# Indian Tax System

## Overview & Compliance

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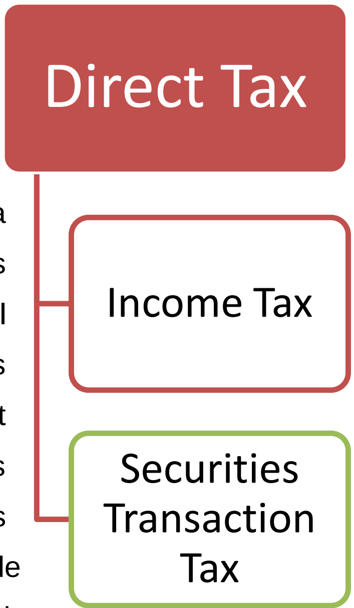
# Contents

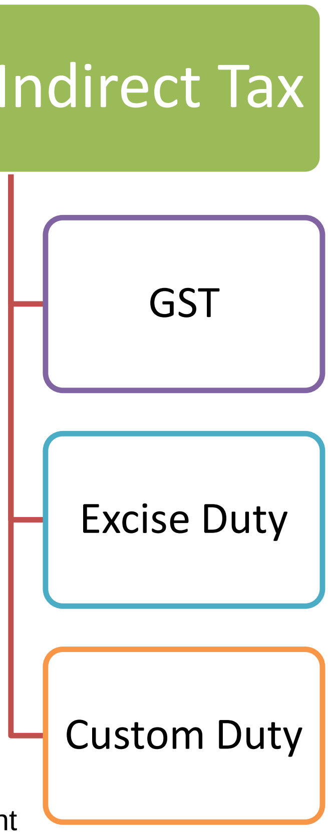
# Introduction

India has a well-developed tax structure with clearly demarcated authority between Central and State Governments and local bodies. Central Government levies taxes on income (except tax on agricultural income, which the State Governments can levy), customs duties, Central Goods & Services tax (CGST) & Integrated Goods & Services Tax (IGST).

State Good& Services Tax (SGST), stamp duty, state excise, land revenue and profession tax are levied by the State Governments. Local bodies are empowered to levy tax on properties, Octrai and for utilities like water supply, drainage etc.

Indian taxation system has undergone tremendous reforms during 2017. The multiple indirect taxes have been subsumed in the new Good & Services Tax which was implemented from 1st July 2017. With the implementation of GST almost 17 types of indirect taxes have been abolished making the indirect tax compliance much easier and free from bureaucracy. The government introduced Goods and Services Tax (GST) in 2017 which is the most important tax reform in independent India till date. Earlier, governments levied various state and central taxes for availing various services or buying different goods. The taxation was complex and contradicting rules enabled some people to evade taxes through loopholes in the system. After the introduction of GST, higher percentage of assessees was brought in the taxation umbrella and it made tougher for evaders to escape from paying taxes. Also tax rates have been rationalized and tax laws have been simplified in recent years, resulting in better compliance, ease of tax payment and better enforcement. The process of rationalization of tax administration is ongoing in India.



# Direct taxes

In case of direct taxes (income tax, securities transaction tax, etc.), the burden directly falls on the taxpayer.

# Income tax

According to Income Tax Act 1961, every person, who is an assessee and whose total income exceeds the maximum exemption limit, shall be chargeable to the income tax at the rate or rates prescribed in the Finance Act. Such income tax shall be paid on the total income of the previous year in the relevant assessment year.

Assesse means a person by whom (any tax) or any other sum of money is payable under the Income Tax Act, and includes –

a) Every person in respect of whom any proceeding under the Income Tax Act has been taken for the assessment of his income or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person;

b) Every person who is deemed to be an assessee under any provisions of the Income Tax Act;

c) Every person who is deemed to be an assessee in default under any provision of the Income Tax Act.

**A person includes:**

- *Individual*
- *Hindu Undivided Family (HUF)*
- *Association of persons (AOP)*
- *Body of individuals (BOI)*
- *Company*
- *Firm*
- *A local authority and,*

- *Every artificial judicial person not falling within any of the preceding categories.*

Income tax is an annual tax imposed separately for each assessment year (also called the tax year). Assessment year commences from 1st April and ends on the next 31st March.

The total income of an individual is determined on the basis of his residential status in India. For tax purposes, an individual may be resident, non-resident or not ordinarily resident.

### Resident

An individual is treated as resident in a year if present in India:

1. For 182 days during the year or;
2. For 60 days during the year and 365 days during the preceding four years. Individuals fulfilling neither of these conditions are non-residents. (The rules are slightly more liberal for Indian citizens residing abroad or leaving India for employment abroad.)

### Resident but not Ordinarily Resident

A resident who was not present in India for 730 days during the preceding seven years or who was non-resident in nine out of ten preceding years is treated as not ordinarily resident.

An Indian citizen, or PIO whose total income (excluding income from foreign sources) exceeds INR 1.5 million, and who is present in India for at least 120 days but less than 182 days during a year, qualifies as not ordinarily resident for that year.

### Non-Residents

Non-residents are taxed only on income that is received in India or arises or is deemed to arise in India. A person not ordinarily resident is taxed like a non-resident but is also liable to tax on income accruing abroad if it is from a business controlled in or a profession set up in India.

Non-resident Indians (NRIs) are not required to file a tax return if their income consists of only interest and for non- dividends, provided taxes due on such income are deducted at source. It is possible resident Indians to avail of these special provisions even after becoming residents by following certain procedures laid down by the Income Tax act.

### Taxability as per Residential Status

| Status | Indian Income | Foreign Income |
| --- | --- | --- |
| **Resident and ordinarily resident** | Taxable | Taxable |
| **Resident but not ordinary resident (RNOR)** | Taxable | Not taxable |
| **Non-Resident (NRI)** | Taxable | Not taxable |

# Personal Income Tax

Personal income tax is levied by Central Government and is administered by Central Board of Direct taxes under Ministry of Finance in accordance with the provisions of the **Income Tax Act.**

As per Indian Income Tax Act 1961, Income from employment, including most employment benefits, is fully taxable after applicable deductions which will include a standard deduction of INR 50,000 and exemptions. Profits derived by an individual from carrying on a trade or profession generally are taxed in the hands of the individual, after applying available tax exemptions. Mortgage interest of up to INR 200,000 per year is deductible. An individual owning more than two self-occupied properties will be taxed on a notional rent from the third and any subsequent residential properties

Deductions under chapter VI-A are available in respect of contributions to the provident fund, pension funds, medical or life insurance policies, and some savings schemes, etc., subject to applicable limits. Most of these deductions are not available where an individual opts for the simplified regime.

### Foreign Tax Relief

A resident individual who has paid tax outside India may claim credit for the foreign tax paid against the tax payable in India. The credit is limited to the lesser of the tax payable on the relevant income under Indian tax legislation, or the actual foreign tax paid. Relief also may be available under the terms of a relevant tax treaty. To obtain credit for foreign tax, the details must be provided electronically on Form 67, together with supporting documentation, prior to filing the tax return.

## Individual Tax Rates

| Individual Income | Standard Tax Rates | Simplified regime Tax rate |
|---|---|---|
| **Up to INR 250,000** | 0% | 0% |
| **INR 250,001-INR 500,000** | 5% | 5% |
| **INR 500,001-INR 750,000** | 20% | 10% |
| **INR 750,001-INR 1,000,000** | 20% | 15% |
| **INR 1,000,001-INR 1,250,000** | 30% | 20% |
| **INR 1,250,001- INR 1,500,000** | 30% | 25% |
| **Over INR 1,500,000** | 30% | 30% |

All rates are subject to the 4% cess and, where income exceeds the relevant threshold, a surcharge will apply

## Rates of Withholding Tax

There is an obligation on the payer (either resident or non-resident) of income to withhold tax when certain specified payments are credited and/or paid. Some of the expenses that require tax withholding are as follows:

## Payments to Residents

| Nature of payment | Payment threshold for withholding Tax(WHT) (INR) | WHT Tax rate (%) |
|---|---|---|
| Interest on deposits | 40,000 | 10% |
| Professional or technical service | 30,000 | 10% |
| Commission and brokerage | 15,000 | 5% |
| Rent of plant, machinery, or equipment | 180,000 | 2% |
| Rent of land, building, or furniture | 240,000 | 10 |
| Contractual payment (except for individual/Hindu undivided family [HUF]) | 30,000 (single payment)<br>75,000 (aggregate payment) | 2% |

| | | |
|---|---|---|
| Contractual payment to individual/HUF | 30,000 (single payment)<br>75,000 (aggregate payment) | 1% |
| Royalty or fees for technical services | 30,000 | 10% |
| Sale of goods or provision of services facilitated by it e-commerce operator through its digital or electronic facility or platform | NA | 1% |
| Dividends | 5000 | 10% |

If the Permanent Account Number (PAN) of the deductee is not quoted, the rate of WHT will be the rate specified in relevant provisions of the Income Tax Act, the rates in force, or the rate of 20%, whichever is higher.

## Payment to Non-Residents

| Nature of payment | Tax rate (%) |
|---|---|
| Dividend | 20 |
| Interest on foreign currency (subject to conditions) | 5 |
| Interest on money borrowed in foreign currency under a loan agreement or by way of long-term infrastructure bonds (or rupee denominated bonds) (time period for borrowing is July 2012 to July 2015) | 5 |
| Interest on investment in long-term infrastructure bonds issued by Indian company (rupee denominated bonds or government security) | 5 |
| Royalty and technical fees | 10 |
| Long-term capital gains other than equity shares of a company or units of an equity-oriented fund/business trust on which STT is paid | 20 |
| Long-term capital gains (other than exempt income) | 10 |
| Income by way of winning from horse races | 30 |

### What is PAN?

PAN stands for Permanent Account Number. PAN is a ten-digit unique alphanumeric number issued by the Indian Income Tax Department to all tax payers and act as unique identification number for all tax payers in the country. Its format is like ALWP-C-5809-L

### What is TAN?

Tax Deduction Account Number or Tax Collection Account Number is a 10-digit alphanumeric number issued by the Income-tax Department (we will refer to it as TAN). TAN is to be obtained by all persons who are responsible for deducting withholding taxes (TDS) or who are required to collect tax at source (TCS)

# CORPORATE TAX

## Definition of a company

A company has been defined as a juristic person having an independent and separate legal entity from its shareholders. Income of the company is computed and assessed separately in the hands of the company. However the income of the company, which is distributed to its shareholders as dividend, is assessed in their individual hands. Such distribution of income is not treated as expenditure in the hands of company; the income so distributed is an appropriation of the profits of the company.

## Residence of a company

***A company is said to be a resident in India during the relevant previous year if:***

- It is an Indian company
- If it is not an Indian company but, the control and the management of its affairs is situated wholly in India
- A company is said to be non-resident in India if it is not an Indian company and some part of the control and management of its affairs is situated outside India.

## Compliance for corporations

The tax year is the year from 1 April to the following 31 March. Taxes on income in a tax year usually are paid in the next tax year ("assessment" year). All companies & non corporates subject to audit must submit a final tax return by 31st October of the assessment year.

All other taxpayers who are not required to have their accounts audited generally must submit a return by 30 July. Taxpayers claiming tax holidays or carrying forward tax losses must file their return of income on or before the due date.

Taxpayers must make four advance payments of their income tax liabilities during the tax year, on 15 June (15% of total tax payable); 15 September (30% of total tax payable); 15 December (30% of total tax payable); and 15 March (25% of total tax payable).

## Corporate sector tax

The taxability of a company's income depends on its domicile. Indian companies are taxable in India on their worldwide income. Foreign companies are taxable on income that arises out of their Indian operations, or, in certain cases, income that is deemed to arise in India. Royalty, interest, gains from sale of capital assets located in India (including gains from sale of shares in an Indian company), dividends from Indian companies and fees for technical services are all treated as income arising in India.

| Type of Company | Rate of Tax |
|---|---|
| Domestic Company Having annual turnover up to INR 5000 million | 25% |
| Where it opted for Section 115BA | 25% |
| Where it opted for Section 115BAA | 22% |
| Where it opted for Section 115BAB | 15% |
| All other Domestic Company | 30% |
| Foreign Companies | 40% |
| Royalty received from Government or an Indian concern or fees for rendering technical services where such agreement has, in either case, been approved by the Central Government | 50% |
| Education Cess applicable to all companies | 4% |
| Surcharge – Domestic Company if Net income exceeds INR 10 Million but up to 100 Million | 7% |
| Surcharge – Domestic Company if Net income exceeds INR 100 Million | 12% |
| Surcharge – Foreign Company if Net income exceeds INR 10 Million but up to 100 Million | 2% |
| Surcharge – Foreign Company if Net income exceeds INR 100 Million | 5% |

# Different kinds Of Taxes Relating to a Company

## MINIMUM ALTERNATIVE TAX (MAT)

Normally, a company is liable to pay tax on the income computed in accordance with the provisions of the income tax Act, but the profit and loss account of the company is prepared as per provisions of the Companies Act. There were large number of companies who had book profits as per their profit and loss account but were not paying any tax because income computed as per provisions of the income tax act was either nil or negative or insignificant.

In such case, although the companies were showing book profits and declaring dividends to the shareholders, they were not paying any income tax. These companies are popularly known as Zero Tax companies. In order to bring such companies under the income tax act net, section 115JA was introduced w.e.f assessment year 1997-98.

A new tax credit scheme is introduced by which MAT paid can be carried forward for set-off against regular tax payable during the subsequent five year period subject to certain conditions, as under:-

- When a company pays tax under MAT, the tax credit earned by it shall be an amount, which is the difference between the amount payable under MAT and the regular tax. Regular tax in this case means the tax payable on the basis of normal computation of total income of the company.

- MAT credit will be allowed carry forward facility for a period of five assessment years immediately succeeding the assessment year in which MAT is paid. Unabsorbed MAT credit will be allowed to be accumulated subject to the five-year carry forward limit.

- In the assessment year when regular tax becomes payable, the difference between the regular tax and the tax computed under MAT for that year will be set off against the MAT credit available.

- The credit allowed will not bear any interest
- At present the base rate of MAT is 15% subject to Education cess of 4% and surcharge if book profit exceeds threshold limits as enumerated above.

## TAXES ON DIVIDEND

The recent amendments have abolished the erstwhile Dividend Distribution Tax (DDT). Now the as per the latest provisions from 1 April 2020, dividends paid by domestic companies are no longer subject to DDT in the hands of the company but are taxed at the shareholder level.

Prior to 1 April 2020, Indian companies were required to pay DDT at a rate of 15% (an effective rate of approximately 20.56%, including a 12% surcharge, and a 4% health and education cess (subsequently referred to as cess)) on dividends declared, distributed, or paid to shareholders, and the dividend income was exempt from tax in the hands of the shareholders.

Dividends received from a foreign company generally are subject to corporate income tax, with a credit for any foreign tax paid. However, dividends received by an Indian company from a foreign company in which the Indian company holds at least 26% of the equity shares are subject to tax at a reduced base rate of 15% on the gross income (plus any applicable surcharge and cess).

## SECURITIES TRANSACTION TAX (STT)

Securities Transaction Tax or turnover tax, as is generally known, is a tax that is leviable on taxable securities transaction. STT is leviable on the taxable securities transactions with effect from 1st October, 2004 as per the notification issued by the Central Government. The surcharge is not leviable on the STT.

## EQUALISATION LEVY

Over the last decade, Information Technology has gone through an exponential expansion phase in India and globally. This has led to an increase in the supply and procurement of digital services. Consequently, this has given rise to various new business models, where there is a heavy reliance on digital and telecommunication networks.

- **Rate of levy**: -6% of the amount of consideration for specified service & 2% for e-commerce supply of goods and services.

- **Meaning of 'specified service'**: Online advertisement, any provision for digital advertising space, or any other facility or service for the purpose of online advertisement, which includes any other service as may be notified by the Central Government in this regard.
- **Applicability**: Non-resident receiving consideration for specified services from:

    - a person resident in India and carrying on business or profession, or
    - a non-resident having a PE in India.
    - to a non-resident in the specified circumstances
    - to a person who buys such goods or services or both using internet protocol address located in India.

- **Exemption from income tax**: The income arising to the non-resident from the specified service and chargeable to an equalisation levy will be exempt from income tax.
- **Due date for deposit**: 7th day of the following month.
- **Non-applicability in specified cases:** Equalisation levy will not be charged in the following cases:

    - the non-resident providing specified service has a PE in India and the specified service is effectively connected with the PE
    - the aggregate consideration received or receivable in the previous year by the non-resident does not exceed INR 100,000, or
    - the payment for the specified service by the Indian resident or PE is not for conducting business or a profession in India.
    - where the e-commerce operator making or providing or facilitating e-commerce supply or services has a permanent establishment in India and such e-commerce supply or services is effectively connected with such permanent establishment;
    - where the equalisation levy is leviable under section 165; or
    - sales, turnover or gross receipts, as the case may be, of the e-commerce operator from the e-commerce supply or services made or provided or facilitated as referred to in sub-section (1) is less than two crore rupees during the previous year

## Tax Rebates for Corporate Tax

The classical system of corporate taxation is followed in India

- Domestic companies are permitted to deduct dividends received from other domestic companies in certain cases.

- Inter Company transactions are honoured if negotiated at arm's length.

    - Special provisions apply to venture funds and venture capital companies.

    - Long-term capital gains have lower tax incidence.

    - There is no concept of thin capitalization.

    - Liberal deductions are allowed for exports and the setting up on new industrial undertakings under certain circumstances.

    - There are liberal deductions for setting up enterprises engaged in developing, maintaining and operating new infrastructure facilities and power-generating units.

    - Business losses can be carried forward for eight years, and unabsorbed depreciation can be carried indefinitely. No carry back is allowed.

    - Dividends, interest and long-term capital gain income earned by an infrastructure fund or company from investments in shares or long-term finance in enterprises carrying on the business of developing, monitoring and operating specified infrastructure facilities or in units of mutual funds involved with the infrastructure of power sector is proposed to be tax exempt.

## CAPITAL GAINS TAX

A capital gain is income derived from the sale of an investment. A capital investment can be a home, a farm, a ranch, a family business, work of art etc. In most years slightly less than half of taxable capital gains are realized on the sale of corporate stock.

The capital gain is the difference between the money received from selling the asset and the price paid for it.

Capital gain also includes gain that arises on "transfer" (includes sale, exchange) of a capital asset and is categorized into short-term gains and long-term gains.

The capital gains tax is different from almost all other forms of taxation in that it is a voluntary tax. Since the tax is paid only when an asset is sold, taxpayers can legally avoid payment by holding on to their assets--a phenomenon known as the "lock-in effect."

The scope of capital asset is being widened by including certain items held as personal effects such as archaeological collections, drawings, paintings, sculptures or any work of art. Presently no capital gain tax is payable in respect of transfer of personal effects as it does not fall in the definition of the capital asset.

To restrict the misuse of this provision, the definition of capital asset is being widened to include those personal effects such as archaeological collections, drawings, paintings, sculptures or any work of art. Transfer of above items shall now attract capital gain tax the way jewellery attracts despite being personal effect as on date.

### Short Term and Long Term capital Gains

Gains arising on transfer of a capital asset held for not more than 24 months (12 months in the case of a share held in a company or other security listed on recognised stock exchange in India or a unit of a mutual fund) prior to its transfer are "short-term". Capital gains arising on transfer of capital asset held for a period exceeding the aforesaid period are "long-term". The first INR 100,000 of long-term gains on listed shares and specified securities is exempt if the transaction is subject to securities transaction tax (STT).

## Capital Gain Tax Rates

| Tax Type | Stock and Equity based Mutual Funds | |
|---|---|---|
| | Individuals | Non Residents Indians |
| Short Term Capital Gain (STCG) | 15% | 15% |
| Long Term Capital Gain (LTCG) | 10% | 10% |
| | **Other Capital Assets** | |
| Short Term Capital Gain (STCG) | Based on Individual Tax Slabs | Based on Individual Tax Slabs |
| Long Term Capital Gain (LTCG) | 20% | Listed 20%<br>Unlisted 10% |

## DOUBLE TAXATION RELIEF

Double Taxation means taxation of the same income of a person in more than one country. This results due to countries following different rules for income taxation.

There are two main rules of income taxation i.e.

a. Source of income rule and
b. Residence rule.

As per source of income rule, the income may be subject to tax in the country where the source of such income exists (i.e. where the business establishment is situated or where the asset / property is located) whether the income earner is a resident in that country or not. On the other hand, the income earner may be taxed on the basis of the residential status in that country. For example, if a person is resident of a country, he may have to pay tax on any income earned outside that country as well.

Further, some countries may follow a mixture of the above two rules. Thus, problem of double taxation arises if a person is taxed in respect of any income on the basis of source of income rule in one country and on the basis of residence in another country or on the basis of mixture of above two rules.

In India, the liability under the Income Tax Act arises on the basis of the residential status of the assessee during the previous year. In case the assessee is resident in India, he also has to pay tax on the income, which accrues or arises outside India, and also received outside

India. The position in many other countries being also broadly similar, it frequently happens that a person may be found to be a resident in more than one country or that the same item of his income may be treated as accruing, arising or received in more than one country with the result that the same item becomes liable to tax in more than one country.

Relief against such hardship can be provided mainly in two ways: (a) Bilateral relief, (b) Unilateral relief.

### Bilateral Relief

The Governments of two countries can enter into Double Taxation Avoidance Agreement (DTAA) to provide relief against such Double Taxation, worked out on the basis of mutual agreement between the two concerned sovereign states. This may be called a scheme of 'bilateral relief' as both concerned powers agree as to the basis of the relief to be granted by either of them.

### Unilateral relief

The above procedure for granting relief will not be sufficient to meet all cases. No country will be in a position to arrive at such agreement with all the countries of the world for all time. The hardship of the taxpayer however is a crippling one in all such cases. Some relief can be provided even in such cases by home country irrespective of whether the other country concerned has any agreement with India or has otherwise provided for any relief at all in respect of such double taxation. This relief is known as unilateral relief.

### Double Taxation Avoidance Agreement (DTAA)

India has signed various Double Taxation Avoidance Agreement with countries to provide tax relief.

- DTAA Comprehensive Agreements - (With respect to taxes on income)
- DTAA Limited Agreements – With respect to income of airlines/ merchant shipping
- Limited Multilateral Agreement
- DTAA Other Agreements/Double Taxation Relief Rules
- Specified Associations Agreement
- Tax Information Exchange Agreement (TIEA)

### International Transfer Pricing Regulations

Transfer Pricing Regulations in India mandate international transaction between related parties / Associated Enterprises (AE) to be carried out at Arm's Length Pricing (ALP) principles. In India following 5 methods are used to determine Arm Length Price (ALP) –

- Comparable Uncontrolled Price (CUP) Method
- Resale Price Method
- Cost-plus method
- Profit Split Method
- Transactional net margin method (TNM)

Taxpayers are required to maintain information related to international transactions undertaken with AEs. Every company who enters into an international transaction during a previous year is required to obtain an audit report in Form 3CEB. The Time limit for furnishing Form No. 3CEB is on or before 30th November of the relevant Assessment Year.

# Indirect Taxes

### GOODS AND SERVICE TAX (GST)

Introduction of GST is a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax and allowing set-off of prior-stage taxes, it has mitigated the ill effects of cascading and pave the way for a common national market.

GST is a value-added tax levied at all points in the supply chain with credit allowed for any tax paid on input acquired for use in making the supply. It would apply to both goods and services in a comprehensive manner, with exemptions restricted to a minimum.

In keeping with the federal structure of India, GST in India has been levied concurrently by the Centre (CGST) and the states (SGST). Even though both Central & State Government are levying the base and other essential design features are common between CGST and SGST across SGSTs for individual states. Both CGST and SGST are levied on the basis of the destination principle. Thus, exports are zero-rated, and imports attract tax in the same manner as domestic goods and services. Inter-state supplies within India would attract an Integrated GST (aggregate of CGST and the SGST of the Destination State).

GST has been envisaged as an efficient tax system, neutral in its application and distribution attractive.

**The advantages of Indian GST are:**

- Wider tax base, necessary for lowering tax rates and eliminating classification disputes
- Elimination of multiplicity of taxes and their cascading effects
- Rationalization of tax structure and simplification of compliance procedures
- Harmonization of center and state tax administrations, which would reduce duplication and compliance costs
- Automation of compliance procedures to reduce errors and increase efficiency

**GST has replaced most indirect taxes such as** Central Excise duty, Duties of Excise (Medicinal and Toilet Preparations), Additional Duties of Excise (Goods of Special Importance), Additional Duties of Excise (Textiles and Textile Products), Additional Duties of Customs (commonly known as CVD), Special Additional Duty of Customs (SAD), Service Tax, Central Surcharges and Cess so far as they relate to supply of goods and services, State VAT, Central Sales Tax, Luxury Tax, Entry Tax (all forms), Entertainment and Amusement Tax (except when levied by the local bodies), Taxes on advertisements, Purchase Tax, Taxes on lotteries, betting and gambling, State Surcharges and Cesses so far as they relate to supply of goods and services

## Tax Rates under GST

| TYPE OF GOODS / SERVICES | RATE OF TAX |
|---|---|
| All essential commodities | **5%** |
| General rate of Tax for other goods | **12%** |
| Services | **18%** |
| Demerit Goods / Luxurious Goods | **28%** |

## Registration

Registration under GST is state-specific. Registration threshold limits of aggregate turnover are INR 4 million and INR 2 million for suppliers of goods and supplier of services respectively.

The threshold exemption does not apply in the case of interstate taxable supplies (other than to persons making interstate supplies of services with aggregate turnover of less than INR 2 million (INR 1 million for special category states)), persons who are required to pay tax under the reverse-charge mechanism, electronic commerce operators required to collect tax at source, etc.

### Filing and payment

GST compliance is an electronic process. Specific returns, filing obligations, and the time of payment are prescribed for different types of taxpayers, with most taxpayers being required to file monthly returns plus an annual return.

### Monthly Returns

The monthly return in respect of outward supplies generally is due by the 11th day of the following month, with consolidated monthly returns (including information relating both to inward and outward supplies) and tax payments due by the 20th day of the following month.

### Annual returns

Annual returns also must be filed by GST registered persons on or before 31 December following the relevant financial year. GST registered persons with aggregate turnover exceeding INR 20 million also must provide as a minimum a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the returns submitted for the financial year with the audited annual financial statements.

### E–invoicing

E-invoicing (i.e., the generation of electronically authenticated invoices to effect GST supplies) is compulsory for taxpayers with turnover exceeding INR 50 million in the three preceding financial years.

### E-way bill system

A mandatory e-way bill system applies for the interstate and intrastate movement of goods above a certain value (except under certain specified circumstances).

## VALUE ADDED TAX (VAT)

VAT was a multi-stage tax on goods that was levied across various stages of production and supply with credit given for tax paid at each stage of Value addition. From 1$^{st}$July 2017 State level VAT is limited to be imposed on liquor for human consumption.

## EXCISE DUTY

Central Excise duty is an indirect tax levied on goods manufactured in India. Excisable goods have been defined as those, which have been specified in the Central Excise Tariff Act as being subjected to the duty of excise. With the implementation of GST from 1$^{st}$ July

2017, scope of excise duty is limited to very few products which are not under the purview of GST, viz, High Speed Diesel, Petroleum products.

There are three types of Central Excise duties collected in India namely:

### Basic Excise Duty

This is the duty charged under section 3 of the Central Excises and Salt Act, 1944 on all excisable goods other than salt which are produced or manufactured in India at the rates set forth in the schedule to the Central Excise tariff Act, 1985.

### Additional Duty of Excise

Section 3 of the Additional duties of Excise (goods of special importance) Act, 1957 authorizes the levy and collection in respect of the goods described in the Schedule to this Act. This is levied in lieu of sales Tax and shared between Central and State Governments. These are levied under different enactments like medicinal and toilet preparations, sugar etc. and other industries development etc.

### Special Excise Duty

As per the Section 37 of the Finance Act, 1978 Special excise Duty was attracted on all excisable goods on which there is a levy of Basic excise Duty under the Central Excises and Salt Act, 1944. Since then each year the relevant provisions of the Finance Act specifies that the Special Excise Duty shall be or shall not be levied and collected during the relevant financial year.

## CUSTOMS DUTY

Custom or import duties are levied by the Central Government of India on the goods imported into India. The rate at which customs duty is leviable on the goods depends on the classification of the goods determined under the Customs Tariff. The Customs Tariff is generally aligned with the Harmonised System of Nomenclature (HSN).

In line with aligning the customs duty and bringing it at par with the ASEAN level, government has reduced the peak customs duty from 12.5 per cent to 10 per cent for all goods other than agriculture products. However, the Central Government has the power to generally exempt goods of any specified description from the whole or any part of duties of customs liveable thereon. In addition, preferential/concessional rates of duty are also available under the various Trade Agreements.

# Other taxes on Corporations and Individuals

### Accounting principles / financial statements

India has initiated steps toward the convergence of its accounting standards with IFRS (subject to a few exceptions); these standards are called Indian Accounting Standards (Ind AS). Ind AS are mandatory for listed and unlisted companies with a net worth of at least INR 2.5 billion. The implementation schedule for banks has been deferred by the RBI until further notice.

### Principal business entities

These are the public/private limited liability company; one-person company; partnership firm; limited liability partnership (LLP); sole proprietorship; trust established as a regulated investment vehicle; or branch office, liaison office, project office, or site office of a foreign corporation.

### Social Security

India's social security system is composed of a number of schemes and programs spread throughout a variety of laws and regulations. Keep in mind, however, that the government-controlled social security system in India applies to only a small portion of the population. The employer generally contributes 12% of eligible wages per month to the provident fund. Also all employees contribute 12% of eligible wages per month to the provident fund. However, where India has entered into a social security agreement (SSA) with the relevant foreign country, an inbound international worker (subject to certain conditions) is not liable to contribute to the provident fund in India upon obtaining a certificate of coverage (CoC). An international worker may be either (i) a foreign employee working for an establishment in India to which the Provident Fund Act applies, or (ii) an Indian employee seconded to a country with which India has entered into an SSA, who has not obtained a CoC, and is/will be eligible for benefits under the host country's social security program.

India has a national health service, but this does not include free medical care for the whole population. The Employees' State Insurance (ESI) Act, 1948 created 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. (As on March 31, 2017, the total number of ESI beneficiaries were 123.7 million.)

Coverage under the ESI scheme has extended to hotels, shops, cinemas and preview theaters, restaurants, newspaper establishments, and road-motor transport undertakings. The scheme has also been extended to private educational and medical institutions that have employed 10 or more employee. This is applicable in certain states and union territories only.

### Payroll tax

There is no payroll tax but the employer is responsible for withholding tax on salary income as per the rates prescribed.

### Capital duty

India does not impose capital duty.

### Real property tax

Municipalities impose property taxes (based on assessed value) and states impose land-revenue taxes.

### Transfer tax

STT is payable by the purchaser at the time of purchase, or on the seller at the time of sale of equity shares, derivatives, units in an equity-oriented fund, or units of a business trust listed on a recognized stock exchange in India.

### Stamp duty

Transactions involving real estate and other specified transactions (including financial instruments and tribunal orders for amalgamation/demerger) in India attract stamp duty levied under the Indian Stamp Act and the stamp acts of the various states (with rates varying between the states).

### Net wealth / worth tax

India does not impose a net wealth tax or net worth tax.

### Inheritance / estate tax

India does not impose an inheritance tax or an estate tax.

### Branch remittance tax

There is no branch remittance tax.

### Penalties

Penalties apply for failure to file a return, tax audit report, or certificate of international transactions; failure to comply with withholding tax obligations; and under reporting and misreporting of income. Criminal proceedings also may be initiated for failure to file an income tax return.

### Rulings

The Authority for Advance Rulings (AAR) issues rulings on the tax consequences of transactions or proposed transactions with nonresidents. It also can issue rulings in relation to the tax liability of residents in prescribed cases, and on whether an arrangement is an impermissible avoidance arrangement. Rulings are binding on the applicant and the tax authorities for the specific transaction(s). Advance pricing agreements (APAs) also are possible.

## About Us

**Habibullah & Co. (HCO)** is a professional services firm providing audit, assurance, tax, financial advisory and consulting services to a wide range of publicly traded and privately held companies, guided by core values including competence, honesty and integrity, professionalism, dedication, responsibility and accountability.

At HCO, the interests of our clients are paramount. Our focus on the mid-market means we have a real understanding of the environment in which our clients operate and are ideally placed to help them grow and prosper.

## Who we are and what we stand for

- Established 1962
- 9 Partners
- 80+ staff
- 8+ offices across India
- International Representation through "Antea- Alliance of Independent Firms"
- Member Firm of The Institute of Chartered Accountants of India since 1962
- Registered with all major Government Regulators in India

## Our Services

- Accounting and Auditing
- Business Setups in India
- Global Mobility Tax
- Tax Compliance, Planning and Management
- Transfer Pricing Advisory
- Business Advisory

## Let's talk

For a deeper discussion of how this issue might affect your business, please contact, Managing Partner for International Relations:

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