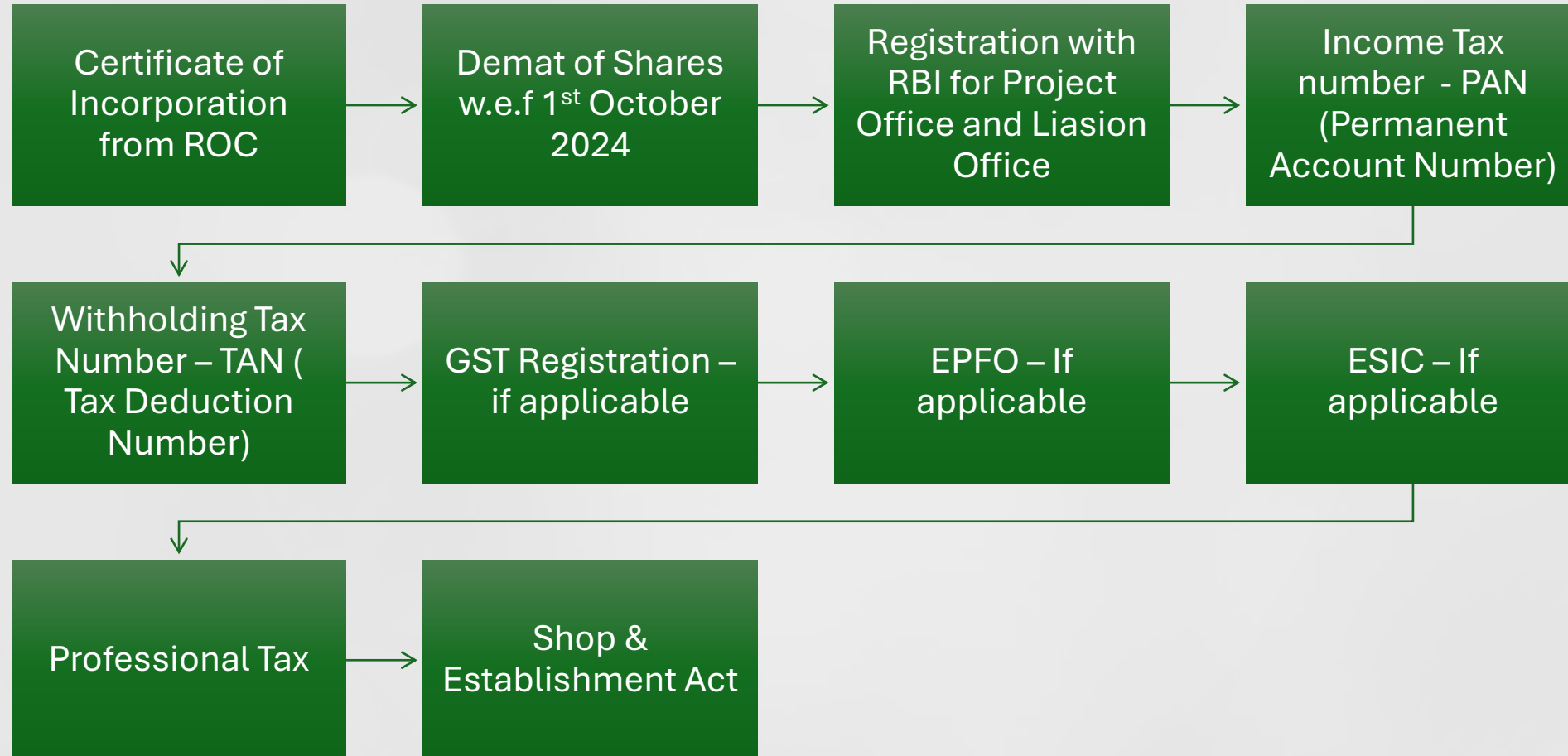
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# Doing Business in India

- **Project Office** -A project office is permitted to operate a bank account in India and may remit surplus revenue from the project to the foreign parent company. Project offices are generally preferred by companies engaged in one-time turnkey or installation projects.
- **Liaison Office** – It acts as a representative of the parent foreign company in India. However, a liaison office cannot undertake any commercial activities and must maintain itself from the remittances received from its parent foreign company.
- **Branch Office** -It can represent the foreign parent company in India and act as its buying or selling agent in India. However, a branch office cannot carry out any retail, manufacturing or processing activities.

# Registrations for Doing Business



# Indian Accounting System

- India's accounting system is based on the Indian Accounting Standards (Ind AS), which are based on the International Financial Reporting Standards (IFRS).
- The Accounting Standards Board (ASB) of the Institute of Chartered Accountants of India (ICAI) issues the Ind AS, which are based on the Indian economic and legal environment.
- Accrual based accounting system is mandatory for all companies
- The financial year for all is April – March and has to be followed mandatorily. In case of Foreign companies Head office following different year then the Indian account need to be recast accordingly.



# Mandatory Books of Accounts

01

Book of Account to generated from Software – Cash Book, Bank Book, Ledgers, Journals, Sale Registers, Purchase registers, etc.

02

With latest amendment all companies need to have their accounting servers in India which is easily accessible.

03

There is requirement to keep the documents in hard copy such as cash book, bank statements, ledgers, voucher and supporting documents for reply of any tax notice.

# Bank Accounts

- All the companies must have an Indian Bank account.
- The account can be opened with any Bank branch in India
- Generally physical presence of directors is required to open account. Some bank do provide facility for digital signature.
- For paying taxes and duties only Indian banks are authorized. Foreign banks having operations in India are restricted to do Government business.



# Fixed Assets

- The cost of an item of fixed asset **includes** its purchase price, including import duties and other non-refundable taxes or levies and any directly attributable cost of bringing the asset to its working condition for its intended use; any trade discounts and rebates are deducted in arriving at the purchase price.
- GST paid on Fixed assets can be used as ITC or can be added to the cost of the Fixed Assets for the purpose of the depreciation.

# Depreciation - As per Companies Act



Depreciation is calculated by considering useful life of asset, cost and residual value.



Any method WDV or SLM can be used.



Schedule – II of the Companies Act 2013 contains a list of useful life according to class of assets and the residual value shall not be more than five percent of the original cost of asset.



If any asset is purchased or sold, then the calculation will be made according to the date of purchase or sold i.e date wise calculation is made.

# Depreciation - As per Companies Act

- If a company uses Written Down Value (WDV) method of depreciation, it will need to calculate a new rate for depreciation to depreciate the asset over their remaining useful life using the formula for calculation of rate for depreciation as per WDV method which is reproduced below –
- **$R = \{1 - (s/c)^{1/n}\} \times 100$**
- Where **R** = Rate of Depreciation (in %)  
**n** = Remaining useful life of the asset (in years)  
**s** = Scrap value at the end of useful life of the asset  
**c** = Cost of the asset/Written down value of the asset

# Depreciation – Useful life as per Companies Act

| Nature of the Asset       | Useful Life                                    | Rate     |
|---------------------------|--|----------|
| Building                  | 30 / 60 years                                  | 10%      |
| General Plant & Machinery | 15 years                                       | 18%      |
| Special Plant & Machinery | Different years for<br>Different type of P & M | Variable |
| Furniture & Fittings      | 10 years                                       | 26%      |
| Motor Vehicle             | 10 years                                       | 31%      |
| Office Equipment's        | 3 years  | 63%      |
| Servers & Networks        | 6 years  | 31%      |
| Computer / Laptops        | 3 years  | 63%      |
| Electrical Installations  | 10 years                                       | 26%      |

# Allowable Depreciation – As per Income Tax Act 1961

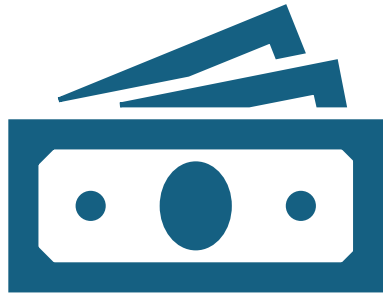
| Nature of the Asset       | Rate of Depreciation |
|---------------------------|----------------------|
| Building                  | 5%                   |
| General Plant & Machinery | 15%                  |
| Special Plant & Machinery | 15%                  |
| Furniture & Fittings      | 10%                  |
| Motor Vehicle             | 15%                  |
| Office Equipment's        | 15%                  |
| Servers & Networks        | 40%                  |
| Computer / Laptops        | 40%                  |
| Electrical Installations  | 15%                  |

# Audit & Due Dates

| Type of Audit  | Due Date                                      | Form No.    |
|--|---|-------------|
| Annual Company Audit   | 30 <sup>th</sup> September<br>(last AGM date) | ----        |
| Tax Audit if the turnover exceed<br>INR 10 Million                                     | 30 <sup>th</sup> September                    | 3CA and 3CD |
| International Transfer Pricing if<br>there are transactions between<br>group Companies | 30 <sup>th</sup> October                      | 3CEB        |



# Indian Tax System – Direct Taxes



**Corporate Income Tax – Applicable to all companies registered in India.**



**Withholding Tax – Popularly known as TDS (Tax Deducted at Source) is applicable to certain payments made to other persons beyond a specific threshold limit.**

# Tax Rates - Individual

| Income Slab                                   | Tax Rates | Surcharges |
|---|-----------|------------|
| Up to INR 0.3 Million                         | NIL       | NIL        |
| From INR 0.3 Million to INR 0.7 Million       | 5%        | NIL        |
| From INR 0.7 Million to INR 1.0 Million       | 10%       | NIL        |
| From INR 1.0 Million to INR 1.2 Million       | 15%       | NIL        |
| From INR 1.2 Million to INR 1.5 Million       | 20%       | NIL        |
| Above INR 1.5 Million                         | 30%       | NIL        |
| Above INR 5 Million and up to INR 10 Million  | 30%       | 10%        |
| Above INR 10 Million and up to INR 20 Million | 30%       | 15%        |
| Above INR 20 Million and up to INR 50 Million | 30%       | 25%        |
| Above INR 50 Million                          | 30%       | 37%        |


# Tax Rates - Corporate



|                               | Tax Rates  |
|-------------------------------|--|
| Domestic Company (Sec 115BAA) | 22% + 10% Surcharge (No carry forward of Loss)   |
| Domestic Company              | 25%  |
| Foreign Company               | 35% (Reduced from 40%)   |
|                               |  |
| <b>Surcharges</b>             |  |
| Domestic Company              | Up to INR 10 Million – Nil<br>INR 10 Million to INR 100 Million - 7%<br>Above INR 100 Million -12% |
| Foreign Company               | Up to INR 10 Million – Nil<br>INR 10 Million to INR 100 Million - 2%<br>Above INR 100 Million -5%  |
|                               |  |

# Withholding Taxes

| Tax Section | Nature of Payment                                      | Threshold INR | If Seller is  | If the seller is |
|-------------|--|---------------|---|------------------|
|             |  |               | Individual/ HUF                                       | Others           |
|             |  |               | TDS Rate (%)  | TDS Rate (%)     |
| 192         | Salaries   | -             | As per the employee's IT declaration / new tax Regime | -                |
| 194C        | Single contractor payment                              | 30000         | 1   | 2                |
| 194C        | Aggregate contractor payment in One year               | 100000        | 1   | 2                |
| 194J (a)    | Fees-tech services, call center, royalty for sale etc. | 30000         | 2   | 2                |
| 194J (b)    | Fee for professional service ( Lawyers/ CA/ Architect) | 30000         | 10  | 10               |
| 194I(a)     | Rent of Plant / Machinery / Equipment                  | 240000        | 2   | 2                |
| 194I(b)     | Rent of Office / Land Building & Furniture             | 240000        | 10  | 10               |
| 194H        | Commission / Brokerage                                 | 15000         | 2   | 2                |



# Form No. 26AS / AIS / TIS

- **26AS** - It is a consolidated Annual Information Statement for a particular Financial Year.
- **AIS** - Annual Information Statement (AIS) is comprehensive view of information for a taxpayer displayed in Form 26AS. Taxpayer can provide feedback on information displayed in AIS. AIS shows both reported value and modified value.
- **TIS** - Taxpayer Information Summary (TIS) is an information category wise aggregated information summary for a taxpayer. The information accepted by taxpayer in TIS will be used for pre-filling of return, if applicable.
- These are password protected when downloaded and password is “pan in small letter followed by date of Incorporation in DDMMYYYY format”.
- [330\\_2024\\_26AS.pdf](#)
- [XXXPU9773X\\_2023-24\\_AIS.pdf](#)
- [XXXPU9773X\\_2023-24\\_TIS.pdf](#)

# Corporate tax filing

- All companies registered in India need to file Annual Tax return before 31<sup>st</sup> October
- Income Tax Return Form No. 6
- Digitally Signed
- No attachment is required to be submitted with this.
- It's a Comprehensive form of about 30 pages

# Individual Tax filing

- ITR Form no. 1 , 2, 3 & 4
- Due date for Salaried employee is 31<sup>st</sup> July
- Due date for Individuals under audit is 31<sup>st</sup> October
- No attachment required with this form
- It can be verified through AADHAR OTP or Digital Signature

# Withholding Tax Filing

- Withholding taxes are to be paid before 7<sup>th</sup> of succeeding month of the deduction.
- For deduction made in the month of March, the due date is 30<sup>th</sup> April.
- Quarterly Withholding tax return filing has to be done for deduction done in previous quarters.
- After withholding tax filing has been done withholding tax certificate in Form no. 16 & 16A can be downloaded from the tax portal.



# Withholding Tax Filing – Due dates

| Withholding Taxes for the quarter | Due Date of Filing       |
|-----------------------------------|--------------------------|
| April – June                      | 31 <sup>st</sup> July    |
| July – September                  | 31 <sup>st</sup> October |
| October – December                | 31 <sup>st</sup> January |
| January – March                   | 31 <sup>st</sup> May     |



# Foreign Tax Credits

- A Resident taxpayer is eligible to claim credit for any foreign tax paid, in a country or specified territory outside India. The credit shall be allowed only if the required particulars in Form 67 if filed before filing of Tax return.
- Form 67 can only be submitted through online mode
- **Form 67 has 4 sections:**
  - Part A - General Information
  - Part B – Details of Foreign tax credit
  - Verification
  - Attachments – Proof of payment of foreign tax credit.



## Lower Tax Deduction – Form 13

- Income tax law provides for an option to obtain a certificate from the Assessing officer confirming either a lower rate of TDS compared to the rate specified under the law or an NIL rate of TDS.
- Application has to be made to the concerned officer under section 197 of the Income Tax along with necessary supporting documents claiming Lower rate.
- If satisfied the Tax officer will issue lower rate certificate in form no. 13 which shall be valid ONLY till the end of the relevant financial year.



# Income Tax Portal

- <https://www.incometax.gov.in/iec/foportal/>
- Login Id – PAN No.
- Password
- Single portal for all Income tax Related forms and submissions
- Any notice received in matter of Corporate tax shall reflect here and to be replied from here
- Summary of Taxes paid can be downloaded from here

# Coffee Break

*Time for  
some Coffee*



# Session - II

- Social Security System
- Payroll
- RBI Reporting
- Corporate Law Compliances
- Transfer Pricing



# Social Security

India's social security schemes cover the following types of social benefits :

- Employee provident fund (EPF)
- Health insurance and medical benefits (ESIC)
- Disability benefit
- Maternity benefit
- National Pension Scheme
- Gratuity

# Social Security - EPF

- The employer contributes 12 % of the basic salary against EPF. It is a statutory obligation on the part of the employer. The employee gets the benefit of a PF deduction (12% of basic) on their part. The employer also keeps PF administration (0.85% of basic salary) as part of CTC, which the employer needs to pay to EPFO office in addition to 12 percent of basic salary.
- Contributions to the EPF scheme are obligatory for both the employer and the employee when the employee is earning up to INR 15,000 per month and voluntary when the employee earns more than this amount.
- Contributions are eligible for tax deductions under Section 80C of the Income-tax Act, 1961 under old tax regime only.



# Social Security - NPS

- National Pension Scheme (NPS) is open to all Indian citizens between the ages of 18 and 60. This includes individuals from the public, private, and unorganized sectors. Even Non-Resident Indians (NRIs) are eligible to join the scheme.
- NPS offers multiple tax advantages to encourage participation.
- NPS offers structured withdrawal options designed to balance the need for liquidity with retirement income security

# Social Security – Health Insurance (ESIC)

- India has a national health service, but this does not include free medical care for the whole population.
- The Employees' State Insurance (ESI) Act creates a fund to provide medical care to employees and their families, as well as cash benefits during sickness and maternity and monthly payments in case of death or disablement for those working in factories and establishments with 10 or more employees.
- Employees or workers earning the wages up to INR 21,000 per month are entitled to this social security scheme.
- Eligible workers contribute 0.75 percent of their salary towards the ESI, while the employer pays 3.25 percent – making a total contribution of 4.5 percent.

# Social Security - Disability benefit

- The Employer must pay compensation to employees or their families in cases of employment-related injuries that result in death or disability.
- A worker contracting an occupational disease is deemed to have suffered an accident out of and in the course of employment, and the employer is liable to pay compensation for the same.
- The wage amount for the calculation of compensation to workers is INR 15,000 (US\$205).

# Social Security – Maternity Benefit

- Women in the organized sector get paid maternity leave of 26 weeks, up from 12 weeks, for the first two children. For the third child, the maternity leave entitled will be 12 weeks. India now has the third most maternity leave in the world, following Canada (50 weeks) and Norway (44 weeks).
- An establishment with over 50 employees must provide crèche facilities within easy distance, which the mother can visit up to four times a day.

# Social Security – Gratuity

- Establishments with 10 or more employees must provide the payment of 15 days of additional wages for each year of service to employees who have worked at a company for 5 years or more.
- Gratuity is provided as a lump sum payout by a company. In the event of the death or disablement of the employee, the gratuity must still be paid to the nominee or the heir of the employee.
- The employer can, however, reject the payment of gratuity to an employee if the individual has been terminated from the job due to any misconduct.

## COUNTRIES HAVING

## SOCIAL SECURITY AGREEMENT WITH INDIA

1. Australia
2. Finland
3. Netherlands
4. Austria
5. France
6. Norway
7. Belgium
8. Germany
9. Portugal
10. Brazil\*
11. Hungary
12. Quebec\*
13. Canada
14. Japan
15. Sweden
16. Czech Republic
17. Korea
18. Switzerland
19. Denmark
20. Luxembourg

# Social Security Agreements

# Payroll

- Payroll policies are company specific
- Generally Big Corporates work for 5 days a week
- Central Government Employee also works for 5 days a week
- Some State Government work for 6 days a week
- Small private sector establishment also work for 6 days a week
- Salary is generally paid after completion of month
- There is no minimum contract period, and it depends on individual employment contract
- All payout are to be decided mutually between employer and employee

# Payroll Taxes

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Withholding Taxes (TDS)

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Employee Provident Fund

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Employee State Insurance

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Professional Tax –  
Applicable in few states only



# RBI Reporting - FLA

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Annual return on Foreign Liabilities and Assets (FLA) has is required to be submitted by all the India-resident companies which have received FDI and/ or made overseas investment in any of the previous year(s), including the current year.

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Its is required to submit the FLA return under FEMA 1999 based on audited/ unaudited accounts of the entity by **July 15** every year.

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FLA return entities can be modified after taking the approval from RBI.

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Non-filing of the return on or before due date (July 15 of every year) will be treated as a violation of FEMA and penalty clause may be invoked for violation of FEMA.



# Company Incorporation

- Any 7 or more persons (2 or more in case of a Private Company) may form an incorporated Company for a lawful purpose by subscribing their names to Memorandum of Association and complying with this Act in respect of Registration.
- The members incorporating should not be an infant, an undischarged bankrupt, a lunatic, an alien enemy and any person disqualified by Law.



# Process of Incorporation

- Availability of the name:- The name should not be identical or in resemblance with an existing Company.
- Revalidation of the name availability:- The incorporators should incorporate the company within six months after the name is proposed by the Registrar.
- Minimum Paid Up Capital:- The minimum paid up Capital should be INR 0.5 million in case of public limited company and INR 0.1 Million in case of private limited company.

# Process of Incorporation

Documents to be filled with the Registrar:-

- ✓ The Memorandum of Association and Articles of Association
- ✓ A statement of nominal capital
- ✓ Address of Registered Office of the Company
- ✓ Complete details of Subscribers with proof of Identity.
- ✓ Complete details of first Directors with proof of Identity
- ✓ List of Directors and their consent to Act (in case of Public Limited Companies Only)
- ✓ Signed undertaking of directors for qualification shares Act (in case of Public Limited Companies Only)
- ✓ Declaration that all requirement of the Act have been compiled with.
- Certificate of Incorporation:- On Registration, the Registrar will issue a certificate of Incorporation.

# Corporate Law Filings

- INC-20A :- Declaration of Commencement of Business post incorporation.
- Directors KYC :- Through DIR-3 KYC Form by submitting their personal details, address, PAN, Aadhaar and Passport Number by 30<sup>th</sup> September every year.
- MSME Filings :- To disclose their outstanding payments to Micro or Small Enterprises.
- DPT-3 :- To furnish information about Deposits or outstanding receipt of loan or money other than deposits by 30<sup>th</sup> June every Year.
- AOC-4 :- Annual Financial Statements needs to be filed which included Balance Sheet, Profit & Loss Account, Directors Report, Auditors Report and other related documents within 30 days of AGM.

# Corporate Law Filings

- MGT-7/7A :- Annual Return which includes details of Shareholding Pattern, transfers of securities, change in directors or KMPs, etc within 60 days of AGM.
- ADT-1 :- For appointment of Auditors and its ratification within 15 days of Appointment.
- DIR-12: For Appointment/ Resignation of Directors within 30 days of such incidence.
- MGT-14 :- For filing of Board Resolutions within 30 days of passing the Resolution



# Company Law Registers

- Register of Share Certificates
- Register of Deposits
- Register of Charges
- Register of Loan Investment & Guarantee
- Register of Significant Beneficial Owners.
- Register of Contracts with Related Parties and contracts in which Directors are interested.
- Register of Members/Debenture Holders
- Minutes of Meetings
- Books of Accounts
- Registers of Directors & Key Managerial Personnel

# Board Meetings & AGM

- Every Company needs to hold at least 4 Board Meetings in a year to discuss and decide on various business matters and at least one Board Meeting should be held in every quarter of Financial Year. While a Small Company can hold only 2 Board Meetings in a calendar Year and the gap between the two meetings shall not be less than 90 days.
- Every Company needs to hold an AGM every year to discuss and approve the Financial Statements, appoint or reappoint directors and auditors and other related matters within 180 days from the end of the Financial Year
- Board Meeting and AGM can be held virtually for the financial year ending 31<sup>st</sup> March 2025.





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## Digital Signatures Certificate

- Digital Signatures Certificate (DSC) are essential for MCA and Tax Filings. They guarantee the authenticity, confidentiality and nonrepudiation of electronic documents.
- All the directors of the company should obtain DSC.
- These are issued for validity period of 2/3 years and need to be registered on MCA / Tax portal before we can file.



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## Documents to be preserved

- Company Incorporation Documents
- All Statutory Register under the Corporate Law
- Book of Accounts, Voucher, Bank Statements, Bills, Invoices,
- Agreements with any authorities
- Compliance Reports
- At least for last 6 years



# Transfer Pricing

- Transaction between two or more associated enterprises, wherein either one or both the enterprises are non-residents.
- The nature of transaction can be purchase, sale or lease of tangible or intangible assets, or provision of services, or lending or borrowing money, or any other transaction having an effect on the profits, income, losses or assets of such enterprises.
- The due date for complying with Form 3CEB requirement is 31st October of the Assessment Year and the due date of ITR filing for persons who are subjected to comply with Form 3CEB is 30th November of the Assessment Year.

Q & A



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## About HCO

HCO & Co. (HCO) is a professional services firm providing audit, assurance, tax, financial advisory and consulting services since 1962 in India. HCO is widely present in India through its offices and affiliates members. Internationally HCO is represented through network partners of Independent Firms with offices in more than 100 countries.

### Let's talk

For a deeper discussion on how to manage your Indian business compliances drop an email at [info@hco.ca.com](mailto:info@hco.ca.com)

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