Doing Business Guide - India

India

1. About India

India is one of the fastest-growing economies in the world. Liberalisation of the Indian regulatory framework has enhanced its attractiveness as a destination for foreign investors. In 2016, India was at the 130th rank in the World Bank's Ease of Doing Business Index and within a few years, India has climbed up to the 63rd place, which indicates an improvement of 67 ranks as a result of the improvement made by the Government in its policies launched under the Make in India campaign. Through its 'Atmanirbhar Bharat' mission, India is striving towards becoming self-reliant from a manufacturing perspective driving exports, inbound foreign investments and collaboration with other countries. With measures being taken for ease of doing business, focused policies, digitization across processes, and multiple options for investments in emerging sectors, India has placed itself as one of the preferred destinations for investments. Sectors such as manufacturing, technology, healthcare, fintech, education, among others, show immense growth potential, translating into new business opportunities.

Some of the advantages of starting a business in India are large consumer base, low operational cost, robust financial system, vast trade network, Indian work ethics and availability of working class. Foreign investor can commence business in India as:

Indian company	Limited Liability Partnership (LLP)	Foreign company
• Joint venture • Wholly owned subsidiary	Foreign direct investment (FDI) is permitted in sectors/ activities where 100% FDI is allowed through the automatic route and there are no FDI-linked performance conditions	• **Liaison office** - To represent the parent company in India • **Branch office** - To undertake activities such as Export, Import, Research, Consultancy, etc. • **Project office** - Activities as per contract to execute.

Foreign Companies often prefer to incorporate a private limited company / LLP. The basic requirements to establish a private limited company / LLP in India are given below:

Particulars	Private Limited Company	LLP
Minimum No. of Members	2	2
Maximum No. of Members	200	Unlimited
Minimum No. of Directors/Designated partners	2	2
Minimum No. of Resident Director/ Designated partners	1	1
Governing Act/ Law	Companies Act, 2013	LLP Act, 2008
Legal Status	Separate legal entity	Separate legal entity
Liability of Directors/ Designated Partners	The Directors are liable for any defaults	The Designated Partners are liable for any defaults
Annual statutory Filings	Annual statement of accounts & annual return with ROC	Annual statement of solvency & annual return with ROC

In addition to aforesaid corporate law, a business registered in India is also required to comply with the various laws such as Income Tax Act, 1961, Goods and Service Tax Act, Labour laws, Foreign Exchange Management Act, 1999, and state-specific laws and regulations. In an ever-changing regulatory environment, one of the biggest challenges for management is to implement appropriate systems and processes to proactively protect the organisations, people, and customers from any potential business disruption due to new regulatory requirements.

Since a majority of the business are registered as companies, Company Law compliance gathers utmost importance in a growing businesses. Hence, we have, in the ensuing paragraphs, captured a brief of the incorporation process, the secretarial compliances applicable to a private limited company.

2. Incorporation of a company

If a person intends to register a new company in India, he / she must submit an application to the Ministry of Corporate Affairs (MCA). For registration, a person will need Director Identity Number(DIN) and Digital Signature Certificate (DSC), among other things. Every Company shall consist of at least one resident Director. No person can be appointed as a Director without getting a DIN. The prescribed documents to be submitted for obtaining the DIN have to be notarised. If the documents are not in English, then translated version along with the original documents should be notarised. The company's first step is to go for Name approval, after which it shall disclose basic details of directors, shareholding pattern, registered office address. Following are the key documents that are required to be submitted during the incorporation process.

- Memorandum of Association i.e., MOA;
- The Articles of Association, i.e., AOA;
- Declaration by the directors as well as by the subscribers;
- A confirmation about the office address;
- The interest of the directors from other organizations (if required);
- Residential & identification proof of the applicants. etc

The process of incorporation would typically take 2 – 3 weeks if there are only resident shareholders and directors. If there are foreign shareholders/ directors, this may take additional time. Upon completion of registration, the Company receives a digitally signed Certificate of Incorporation.

3. Secretarial Compliances

- Board of directors meeting: At least four board meetings need to be held in a year and at least one meeting needs to be held every quarter. Quorum is 1/3rd of the directors or 2 Directors whichever is higher. The minutes of meetings need to be maintained at the Registered Office.

- Annual General meeting: This is a shareholders meeting that needs to be held every year. Approval of financial statements, declaration of dividends, appointment of auditors, etc. are some of the primary agenda for this meeting. Normally, the company is required to conduct the Annual General meeting before September 30th of the financial year (April to March).

Informing ROC on occurrence of certain events

As per Companies Act, 2013 there are various events which needs to be intimated to Registrar of Companies as and when they happen. To name a few:

- Change in the statutory auditors
- Appointment of Managing Director/ Whole Time Director
- Appointment/Resignation of directors
- Change in the bank signatories
- Alteration of main object of the company
- Change in registered office of the company, etc

The Company is also required to file its Financial Statements comprising of Balance Sheet, Statement of Profit and Loss Account, Cash Flow Statement, Directors' Report, Auditor's Report, and Notice of AGM with the ROC in Form AOC-04 on a yearly basis.

Listed Companies and public companies having paid up share capital of Rs. 10 Crore or more are required to appoint a whole-time company secretary.

The directors are required to inform the company about their directorship in other companies every year.

A number of registers are required to be maintained, such as- Register of Member, Register of Directors, Register of Contracts, Register of Charges, etc. The registers are required to be kept at the registered office of the company.

4. Income Tax

Indian taxes are primarily divided into two categories viz Direct Taxes and Indirect Taxes. Taxpayers are required to obtain Permanent Account Number (PAN), which is a pre-requisite for payment of taxes and undertaking various compliances. There are different types of taxpayers registered with the Income tax department and they pay taxes at different rates applicable to them. For example:

i. **Individuals:** The income-tax paid by the individual taxpayers is the personal income tax. Individuals get taxed on the basis of tax slabs at different rates.

ii. **Corporates:** LLPs, domestic companies, and foreign companies are required to pay corporate income-tax (CIT) at specified rate prescribed under the Income-tax Act, 1961 ('IT Act'). While a domestic company is taxed on its global income, a foreign company is only taxed on the income earned or received within India Further, the tax rate could also differ based on the type of income it earns, which is as follows:

- Profits earned from the business
- Capital Gains
- Income from House property
- Income from other sources (dividend, interest etc.)

Rates for Domestic and Foreign Companies:

Class of Persons	Tax Rates*
LLPs	30%
Companies having turnover up to Rs 400 crore in FY 2020-21	25%
Companies opted for new tax regime under section 115BAA	22%
Companies set up and registered on or after 1st October 2019 but before 31st March 2024) and engaged in manufacturing or production (Section 115BAB)	15%
Any other cases for domestic companies	30%
Foreign companies	40%

** Rates applicable for financial year 2022-23 (i.e., assessment year 2023-24). The said rates are excluding surcharge and education cess (4%). The rate of surcharge varies based on level of total income of the entity and the selection of tax regime.*

Rates for Capital Gains:

Taxation of Capital Gains	Long Term	Short Term
Equity Shares (Listed)	10%*	15%
Equity Shares (Unlisted)	10%*	As per above table
Other Assets	20%	As per above table

** Subject to conditions*

Minimum Alternate Tax (MAT): In addition to the above, companies are required to pay minimum alternate tax at the rate of 15% on book profits, if the tax calculated as per above rates are less than 15% of book profits. This is not be applicable to companies opting for new tax regime under Section 115BAA or Section 115BAB

Key Tax Incentives/ Deductions:

- **Tax Incentives for Startups (Section 80-IAC):** To provide an incentive for startups and aid their growth in the early phase of businesses, Section 80-IAC has been introduced to grant a deduction of 100 % of the profits and gains derived by an eligible startup from a qualified business for any three consecutive years among the 10 years beginning from the particular year in which the eligible startup is incorporated. The start-up should be incorporated as a LLP/ Company on or before 31st March 2023 and should obtain approval from inter-ministerial board of Government of India. The Company availing this incentive cannot opt for lower rate of tax (ie 22% or 15%) prescribed under section 115BAA/ 115BAB.

- **Deduction for Salaries paid to New Employees (Section 80JJAA):** To encourage employment generation, an additional deduction of 30% of the emoluments paid to new employees (employed for minimum of 240 days in a FY) is granted for three years. This minimum period of employment is reduced to 150 days for manufacturers of apparel, leather and footwear. In addition, if the minimum period of employment is not met in the first year, the deduction is allowed in the subsequent year if the criteria is met in the succeeding year.

- **Deduction towards expenditure on specified business (Section 35AD):** Accelerated deduction of capital expenditure (other than expenditure on the acquisition of land, goodwill or financial instruments) incurred, wholly and exclusively for certain specified businesses in the year of the incurrence of such expense. Expense incurred before the commencement of business is allowed as a deduction on the commencement of the specified business. The Company availing this incentive cannot opt for lower rate of tax (i.e., 22% or 15%) prescribed under section 115BAA/ 115BAB.

International Taxation:

Tax Treaties: India has entered into comprehensive tax treaties (DTAAs) with several partner countries. The DTAA provides for distributive right of taxation between the source and resident country. Vide Section 90 of the IT Act, India also provides supremacy of tax treaty against the provisions of the domestic law, whereby a non-resident can avail benefits under the DTAA to the extent it is beneficial in comparison with domestic law (subject to satisfaction of prescribed conditions).

Earlier, a Tax Residency Certificate (TRC) issued by the partner country was considered sufficient proof for accepting the status of residence for applying DTAAs. However, pursuant to amendment in section 90 of the IT Act, if TRC does not contain all the prescribed information, then Form 10F (self-declaration) has to be furnished by the non-resident party. Recently, it has been notified that Form 10F had to be furnished electronically by registering into the income-tax portal through PAN.

India is a signatory of the Multi-lateral instruments (MLI) and hence the preamble, principal purpose test and other anti-avoidance provisions would be applicable, where the treaty partner has also adopted MLI and notified the DTAA as a covered tax agreement.

Transfer Pricing: Where the Indian taxpayers enter into international transactions with related parties, the income of the taxpayers from such transactions are required to be computed at arm's length price. Such Companies are required to furnish Chartered Accountant's report on international transactions in Form 3CEB on annual basis. Further, where the aggregate of international transactions during a FY exceeds Rs. 1 Crore, such taxpayers are required to maintain prescribed documents to substantiate arm's length pricing in respect of the international transactions.

Thin Capitalisation Provisions: Indian Income-tax laws has capped the interest deduction (in computation of taxable profits), being interest payable to overseas related parties or interest on borrowings guaranteed by the overseas related parties to 30% of EBITDA. Any amount of interest incurred in excess of the said limit can be carried forward and set-off within a period of 8 years, subject to the satisfaction of given threshold in such year of such set-off. However, these provisions would not be applicable, if the interest expense for the FY does not exceed Rs. 1 Crore.

Foreign tax credit: Under the applicable tax treaty, Indian residents paying taxes in other countries can claim a credit in India for foreign tax payments to the extent the income is doubly taxed.

Where a resident of India has paid tax in any country with which India does not have a tax treaty, credit is available (under Section 91) in India for such tax payments. The following conditions are required to be satisfied for availing unilateral tax credit:

- Person claiming the credit must be resident in India for the said previous year
- Income is from a source outside India.
- Tax has been paid in the foreign country. The taxpayer should be able to prove that he/she has paid income tax on such income in the foreign country.
- Absence of agreement u/s 90 for the relief or avoidance of double taxation.

Any person claiming foreign tax credit has to file Form 67 along with supporting documents on or before the due date of filing the income tax return.

Compliances on Foreign Remittances:

Companies making payments to a non-resident or foreign company are required to submit **Form 15CA**. This form is required to be submitted electronically using the Company's account in income-tax portal at the time of each foreign payment.

Further, in certain cases, based on transaction limit, a certificate from a Chartered Accountant in Form 15CB is required to be furnished before uploading Form 15CA online.

Equalization Levy (EL): EL is leviable in the following cases:

- Online advertising: EL at the rate of 6% is required to be deducted by a resident/ a non-resident having PE in India, in respect of the consideration paid to a non-resident for online advertising or provision of digital space for online advertisement or any other service for purpose of online advertising.

- Ecommerce transactions: EL at the rate 2% is required to be paid by the non resident in respect of consideration received (where such aggregate consideration for the financial year exceeds Rs. 2 Crores) for:

  i. online supply of goods or services by an e-commerce operator/ facilitated by an e-commerce operator to a person resident in India;
  ii. for sale of advertisement, which targets a customer, who is resident in India or a customer who accesses the advertisement though internet protocol address located in India; and
  iii. sale of data, collected from a person who is resident in India or from a person who uses internet protocol address located in India

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Statement of Financial Transaction (SFT)

SFT is a report of specified financial transactions to be reported by specified persons including prescribed reporting financial institutions. Some of the key financial transactions that required to be reported under SFT by a company are as follows:

- Receipt from any person aggregating to Rs. 1,000,000 in a FY for :
  - issuance of bonds or debentures
  - issuance of shares/ as share application money
- Payment to any person for buyback of shares (applicable only to a listed company)
- Receipt of cash exceeding Rs. 200,000 for sale of goods and services
- Dividend distributed by a company

Key compliances under IT Act:

Description	Due Date
Due date of depositing Taxes Deducted at Source (TDS)/ Taxes Collected at Source (TCS)*	7th day of succeeding month (30th April for the month of March).
Due Date of Deposit of equalization levy	7th day of succeeding month
Due date for payment of Advance Income Tax :	
Due Date	% of estimated tax liability for the year
15th June	15%
15th Sep	45%
15th Dec	75%
15th Mar	100%
Due Date for Filing Quarterly TDS Return	31st day of the subsequent month following the end of the quarter/ 31st May, in case of quarter ending March.
Due Date for Filing Quarterly TCS Return	15th day of the subsequent month following the end of the quarter/ 15th May, in case of quarter ending March.
Statement of Financial Transactions (SFT) in Form 61A	On or before 31st day of May following the end of the Financial Year.
The Equalization Levy Statement in Form No. 1 for a Financial Year	On or before 30th day of June following the end of the Financial Year.
Annual Income Tax Return (Form ITR 6) by all Companies including Foreign Companies	• 30th November where companies are required to report international related party transaction in Form 3CEB • 31st October in all other cases.
Tax Audit Report	One month before the due date of filing income tax return as indicated above.
Accountant's Report on Transfer Pricing (Form 3CEB)	

**TDS Certificates are to be issued on quarterly basis within 15 days of due date of filing TDS Returns.*

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Withholding Tax (TDS):

- Tax at the prescribed rates is required to be deducted at source on various payments such as rent (for use of land, building, machinery, plant, equipment, furniture or fittings), salary, professional fees, fees for technical services, royalty, interest, commission, etc. to residents.
- Tax is also required to be deducted from payments to non-residents, in respect of interest or any other sum chargeable under the Act.
- Tax will be deductible irrespective of whether the payer is a resident or non-resident and even if a non-resident does not have any place of business, business connection or any other presence in India.

Summary of TDS provisions

The provisions of the IT Act require the payer to withhold tax and remit to the government. The gist of key payments to residents that are subject to withholding tax are summarized below:

S No	Section	Nature of payment	Rate	Threshold limit for non-deduction	Non-applicability of the section
1	192	Salary	As per slab rates	Basic exemption limit applicable to the said individual	
2	193	Interest on securities	10%	Rs. 5,000	• Interest on Central/State Government securities, LIC, GIC and other notified units.
3	194-A	Interest other than interest on securities	10%	Rs. 50,000 (for Senior citizen) and Rs. 40,000 (for others)	• where the payee are Banking companies, Insurance companies or other financial institution, • by firm to the partner, or • deposits under notified schemes of central government.
4	194C	Payment to Contractors	Individuals/ HUF-1% Company-2%	Single payment of Rs 30,000 and aggregate payment during the financial year of Rs 100,000	Note 1
5	194-D	Insurance Commission	5%	Rs 15,000	
6	194-H	Commission or Brokerage	5%	Rs 15,000	Note 1 Any commission or brokerage payable to BSNL or MNTL.
7	194-I	Rent	Rent on plant and machinery - 2% Rent on land, building, furniture, etc – 10%	Rs 240,000	Note 1 Rent collected and paid to a business trust being a real estate investment trust.

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S No	Section	Nature of payment	Rate	Threshold limit for non-deduction	Non-applicability of the section
8	194-IA	Payment on transfer of certain immovable property other than agricultural land	1%	Rs 5,000,000	
9	194-IB	Payment of rent by individuals and HUF not liable for Tax audit	5%	Rs 50,000 per month	
10	194-IC	Payment of monetary consideration under joint development agreements	10%		
11	194-J	Fees for Professional service, Technical service, Royalty and Remuneration to director (not in the nature of Salaries), Non-compete fee	Payments for technical service (other than professional) and royalty for cinematographic films - 2% Other cases - 10%.	Rs 30,000 for every class	Note 1
12	194-O	Payment or credit of amount by e-commerce operator	1%	Rs 500,000	
13	194Q	Purchase of goods	0.1%	Purchase of goods not in excess of INR 50 lakh by a buyer whose total sales/ gross receipts doesn't exceed 10 cr during the immediate previous FY	Tax is deductible under any other provisions of this Act or tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies.
14	194-R	Perquisites or benefits arising from business or exercise of profession	10%	Rs 20,000 in a FY	Person being an individual or a HUF, whose total sales, gross receipts or turnover does not exceed 1 crore Rupees in case of business or fifty lakh rupees in case of profession, during the FY immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person.

S No	Section	Nature of payment	Rate	Threshold limit for non-deduction	Non-applicability of the section
15	194-S	Payment on transfer of virtual digital asset	1%	Specified person - Rs 50,000. Others – Rs 10,000	

Note 1 : In case the payer is individual/HUF/AOP/BOI, TDS is required to be deducted only if last year turnover of business is >Rs 1 crore or of profession the gross receipt is >Rs 50 lakhs

The rate of withholding tax applicable on payments to non-residents are summarized below:

S No	Section	Nature of payments	Rate
1	192	Salary	As per slab rates
2	194 E	Payments to sportsmen or sports associations	20%
3	194LC, 194LD	Specified interest	5%
4	195	Interest or any other sum chargeable to tax	Rates in force**

**As discussed above, non-resident is eligible to claim the provisions of DTAAs or the provisions of IT Act, whichever is more beneficial, subject to satisfaction of prescribed conditions.

Tax collected at source:

TCS is the tax collected by the seller from the buyer at the time of sale. The key items subject to TCS are:

S No	Section	Nature of Payment	Rates
1	206C (1)	Sale of Scrap	1.00%
2	206C (1)	Sale of Minerals, coal lignite, Iron ore by a trader	1.00%
3	206C (1F)	Sale Value of Motor vehicle whether in cheque or in any other mode of receipt Exceeding Rs. 10 Lakhs per transaction	1.00%
4	206C(1G)	Foreign remittance through Liberalised Remittance Scheme (LRS) of exceeding Rs. 7 Lakh in a financial year if the remitted amount is out of loan obtained from any financial institution u/s 80E to pursue any education	0.50%
5	206C(1G)	Foreign remittance through Liberalised Remittance Scheme (LRS) of exceeding Rs. 7 Lakh in any other case	5.00%
6	206C(1G)	Selling of overseas tour package	5.00%
7	206C(1H)	Sale of goods (Other than those being exported) of value exceeding Rs. 50 Lakh where total Sale/ gross receipts/turnover from business exceeds Rs 10 Crore during immediately financial year	0.10%

5. Goods and Services Tax (GST):

GST is an indirect tax that has replaced other taxes like Excise duty, VAT, Services tax, etc. It is levied on the supply of goods and services. Furthermore, it is a comprehensive, multi-stage tax that is levied on every value addition. The process of registration and filing returns under GST are online through a common portal.

Particulars	Details
GST rates	5%, 12%, 18% & 28% *
Return period	Monthly / Quarterly
Turnover Threshold** for GST registration	Rs. 4 Million for Goods and Rs. 2 Million for Service Provider

*Additionally, there is rate of 3% , 1.5% and 0.25% on jewelleries and precious stones.

** The turnover threshold limit for seeking registration in the special carteogy states of Assam, Arunachal Pradesh, Himachal Pradesh, Uttarakhand, Manipur, Mizoram, Sikkim, Meghalaya, Nagaland, or Tripura, is Rs. 2 Million for Goods and Rs. 1 Million for Service Provider.

In addition, person undertaking certain businesses or activities are required to undertake mandatory, registration under GST, irrespective of turnover threshold. GST registration usually takes 15 working days. If the entity carries on business without registering under GST, it will be an offence under GST and penalties will apply.

Levy: A dual GST model is implemented in India where taxes are levied by both central and state governments on a common base. GST levied by the Centre is known as central tax (CGST) and that levied by states or union territories is known as state tax (SGST) or union territory tax (UTGST). Intrastate supply of goods and services attract CGST and SGST/UTGST in equal proportion.

Further, integrated tax (IGST) is levied by the Central Government on interstate supply of taxable goods and services. It is equivalent to sum of CGST and SGST. The CGST and SGST/UTGST or IGST applies to all supplies of goods and services except the exempt supplies and the supplies that are outside the purview of GST like alcohol for human consumption and petroleum products.

Time of Supply: The time of supply for goods is the date an invoice is issued or the last date on which invoice is required to be issued. For services, the time of supply is the date of the invoice or receipt of the consideration, whichever is earlier. However, if the invoice is not issued within a prescribed time limit, the time of supply is the date of provision of the service or receipt of the consideration, whichever is earlier.

Valuation: Generally, the transaction value is considered as the taxable value for applying GST. Certain items that must be included in the taxable value are prescribed under the GST legislation. They include any interest or penalty for delayed payment of the consideration for a supply, incidental expenses including commission and charges for packing charged by the supplier to the recipient of supply.

In cases where the supplier and the recipient are related persons, or the price is not the sole consideration for the supply, the taxable value is to be determined under the prescribed valuation rules.

Input tax credit: Any **registered person** can avail credit of tax paid on the inward supply of goods or services or both which is used or intended to be used in the course or furtherance of business. A taxable person generally recovers input tax through its GST returns, by deducting it from output tax, which is GST charged on supplies made. ITC can be claimed by a registered person subject to certain pre-requisites / conditions.

Input tax credit is not available for goods and services used for making exempt supplies or for a nonbusiness purpose. Further, the GST law specifies a list of goods and services for which no input tax credit is available.

Exports: Under the GST Law, export of goods or services are treated as 'Zero rated supply'. A registered person has the option to export the goods and services or both

- without payment of tax under a bond or Letter of Undertaking (LUT) and can claim refund of unutilised accumulated ITC or
- on payment of tax (IGST) and then claim a refund of such tax paid.

Export invoices must carry an endorsement indicating the option exercised by the exporter and must contain the name and address of the recipient, address of delivery, and the name of the country of destination.

Reverse Charge: For certain supplies of goods and services, the tax due is payable by the recipient, instead of supplier, under the reverse-charge mechanism. In the case of import of services, the recipient importer is required to discharge the GST on reverse-charge basis. The reverse charge is also applicable for prescribed domestic supplies such as services performed by a goods transport agency for the transportation of goods by road, services provided by an advocate, sponsorship services and renting of motor vehicle.

Digital Economy: For online information and database retrieval services provided by a person located in a non-taxable territory to an unregistered recipient in India (business-to-consumer [B2C]), the tax is payable by such non-resident supplier by registering for GST in India.

For business-to-business (B2B) supplies of such services, tax is payable by the GST registered recipient, under the reverse-charge mechanism.

Tax invoice: A taxable person must issue a tax invoice for all supplies of goods and services. Generally, invoices are issued in the local currency, Indian rupee (INR). However, for exports, the invoices may be issued in foreign currency. In such cases, GST rules provide for adopting a rate of exchange for determining taxable value.

The time limit for issuing an invoice depends on the nature of the supply, specifically, whether it is a supply of goods or services

- For a supply of goods, a tax invoice should be issued before or at the time of removal of goods (where supply involves movement of goods) or Delivery or making goods available to the recipient.
- For services, a tax invoice should be issued within 30 days of provision of services. For a continuous supply of goods, where successive statements of account or successive payments are involved, the invoice should be issued before or at the time when the periodic statement is issued, or payment is received.

While no standard format has been prescribed for invoices and bills of supply, certain details must be included in the relevant document (such as a description of the supply, the value, details of the recipient, and the Harmonized System of Nomenclature (HSN) code, etc.).

It is not necessary that only a person supplying goods or services needs to issue an invoice. any registered person buying goods or services from an unregistered person needs to issue a payment voucher as well as a tax invoice.

E-invoicing: Taxpayers whose aggregate turnover in any financial year exceeds Rs. 100 Million* have to follow the procedure prescribed for electronic invoicing with respect to supplies made to registered persons. Such invoices should contain an invoice reference number (IRN), which should be obtained by uploading specified information on the Common GST Electronic Portal.

E-Way Bill Mechanism: Electronic Waybill (e-way bill) is basically a compliance mechanism whereby way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the tax portal. This mechanism facilitates faster movement of goods, improves the turnaround time of trucks and helps the logistics industry by reducing the travel time as well as costs. This also helps the Government to ensure that goods being transported comply with the GST Law, track movement of goods and check tax evasion

**Threshold limit for e-invoicing reduced from Rs. 200 Million to Rs. 100 Million effective from 1 October 2022.*

Records: Every GST-registered person is required to maintain the prescribed accounts and records. These include details of inward and outward supplies, stock of goods, input tax credit availed, GST paid on outward supplies. Relevant documents like invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers are to be preserved.

Such records are required to be maintained at the principal place of business (i.e., this can be physically in India or outside). Where there are additional places of business mentioned in the registration certificate, the accounts relating to each additional place of business should be kept at such place.

Record retention period. The accounts and records are required to be retained for 72 months (i.e., 6 years) from the due date of furnishing of annual return for the year pertaining to such accounts and records

Periodic Returns and payment: A return containing a summary of inward and outward transactions has to be filed and GST payment is to be made on a monthly basis (GSTR 3B). The tax liability pertaining to a specific month has to be paid on or before filing GSTR 3B return. The due date for filing GSTR 3B return is 20th of the succeeding month. Also, a return containing invoice details of outward supplies is to be filed on monthly (GSTR 1) on or before 11th of the succeeding month. Registered person having annual turnover less than Rs. 50 Million would be allowed to file the returns on quarterly basis with tax payment to be done monthly.

Interest is levied with respect to non-payment or late payment of tax. The rate of interest for a delay in payment of tax is 18% per annum.

As per the procedure prescribed by law, the details of every ITC availed on inward supply is required to be matched with the corresponding details of the outward supply provided by the registered supplier. The consolidated details of outward supply provided by all the registered supplier of the tax payer is reflected in Form GSTR 2B of the taxpayer in the GST Portal.

Annual Return: Every registered person must submit an annual GST return for each financial year by 31 December following the end of the financial year in Form GSTR 9. Annual return to be accompanied with a reconciliation statement reconciling value of supplies as per audited financial statements and annual return in Form GSTR 9C.

6. Customs Duty

Basic Customs duty, Social Welfare Surcharge, Additional Health Cess, and IGST, (in few cases GST Compensation Cess, Road and Infrastructure Cess) are payable on import of goods at the rate specified in Customs Tariff. In respect of specified petroleum products like Petrol, Diesel, Crude, Natural Gas, Aviation fuel, and on Tobacco Products, there is a Countervailing Duty (CVD) in lieu of IGST.

7. Labour law Compliances

A. Employee State Insurance (ESI)

ESI Contribution Amount means employee's contribution of Employee State Insurance deducted from the employees' salary and the employer's contribution.

Applicability and Eligibility: ESI Registration is **mandatory** for a business entity **having 10 or more employees**. The employees whose gross earnings **are less than Rs.21,000 per month** then the entity needs to contribute 3.25% and the employee needs to contribute 0.75% towards ESI contribution.

The Due dates with respect to ESI are as below

Description	Due Date
Due Date for ESI Payment	On or Before 15th day of following month
Due Date Half Yearly Return	11th of November and 11th of May respectively
Failure to deposit contribution within due dates attracts Simple Interest at the rate of 12% per annum for each day of the default or delay.	

B. Provident Fund (PF)

PF Contribution amount is a sum of the employee's contribution to Provident Fund deducted from the employees' salary and corresponding equivalent employer's contribution.

Applicability:

- Every specified factory or establishment in **which 20 or more persons are employed**. With the amendment in the rule of EPF, the limit of the minimum employee is 10 employees.
- Any factory or Establishment can also **willingly cover** under the Act, even if the number of employees is less than 20.

Eligibility: Any person who is employed for work of an establishment or employed by the contractor in or in connection with the work of an establishment (including international workers*) and drawing salary **up to Rs.15,000 per month** (optional for employees drawing more than Rs. 15,000 per month). The salary is calculated as Basic Salary plus Daily Allowance.

Rate of Contribution: Employees shall contribute **12%** of their Salary and Employers shall also contribute **12%** of the Salary. The employer is required to pay his contribution and deduct employees' contribution from wages and deposit the same with ESIC.

The Due dates with respect to PF are as below:

Description	Due Date
Due Date for PF Payment	On or Before 15th day of following month
Filing of Electronic Challan cum Return (ECR)	On or Before 15th day of following month
Due Date for filing PF Annual Return	On or Before 25th day of April of the following Financial Year.
• **Failure to deposit contribution within due dates attracts Simple Interest at the rate of 12% per annum for each day of the default or delay.** • **Delayed Payment of PF contribution also attracts Penal Damages.**	

** India has entered into Social Security Agreements (SSA) with about 20 countries that facilitates to avoid payment of social security in the host country*

C. Professional Tax

The respective state governments in India levy the professional tax on income from profession or employment. The professionals earning an income from salary or other practices such as a lawyer, teacher, doctor, chartered accountant, etc. are required to pay professional tax. In case of salaried and wage earners, the professional tax is liable to be deducted by the employer from the salary/wages and the same is to be deposited to the state government.

8. Exchange control regulations

A non-resident wanting to set up business operations in India, investing or acquiring Indian company or LLP needs to comply with Foreign Exchange Management Act, 1999 (FEMA) and the rules made thereunder.

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

In case of issue of shares by Indian company to non-resident, Form FC-GPR needs to be filed within 30 days of issue of shares. Further, if the shares an Indian company are being transferred between resident and non-resident (or vice versa), Form FC-TRS needs to be filed within 60 days of transfer of instruments or receipt/ remittance of funds, whichever is earlier. The onus of reporting shall be on the resident transferor / transferee.

In case of contribution to an LLP, Form LLP (I) should be filed within 30 days from the date of receipt of capital contribution. Similarly, disinvestment / transfer of capital contribution or profit share between a resident and non-resident (or vice versa) should be filed in Form LLP (II) within 60 days from the date of receipt of funds. The onus of reporting shall be on the resident transferor / transferee.

Every Indian Resident company / LLP that has received Foreign Direct Investment (FDI) must submit the Foreign Liabilities and Assets (FLA) Return by 15th of July following the FY.

The Indian Company may also raise funds as borrowing from non-resident/ foreign company subject to conditions and in accordance with the framework for External Commercial Borrowings (ECB) issued by Reserve Bank of India (RBI) in this regard. Please note that LLPs cannot raise ECB.

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