

A guide to establishing presence in India

October 2019



Contents

Section	Page
Foreword	3
Country profile	4
Key economic indicators of India	6
Key sectors: An overview	9
Political and legal system	17
Foreign investment	18
Finance	22
Business entities	27
Labour	29
Accounting, reporting and audit requirements	31
Direct tax	34
Indirect tax	45
Transfer pricing in India	48

About the guide

This guide explains the basics of entity establishment, sources of finance, import-export, labour regulations, financial reporting, audit regime and annual compliances, taxation laws and other compliance in the dynamic Indian market. It is intended to serve as a primer and provide a broad overview for companies planning to enter the country to tap significant opportunities in various sectors. The guide is updated for regulations as on 30 September 2019.

Disclaimer

The guide is not a substitute for professional advice. We suggest that appropriate specific professional advice should be taken for your particular requirements and needs.

Foreword

India's young and educated population, growing and aspirational middle class, regular flow of foreign investments and huge push on infrastructure development are all the right ingredients to propel growth.



India has emerged as one of the fastest growing large economies in the world, and it is expected to continue on this growth trajectory in the foreseeable future. As per the Reserve Bank of India (RBI), the country's GDP will grow at 6.9% during 2019-20 despite the risk of a global slowdown, turbulence in financial markets and crude price volatility.

According to the World Bank, the growth outlook for South Asia, and India in particular, remains strong based on the increase in exports and domestic consumption with support from monetary and fiscal policies.

Structural reforms undertaken over the last few years, including the introduction of the Goods and Services Tax (GST), constitution of the Real Estate Regulatory Authority, implementation of the Insolvency and Bankruptcy Code and other administrative reforms, have helped improve the business sentiment. All these changes have helped India move to the 77th position in the World Bank's Ease of Doing Business 2019 rankings.

The government in February 2019 laid down a strategic vision for 2030 for the country focusing on 10 key themes. The vision comprehensively covered all aspects of the economy to take India to the next level of development along with social equity.

The recent Union Budget presented by the government lays down the roadmap for India becoming a USD 5 trillion economy over the next five years, with equal focus on thrust areas of agriculture, manufacturing, infrastructure and financial services along with overall human development through education and ease of living.

India's young and educated population, growing and aspirational middle class, regular flow of foreign investments and huge push on infrastructure development are all the right ingredients to further propel growth.

At Grant Thornton in India, we are delighted to be at the forefront of helping shape a more Vibrant India working with the government, the leaders of India Inc., and global companies that want to maximise this amazing opportunity.

Vishesh C Chandiok
Chief Executive Officer
Grant Thornton India LLP

Country profile

The government in Union Budget 2019 laid down a roadmap to transform India into a USD 5 trillion economy by 2024.

India's FDI inflows in 2018-19 remained strong at USD 64.375 billion, marking a 6% growth over the previous year.

Summary

Outlined below are key facts and statistics that make India a favourable business destination worldwide:

- Growing middle class
- Abundant supply of raw material
- Extensive rail and road network
- World's largest working population in the age group of 25-45 years
- Large pool of skilled English-speaking manpower
- Lower labour cost and hence reduced cost of manufacturing, especially in comparison to non-Asian countries
- Favourable geographical location, which makes India closer to markets including the Middle East, South Asia and Europe

Main ports of entry:

Chennai, Jawahar Lal Nehru (Mumbai), Kandla, Kochi, Mormugao, Kolkata, Paradip, Tuticorin, Ennore, Vishakhapatnam and New Mangalore

Major international airports:

Chennai, New Delhi, Mumbai, Hyderabad, Kolkata, Bengaluru, Goa and Thiruvananthapuram

Sources:
IBEF
Ministry of Commerce & Industry



Geographical location

India forms a natural subcontinent with the Himalayan mountain range to the north, and the Indian Ocean, the Arabian Sea and the Bay of Bengal to the south, west and east, respectively. The country is bordered by Pakistan on the northwest, China, Bhutan and Nepal on the northeast, and Bangladesh and Myanmar on the east. Near the country's southern tip, across the Palk Strait, lies Sri Lanka.

India has a land frontier of over 15,000 kilometres, stretching from the Himalayas in the north to the Palk Straits in the south, and from the Arabian Sea in the West to the Bay of Bengal in the east. It has a long coastline spanning over 7,000 kilometres. The climate varies from tropical in the south to temperate in the north.

Population and standard of living

India is the second most populated country in the world with a population of 1.353 billion (World Bank, 2018 data). According to the 2011 population census, there are 35 cities in India with a population of more than a million, with Mumbai, Delhi and Kolkata having a population over 10 million. Around 70% of the country's population resides in rural and semi-rural areas. One of the main reasons that India is considered as an attractive, high-growth market is its large pool of untapped and upper middle class population. Also, the standard of living in metropolitan cities of the country is comparable to the best in other developing nations.

As per estimates, 250 million people are set to join India's workforce by 2030. With a significant chunk of the population shifting into the working age group, there is a corresponding increase in disposable income and consumption demand.

Diversity

India is rich in history, culture, religion and diversity. There are 22 officially recognised languages spoken in India across its 28 states and nine union territories*. India is secular through its Constitution with people from all faiths residing here, including Hindus, Muslims, Sikhs, Christians, Buddhists and Jains.

* As at 31 October 2019

Sources:
Ministry of Commerce and Industry
PIB India
RBI
World Bank
Tradingeconomics.com

Education

The education system in India is considered as one of the best globally. It comprises public and private schools, universities and other institutions for higher learning (MBA, PhD, MSc, etc.). These institutions are committed to imparting excellent academic and vocational training, and encouraging participation in sports and other extra-curricular activities. The current literacy rate in India stands at 74.04%. The country offers quality education comparable to global standards in the fields of finance, consulting, literature, computer engineering and programming, science and technology, medicine, dentistry and business management and administration. The Indian Institutes of Technology and Indian Institutes of Management are recognised world-over as premier higher educational institutions.

Currency

The Indian rupee (INR) is the official currency of the Republic of India. The RBI is the national and sole currency-issuing authority in the country. The exchange rate of the rupee is mainly market-determined. The RBI takes a keen interest in the financial markets of the country and other countries globally to determine suitable monetary, regulatory and other measures. The RBI reference rate for INR to US dollar 1 is 69.08 (01 August 2019).

Key economic statistics

India's economic policies are designed to attract significant capital inflows in the country on a sustained basis and encourage technological collaboration with foreign firms. Policy initiatives taken over the past few years have resulted in significant inflow of foreign investment in all areas of the economy.

Statistics

Population	1.353 billion
Area	3.29 million square kilometres
GDP (current prices)	USD 2.73 trillion
GDP – per capita (2018)	USD 2104.20
Exports (April 2018-March 2019)	USD 535.86 billion
Imports (April 2018-March 2019)	USD 631.29 billion
Literacy rate	74.04% (Census 2011)
Life expectancy	68.35 years
Urban population	33%
Local currency	Indian rupee

Key economic indicators of India

GDP and key fiscal indicators

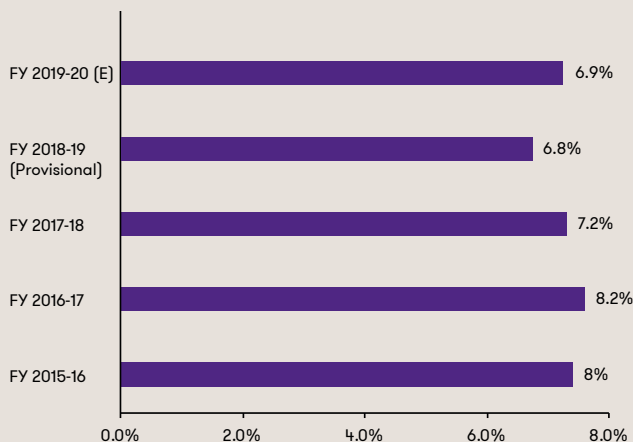
- India's GDP growth rate stood at 6.8% in FY 2018-19. As per the Central Statistics Office (CSO), the GDP growth is estimated at 6.9% for FY 2019-20. The International Monetary Fund (IMF) has projected the country's GDP to reach 7.0% in fiscal year 2019. The fiscal deficit target of the country for FY 2019-20 is estimated at 3.3% of GDP.
- With an average growth of 7.5 % in the last four years, India has been the fastest growing large economy in the world. Also, India's contribution to world growth has risen from 7.6% during 2000-08 to about 14.5% in 2018.



6.9%

Projected GDP growth in 2019-20

GDP growth at constant prices



Source: PIB

External factor and per capita national income

- Exports during 2018-19 were USD 535.86 billion, registering a growth of 7.47% as compared to 2017-18.
- Imports during 2018-19 were USD 631.29 billion registering a growth of 8.48% as compared to 2017-18.
- According to First Advance Estimates provided by the CSO, in real term (at 2011-12 prices) during 2018-19, the per capita income is likely to attain a level of INR 91,291 as compared to INR 86,660 for the year 2017-18. The growth rate in per capita income is estimated at 6.1% during 2018-1, as against 5.4% in the previous year.

Source: PIB

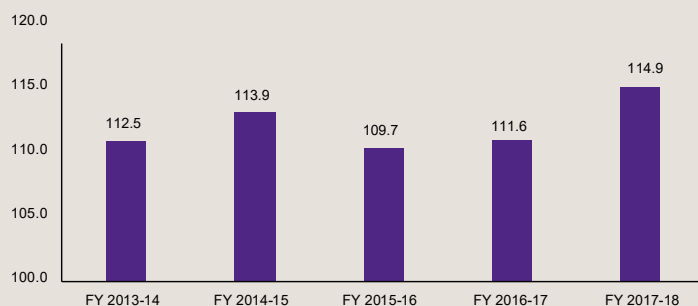
Money and credit

- India's current account deficit stood at 2.6% of the GDP in the period April-December 2018 as compared to 1.9% of the GDP in 2017-18. [Source: RBI]
- Indian foreign reserve touched USD 430.51 billion as on 15 August 2019. Foreign currency assets, which form a majority of the country's foreign exchange reserves, stood at USD 398.71 billion, while gold reserves stood at USD 26.75 billion as on 15 August 2019. [Source: RBI]
- The total FDI investments in India for 2018-19 stood at USD 64.37 billion, indicating that the government's efforts to improve ease of doing business and relaxation in FDI norms are yielding results. Data indicates that the services sector attracted the highest FDI equity inflow of USD 9.16 billion, followed by computer software and hardware at USD 6.41 billion, trading at USD 4.46 billion and telecommunications at USD 2.67 billion.
- Goods and Services Tax (GST) collections as a share of major tax revenue showed an impressive trend during 2018-19 with the average monthly collections at INR 981.14 billion as compared to INR 898 billion in the first year.
- Corporate tax contributed around 30% and GST contributed around 29%, while the balance 41% was contributed by other direct/indirect taxes.



10th
largest recipient
of FDI in 2018
globally

Wholesale Price Index: Base year 2011-12

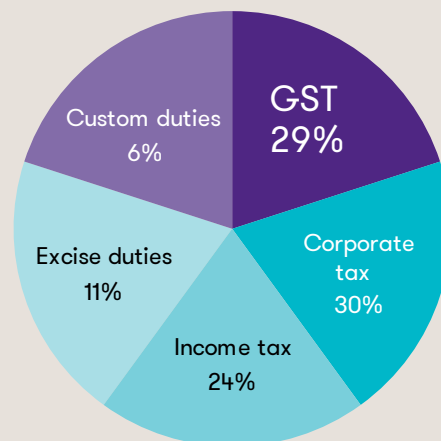


Sources:

Office of the Economic Advisor, Government of India; Department Of Industrial Policy & Promotion (DIPP)

Union Budget 2019 (July 2019)

Share of major tax revenues in FY 2018-19





Key sectors: An overview

Manufacturing and automotive

With 1.3 billion consumers and an increasing purchasing power, India is well on its way to becoming a manufacturing hub for global players. The nation has also evolved as an attractive destination for big foreign investments in manufacturing, with cumulative FDI in Indian manufacturing reaching USD 46.62 billion during April 2000-December 2018.

Propelled by the Make In India drive, manufacturing has fast become one of the high national growth sectors. Under the initiative, the government aims to increase the share of the manufacturing sector to GDP to 25% by 2022 and create 100 million new jobs by 2022.

The electronic goods industry is expected to reach a valuation of USD 400 billion by 2020. The government is working on an export-oriented policy for electronic goods in order to give an impetus to exports and encourage big investments in creating large (port-based) manufacturing clusters.

The Indian auto industry is estimated to be the fourth largest in the world, attracting a cumulative FDI of USD 20.85 billion between April 2000 and December 2018. It contributes 49% to India's manufacturing GDP and 7.5% to the national GDP, and provides direct and indirect employment to approximately 37 million people.

The industry is estimated to reach USD 251.4–282.8 billion by 2026 at a CAGR of 3.5% during 2016–26. Further, India is expected to become a world leader in the two- and four-wheeler market by 2020.

Key announcements in the Union Budget 2019

Major push to electric vehicles (EVs)

- Phase II of the Faster Adoption and Manufacturing of (Hybrid &) Electric Vehicles (FAME) scheme with an outlay of INR 100 billion for a period of three years to encourage faster adoption of EVs by way of upfront incentive on the purchase of EVs.
- Additional income tax deduction of INR 1,50,000 on the interest paid on loans taken by individuals to purchase pure EVs.
- Nil customs duty on certain parts for exclusive use in EVs.

Micro, small and medium enterprises (MSMEs)

- Dedicated online portal for processing loans up to INR 10 million for MSMEs within 59 minutes.
- 2% interest subvention for all GST-registered MSMEs on fresh and incremental loans.
- Payment platform for bill filings to cut down delays in government payments to MSMEs.

Incentive for Make in India in advanced technology areas

The government plans to launch a scheme to invite global companies through a transparent competitive bidding to set up mega-manufacturing plants in sunrise and advanced technology areas such as semi-conductor fabrication, solar photo voltaic cells, etc., and provide them investment-linked income tax exemptions and indirect tax benefits.

Real estate

The sector is expected to reach USD 1 trillion by 2030 and is likely to contribute 13% to the country's GDP by 2025 backed by positive trends in the investor sentiments, emerging trends of co-working space and quality offices, government's initiatives in the sector, together with stabilisation of Real Estate Regulation Authority (RERA) and GST.

Driven by companies in e-commerce, consulting spaces are expected to grow rapidly. The demand for quality office spaces will also move up substantially.

Co-working spaces have raised an aggregate of USD 68 million funding over the past three years.

While the housing sector has been struggling with muted demand, consumer distrust and liquidity crisis, certain steps taken by the Indian government are expected to contribute to growth.

With regard to the implications of GST on the real estate sector, various initiatives have been undertaken by the government based on the recommendations of the GST Council.

To boost the real estate segment, the government constituted a seven-member Group of Ministers (GoM) to analyse the tax rate and suggest a composition scheme/valuation mechanism. Pursuant to the recommendations by the GoM, new tax rates have been prescribed by the government, which came into effect from 1 April 2019.

Some of the other policy initiatives taken by the government to boost the sector are as follows:

Smart cities project

It is set to impact the urban population in about 100 cities across the country.

Pradhan Mantri Awas Yojana

Under this initiative, the government seeks to address the housing requirements of the urban poor, including slum dwellers, through various programmes. The total housing shortage envisioned to be met through this initiative is 20 million units. It is expected to bring investments worth USD 1.3 trillion in the housing sector by 2025.

National Urban Housing Fund

It was approved in February 2018 with an outlay of INR 600 billion.

Key announcements in the Union Budget 2019

- Draft Model Tenancy Law to be circulated to states for adoption.
- Foreign portfolio investors (FPIs) to be permitted to subscribe to listed debt securities issued by REITs.
- 19.5 million houses proposed to be built for eligible beneficiaries under the second phase of Pradhan Mantri Awas Yojana – Gramin between 2019-20 and 2021-22.
- Reduction in average number of days for completion from 314 days to 114 days.
- Proposal to build large public infrastructure on land held by central ministries and central public sector enterprises (PSEs); promotion of instruments such as joint development and concession agreements, etc.
- Regulatory authority on housing finance activities to move from National Housing Bank (NHB) to RBI to avoid conflict of interest.

Food and agriculture

Indian agriculture is one of the key sectors as it accounts for nearly 17.3% of India's gross value added product. The sector witnessed a compounded annual growth rate (CAGR) of 2.3% during 2012-15. However, on the back of favourable economic factors, the pace of growth picked up during 2015-18 to a CAGR of 3.2%.

Agriculture and allied sectors have four sub-sectors: crops (horticulture and field crops), livestock, forestry, and fishing and aquaculture. Nearly 61% of the contribution from agriculture and the allied sectors comes from the horticulture and agriculture segment, followed by 25% from livestock and the remaining (approximately) 14% from the forestry, fishing and aquaculture sectors.

Production of horticulture crops in India is estimated at a record 314.7 million metric tonnes (MMT) in 2018-19. Milk is the largest contributor in the livestock output, contributing approximately 65% to revenue. Meat contributes over 20% of the total livestock output.

From April 2000 to March 2019, India received a cumulative FDI inflow of USD 2.5 billion in the agriculture sector, including agriculture machinery. The Indian food processing industry accounts for 32% of the country's total food market, one of the largest industries in India. It is ranked fifth in terms of production, consumption, export and expected growth.

Key announcements in the Union Budget 2019

- Support to private entrepreneurship in driving value-addition to farmers' produce from the field and to those from allied activities, like bamboo and timber and renewable energy generation.
- Thrust on self-sufficiency and export of food grains, pluses, oilseeds, fruits and vegetables.
- The Department of Fisheries to establish a robust fisheries management framework to address critical gaps in the value chain, including infrastructure, modernisation, traceability, production, productivity, post-harvest management and quality control.
- Setting up of more common facility centres to facilitate cluster-based development to make the traditional industries more productive, profitable and capable for generating sustained employment opportunities; the focused sectors are bamboo, honey and khadi clusters.
- Set up of 80 Livelihood Business Incubators and 20 Technology Business Incubators in 2019-20 to develop 75,000 skilled entrepreneurs in the agro-rural industry sector.
- Encouragement to dairying through cooperatives by creating infrastructure for cattle feed manufacturing, milk procurement, processing and marketing.
- 10,000 new Farmer Producer Organisations to be formed over the next five years.
- Providing benefits to farmers through e-NAM (National Agriculture Market)
- Focus on Zero Budget Farming to double the farmers' income.
- Creation of local infrastructure for water management to support reuse of household waste water in agriculture.



Healthcare

Healthcare is primarily characterised by three major sub-sectors:

- Hospitals
- Pharmaceutical
- Allied services (diagnostic centres, medical devices, etc.)

India is expected to become one of the top three healthcare markets in the world in terms of incremental growth by 2020. India is the second largest contributor of global biotech and pharmaceutical workforce. It accounts for 20% of the global exports in generics.

Indian pharmaceutical companies received a record 300 generic drug approvals in the US during 2017. The US generic market is expected to reach INR 6.2 trillion by 2021.

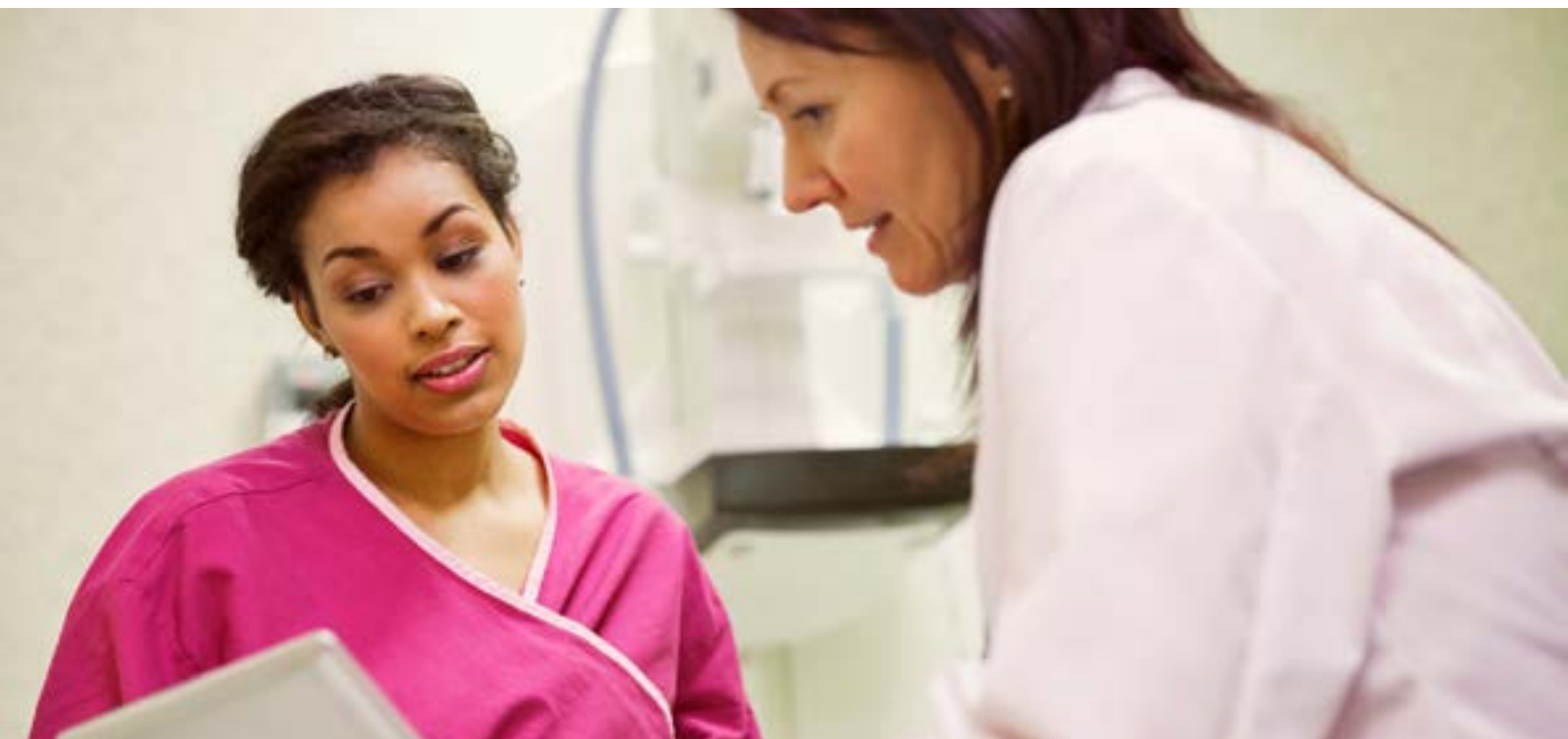
Some of the key policy initiatives taken by the government to boost the sector are as follows:

- **Pradhan Mantri Jan Arogya Yojana:** The National Health Protection Scheme is the largest government-funded healthcare programme in the world. It is expected to help 100 million poor families in the country by providing a cover of up to INR 0.5 million (USD 7,723.2) per family per year for secondary and tertiary care hospitalisation. The programme was announced in the Union Budget 2018-19.
- **Ayushman Bharat-National Health Protection Mission:** This was approved in August 2018 as a centrally sponsored scheme with specified contribution by both the Centre and state governments.
- **Mission Indradhanush:** It aims to improve the coverage of immunisation in the country. The target was to achieve at least 90% immunisation coverage by December 2018 to cover unvaccinated and partially vaccinated children in rural and urban areas of India.

- **Single window facility:** The Drug Controller General of India has announced its plans to start a single-window facility to provide consents, approvals and other information. The move is aimed at giving a push to the Make in India initiative. DCGI is also planning to set up an electronic platform to regulate online pharmacies under a new policy to stop any misuse due to easy availability.

Key announcements in the Union Budget 2019

- Extending benefits of Swachh Bharat Mission to solid waste management in every village
- National Research Foundation to be set up for higher research, which will aid indigenous research in the pharmaceutical and bio-medical industries and innovation in indigenous treatments modalities, etc.
- Announcement to boost the use of artificial intelligence will strengthen the use of technology in the field of healthcare which is expected to intensify the quality in healthcare with accessibility and affordability



Technology, media and telecom

Technology

Digital is one of the fastest growing segments and now accounts for over 20% of the industry exports. India boasts of 75% of the global digital talent with almost 500,000 skilled personnel.

Revenue from the digital segment is expected to comprise 38% of the forecasted USD 350 billion industry revenue by 2025. About 200 Indian IT firms are present in around 80 countries.

The Indian start-up ecosystem has become the third largest in the world with data analytics, artificial intelligence and Internet-of-Things (IoT) start-ups witnessing fastest adoption across industry verticals. Start-ups witnessed a 108% growth in total funding, from USD 2 billion in 2017 to USD 4.2 billion in 2018.

Telecom

The telecom market can be split into three segments – wireless, wireline and internet services. The wireless market segment comprises 98.20% of the total subscriber base (as of February 2019).

Over the last few years, the telecom sector has seen consolidation of the major players. The key players are expected to invest up to INR 700 billion in optical fibre cable and other capex spends followed by investments in 5G.

India is also the second largest country in terms of internet subscribers at 604.21 million as of December 2018. India is one of the world's fastest-growing market for mobile applications including Google Play downloads.

FDI cap in the telecom sector has been increased to 100% from 74%; out of 100%, 49% will be done through the automatic route and the rest will be done through the Foreign Investment Promotion Board (FIPB) approval route.

Media

The growth in Indian media and entertainment sector continued to outperform the overall average growth of the economy. With India accounting for the world's second highest population, of which the majority is youth, the demand for entertainment avenues is expected to rise in the near future.

Digital media and online gaming were the front runners in the sector's growth. The proliferation of internet and convenient access to portable devices, supported by the government's digitisation initiatives, contributed towards exponential growth.

Over-the-top platforms satiated the demand for variety in content and managed to attract the masses.

With digitisation of the Indian television universe, viewers now have much elaborate spreads to choose from. Also, with addressable systems in place, the digital platform operators and broadcasters have access to much more consumer

insights.

The Indian film industry is one of the largest producers of films globally. With strong scripts, fresh story lines and star presence, this segment experienced decent growth. Monetisation of content through digital also added to the growth.

The traditional media, print and radio, may need some more innovation and policy initiatives with the changing times to stay competitive.

Key announcements in the Union Budget 2019

Digital payments

One of the major initiatives towards a cashless economy in the current Budget is the waiver of the merchant discount rate (MDR) charges for businesses with a yearly turnover of over INR 500 million; these businesses can now offer low-cost digital modes of payment to their customers, and RBI and banks will absorb these costs.

Start-ups

An exclusive TV channel has been designed and initiated by start-ups to discuss issues affecting their growth, matchmaking with venture capitalists, funding and tax planning, etc.

Space technology

A PSE, New Space India Limited, has been incorporated as a new commercial arm of the Department of Space to tap the benefits of the R&D carried out by Indian Space Research Organisation.

Skill focus on new technology areas

By implementing 'Karyakave Kailasa', the government will enable about 10 million youth to take up relevant skill training through the Pradhan Mantri Kaushal Vikas Yojana (PMKVY). It will include new-age skills like AI, IoT, big data, 3D printing, virtual reality and robotics.

Media

Liberalisation of FDI norms in animation, visual effects, gaming and comics sectors will be considered to promote healthy competition and generate employment opportunities. Proposal to skill youth with focus on virtual reality, robotics, 3D printing, etc.

Financial services

In the last few years, the focus of the government to build a digital payment ecosystem has led to an increased formalisation of the Indian economy and helped channelise retail investments into financial products offered by mutual funds, insurance companies, etc.

One of the key initiatives of the government in the last few years has been digitisation of financial products (such as Pradhan Mantri Jan-Dhan Yojana [PMJDY], Aadhaar-enabled e-KYC, UPI, etc.) and increased penetration of the banking/non-banking financial company (NBFC) sector in rural and remote areas of the country. This has led to the formalisation of the economy and higher spending habits.

With the introduction of the Insolvency and Bankruptcy Code (IBC), banks have been able to recover bad loans from defaulting borrowers expeditiously. The government has initiated consolidation of weaker public sector banks with the stronger ones. This would lead to increased capital with banks for kick-starting the credit cycle.

Key announcements in the Union Budget 2019

NBFCs

- For the purchase of high-rated pooled assets amounting to INR 1 trillion of financially sound NBFCs, the government to provide a one-time partial credit guarantee to public sector banks (PSB) for first loss of up to 10%
- NBFCs to create a debenture redemption reserve for funds raised even through private placement of debt instruments
- Participants including NBFCs (not registered as NBFCs-factor) to be allowed to directly participate on the Trade Receivables Discounting System platform to facilitate factoring transactions
- Upper limit in relation to net owned funds (NOF) requirement for commencing NBFC business increased from INR 20 million to INR 1 billion
- Additional powers provided to RBI in relation to NBFCs including powers to remove their directors, supersede the board of directors, initiate resolution by way of amalgamation, restructure or split NBFCs, etc.
- Increase in quantum of penalty for contravention of specified provision of the RBI Act by NBFCs' authorised personnel, auditors, etc.

Housing finance companies (HFCs)

- RBI to act as the regulator for the housing finance sector; however, National Housing Board to continue to act as the refinancer and lender of the housing finance sector
- Enhancement in the NOF requirement for HFCs from INR 20 million to INR 100 million

FPIs

- Investment under the FPI route to be permitted up to the sectoral limits prescribed under the exchange control regulation as against the present limit of 24%
- Proposal to merge NRI Portfolio Investment Scheme route with the FPI route
- FPIs to be permitted to make investments in listed debt securities issued by REITs and InvITs

Insurance

- Proposal to increase the FDI limit in the insurance intermediaries

Pension

- In order to maintain an arm's length relationship of the National Pension Scheme Trust with the Pension Fund Regulatory and Development Authority (PFRDA); National Pension Scheme Trust to be separated from PFRDA

Banks

- To improve the lending capacity, PSBs to be recapitalised by INR 700 billion
- PSBs to leverage technology to enable customers of one PSB to access services across all PSBs
- No charges to be levied by any bank or system provider for the use of electronic mode of payment as may be prescribed

Capital market

- Increase in minimum public shareholding in listed companies from the existing 25% to 35%
- Creation of a social stock exchange for listing of social enterprises and voluntary organisation to enable such entities to raise capital by way of issue of equity shares, debt instruments or units
- Regulator to enable stock exchanges to allow AA rated bonds as collaterals to deepen the corporate tri-party repo market in corporate debt securities

Infrastructure

The infrastructure sector has been a growth propeller for the Indian economy. The correlation of infrastructure investment to GDP has always been high.

Massive investment is required in infrastructure to achieve the targeted economic growth of the country. India has a requirement of investment worth INR 50 trillion in infrastructure by 2022 to have sustainable development in the country.

India needs to spend 7% to 8% of the GDP in infrastructure every year to be able to sustain the requirements. Recognising this, the government has been increasing its spending on infrastructure every year, with particular focus on large infrastructure investments in areas of roads and highways, smart cities, airport and rail sector.

India has considerably improved its ease of doing business ranking from 100 to 77 in 2019, indicating the positive thrust on improving the industrial scenario through provision of good infrastructure.

Key announcements in the Union Budget 2019

National highway grid project

- Developing a desirable length and capacity of national highway grid using financeable model like 'Toll Operate Transfer'
- States to be supported to develop state road networks under Bharatmala (Phase II)

Jal Marg Vikas Project

- Enhancing the navigational capacity of Ganga, primarily to develop our inland waterways to shift a significant portion of inland cargo movement from road and rail
- Multi-modal terminals like the one in Varanasi to be set up in Sahibganj, Haldia; navigational lock at Farakka

National Common Mobility Card

An inter-operable transport card to allow the holders to pay for their bus travel, toll taxes, parking charges and retail shopping as well as withdraw money

Railways and power

- Public-private partnership model to result in faster development and completion of tracks, rolling stock manufacturing and delivery of passenger freight services
- One Nation, One Grid: Proposal for blueprint for developing gas grids, water grids, i-ways and regional airports
- A package of power sector tariff and structural reforms to be announced soon

Measures to enhance the sources of capital for infrastructure financing

- Creation of Credit Guarantee Enhancement Corporation
- Action plan to deepen the market for long-term bonds including corporate bond repos and credit default swaps

FPI investment in Infrastructure Debt Fund, ReITs and InvITs

- Proposal to permit investments made by FIIs/FPIs in debt securities issued by Infrastructure Debt Fund – NBFC (IDF-NBFCs) to be transferred/sold to any domestic investor within the specified lock-in period
- FPIs to be permitted to subscribe to listed debt securities issued by ReITs and InvITs

Bond collaterals for bond financing

- Further deepen bond markets for infrastructure financing; government to work with regulators RBI/SEBI to enable stock exchanges to allow AA rated bonds as collaterals
- Pradhan Mantri Gram Sadak Yojana, PMGSY-III, envisaged to upgrade 1,25,000 km of road length over the next five years

Constitution of the Jal Shakti Mantralaya

- Integrating the Ministry of Water Resources, River Development and Ganga Rejuvenation and Ministry of Drinking Water and Sanitation
- Management of water resources and water supply in an integrated and holistic manner
- Coordinated work with states to ensure piped water supply to all rural households by 2024 under the Jal Jeevan Mission

Retail and e-commerce

The Indian retail industry is one of the fastest growing in the world, accounting for more than 10% of the country's GDP. India is the fifth largest retail destination globally. The Indian retail market, which was valued at INR 55.5 trillion in 2018, is projected to reach INR 113.8 trillion by 2023, exhibiting a healthy CAGR of 15.4% between 2018 and 2023. Increasing economic growth, changing demographic profile, improving disposable incomes, urbanisation and changing consumer tastes and preferences are the other factors contributing to the growth of the organised retail sector in the country. The government has introduced reforms to attract FDI in the retail industry. The government has approved 51% FDI in multi-brand retail and 100% in single brand retail under the automatic route, which is expected to give a boost to ease of doing business and Make in India.

The e-commerce sector is transforming the way business is done in India. The e-commerce market in India is valued at INR 3.5 trillion and is projected to reach INR 8.3 trillion by 2023, at a CAGR of 19% between 2018 and 2023. The growth is triggered by increasing internet and smartphone penetration, with the number of online shoppers expected to reach 171 million by 2023. The smartphone user base is expected to touch 472 million by 2023, primarily driven by the government's Digital India campaign. On the GST front, e-commerce dealers are allowed a threshold turnover exemption of INR 2 million from registration.

Key announcements in the Union Budget 2019

- Local sourcing norms to be eased for FDI in single brand retail; currently, 30% local sourcing preferably from MSMEs is mandatory
- Businesses with turnover more than INR 500 million mandatorily required to provide low cost digital payment modes, with no charges or MDR

Consumer products

The fast-moving consumer goods (FMCG) sector primarily comprises household and personal care, healthcare and food and beverages. It is expected that the sector will expand at a CAGR of 27.86% to reach INR 7.4 trillion by 2020 largely attributable to an increase in private consumption and rural income. The online FMCG market is forecasted to reach INR 3.2 trillion in 2020 from INR 1.4 trillion in 2017, backed by growth in online users from 90 million in 2017 to about 200 million by 2020. All basic categories of products such as detergents, dishwashing bars, shampoos, cosmetics, toothpaste, etc., have witnessed rural growth outpacing urban growth by 1.5 times at offtake levels.

People in India have gracefully embraced Ayurveda products, which has resulted in home-grown brand Patanjali being ranked as one of the most trusted FMCG brands in the country.

On the GST front, the government has instituted a National Anti-Profiteering Authority, which ensures that the traders pass on the benefits of reduced GST rates to the consumers by way of a reduction in prices.

Key announcements in the Union Budget 2019

- GST rates across various product categories have been reduced from the highest rate of 28% to 18% or 12%, which will benefit the sector as well as consumers.

Political and legal system

Introduction

India is the largest democracy in the world. It is estimated that the country today has more than 200 political parties. One feature of the political parties in India is the dominant role played by their leaders. There are both national and regional political parties and to compete on a national level, many political parties form alliances. The two main alliances in the country are the National Democratic Alliance, a coalition led by the Bharatiya Janata Party, and United Progressive Alliance, a coalition led by the Indian National Congress. The country's general elections are held once in five years. The election result will determine which political party or alliance will form the next government and the individual who will be elected as the prime minister of the country.

Structure of the government

India is a sovereign socialist secular democratic republic with the largest multi-party democracy in the world. The Constitution of India provides for a parliamentary form of government which, although has certain unitary features, is federal in structure. The Parliament of the Union consists of two legislative houses – the Rajya Sabha (Upper House), which represents the states of the Indian federation, and the Lok Sabha (Lower House), which represents the people of India as a whole. At present, the country is a union of 28 states and nine union territories*. Each state is governed by a government comprising elected representatives of the public. The union territories (except Delhi, Puducherry and Jammu and Kashmir) are controlled and administered directly by the Central Government.

The central and state governments comprise a council of ministers headed by the prime minister and a chief minister, respectively. The head of the Indian Republic is the President of India while the head of the government is the Prime Minister. The Governor, appointed by the President of India, is the head of the Indian State and the Chief Minister is the head of the elected government in the State. Elections for the states are

also held after every five years.

New Delhi is the national capital of India and the seat of the central government. All the other state governments have primary responsibility for matters such as law and order, education, health and agriculture. India is a member of major international organisations including South Asian Association for Regional Cooperation (SAARC); Brazil, Russia, India, China and South Africa (BRICS); and the Commonwealth of Nations among others.

Judiciary and law

India has a well-established, independent judicial system which comprises the Supreme Court of India, which is based in New Delhi, 24 High Courts spread across the major states and several district courts and subordinate courts. The Supreme Court is the final court of appeal, and its decisions are binding on all other courts of all the states and UTs.

India derives most of its judicial framework from the British legal system based on the Common Law wherein the judicial pronouncements are carefully preserved and they act as a reference in subsequent judicial pronouncements. India also has quasi judicial authorities, consumer courts, Competition Commission, etc. India does not have any system of jury as prevailing in the US.

India also has a framework of Tribunals and Appellate Tribunals to adjudicate on specific economic matters, e.g., Income-tax Tribunals, National Company Law Tribunal, etc.

* As at 31 October 2019

Foreign investment

Introduction

Foreign investors keen to set up operations in India are required to comply, inter alia, with the foreign exchange control laws of the country, particularly the Foreign Direct Investment (FDI) Regulation, issued by the Government of India from time to time. The Companies Act 2013, Foreign Exchange Management Act, 1999 (FEMA) and the regulations thereunder govern the setting-up of incorporated entities (joint ventures or wholly-owned subsidiaries) and offices of foreign incorporated entities (branch, liaison or project offices).

FDI policy

In recognition of the important role played by FDI in accelerating the economic growth of the country, the government initiated a slew of economic and financial reforms in 1991. India is now ushering in the second generation reforms aimed at furthering the integration of the Indian economy with the global economy.

FDI is allowed in most sectors, including the services sector, through the automatic route without requiring any prior government approval.

On the other hand, in a few sectors, the existing and notified sectoral policy does not permit FDI beyond a ceiling or it is subject to certain specified conditions. In such cases, FDI can be brought in after obtaining an approval from the government. The approving authority used to be the FIPB, which functioned under the Ministry of Finance. The government has abolished FIPB with effect from May 2017. New proposals for FDI under the approval route are now directly handled by the concerned ministries. Towards this end, the Department for Promotion of Industry and Internal Trade (DPIIT) has issued the Standard Operating Procedure (SOP) for processing FDI proposals. This SOP clearly lays down the procedure to submit the online application through the Foreign Investment Facilitation Portal (formerly known as the FIPB portal).

Applicability of the FDI policy may vary based on the category of foreign investor - for example, investments by non-resident Indians (NRIs)/overseas citizens of India (OCIs) are subject to certain relaxations under the FDI policy - and specific guidance should be sought by the foreign investors.

The table below gives an indicative summary of the sectoral FDI policy:

FDI policy parameter	Sectors
Automatic route	FDI up to 100% permitted under the automatic route in most services, manufacturing, infrastructure sector, B2B trading, single brand retail trading, pharmaceuticals (greenfield), etc.
Approval route	FDI in these activities is permitted only with prior government approval, e.g., broadcasting content services (FM radio), print media (newspaper and periodicals), multi-brand retail trading (51%) and mining. FDI beyond these caps requires government approval.
Sectoral caps	FDI in certain sectors is subject to sectoral caps such as insurance (49%), defence subject to industrial licence (49%) and airlines (49%).
FDI-linked conditions	FDI in these sectors is subject to specified conditions – floriculture, horticulture, apiculture and cultivation of vegetables and mushrooms under controlled conditions, wholesale trading, single-brand retail trading, e-commerce, construction development – townships, housing and built-up infrastructure, print media and asset reconstruction companies (ARCs).

FDI is not permitted in the following sectors:

- Lottery business including government/private lottery, online lotteries, etc.
- Gambling and betting including casinos, etc.
- Chit funds
- Activities/sectors not open to private sector investment, e.g., atomic energy and railways (except mass rapid transport systems)
- Business of chit fund
- Nidhi company
- Trading in transferable development rights
- Real estate business, or construction of farmhouses (subject to certain exceptions)
- Manufacturing of cigars, cheroots, cigarillos and cigarettes, tobacco or tobacco substitutes.

Foreign technology collaboration in any form including licensing for franchise, trademark, brand name and management contract is also prohibited for lottery business, gambling and betting activities.

To make India an attractive destination for foreign investors, the FDI policy allows repatriation of profits, dividends, royalty, and know-how payments, freely.

Exchange controls

As per the current foreign exchange control regulations, transactions are divided into current account and capital account transactions. Capital account transaction refer to such a transaction which alters the assets or liabilities, including contingent liabilities, outside India, of a person resident in India, or assets or liabilities in India of a person resident outside India. Thus, investment by a body corporate or an entity in India and investment therein by a person resident outside India are capital account transactions.

Current account transactions, on the other hand, are transactions other than capital account transactions.

Such transactions comprise, for instance, payments due in connection with foreign trade, other current business services, and short-term banking and credit facilities, in the ordinary course of business. Broadly speaking, current account transactions are permitted unless specifically barred and capital account transactions are prohibited unless specifically permitted.

Capital instruments

FEMA, read with relevant regulations governing FDI, provide,

inter alia, that Indian companies can issue to foreign investors equity shares, fully and mandatorily convertible debentures, fully and mandatorily convertible preference shares and warrants (issued in accordance with the regulations issued by SEBI), subject to the pricing guidelines/valuation norms and other prescribed reporting requirements. The FDI policy allows optionality clauses in equity shares and compulsorily and mandatorily convertible preference shares/debentures issued to non-resident investors under the FDI scheme subject to certain conditions. The policy provides that shares with call/put options may be issued to non-resident investors provided the non-resident investor is not guaranteed any assured exit price at the time of making the investment.

General permission is also available for issuing shares/preference shares against lump sum technical know-how fee, royalty due for payment, subject to entry route, sectoral cap and pricing guidelines, and compliance with applicable tax laws. Recently, the government also allowed companies to issue equity shares against any other funds payable by the investee company (subject to bonafides being satisfied regarding legitimacy of dues), remittance of which does not require prior permission of the government or RBI under FEMA or any rules/regulations framed or directions issued thereunder.

Foreign currency loans

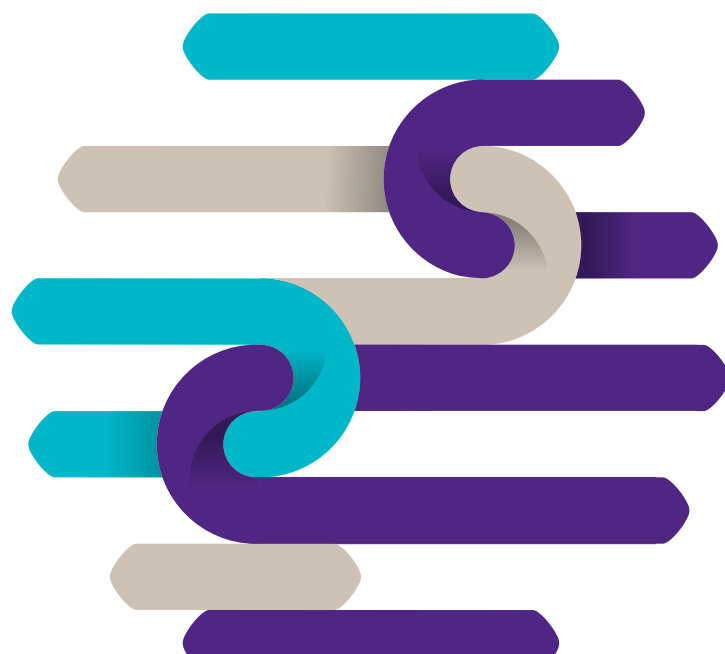
With effect from 16 January 2019, a new external commercial borrowings (ECBs) regime has been introduced wherein Indian entities who are eligible to receive FDI are allowed to receive ECB from 'Recognised Lenders' as defined in the new ECB framework. The minimum average maturity period for ECBs has been prescribed as one year, three years or five years.

The new ECB framework has two options: foreign currency denominated ECB and rupee denominated ECB. The multi-tiered structure under the erstwhile ECB framework has been done away with.

The ECB framework has further been liberalised by RBI on 30 July 2019, with the end-use restrictions relaxed. Eligible borrowers are now allowed to receive ECBs for working capital and general corporate purposes, for repayment of rupee loans availed domestically for capital expenditure as also by NBFCs for on-lending for the same purpose (depending upon their minimum average maturity period).

At present, there are two parameters through which corporates can avail ECBs from eligible lenders. The following table depicts the key parameters under the two tracks:

Parameter	Track I (short-medium term foreign currency ECB)	Track II (long-term foreign currency ECB)
Currency of borrowing	Any freely convertible foreign currency	INR
Forms of ECB	Loan including bank loans, floating/fixed rate notes/ bond/ debentures (other than fully and compulsory convertible instruments); trade credit beyond three years, FCCBs, FCEBs and financial lease.	Loans including bank loans, floating/fixed rate notes/bonds/debentures/preference shares (other than fully and compulsorily convertible instruments), trade credits beyond three years and financial lease. Also, plain vanilla rupee denominated bonds (RDBs) issued overseas, which can be either placed privately or listed on exchanges as per host country regulations
Eligible borrowers	The list of eligible borrowers has been expanded to include all entities eligible to receive FDI. Additionally, port trusts, units in special economic zones (SEZs), SIDBI, Exim Bank and registered entities engaged in microfinance activities, viz. registered not-for-profit companies, registered societies/trusts/cooperatives and non-government organisations can also borrow under this framework.	
Recognised lender	The lender should be a resident of a Financial Action Task Force (FATF) or International Organization of Securities Commission (IOSCO) compliant country. Multilateral and regional financial institutions, individuals and foreign branches/subsidiaries of Indian banks can also be lenders.	
End use restrictions	ECB proceeds cannot be utilised for real estate activities, investment in capital market, equity investment, working capital or general corporate purposes or repayment of rupee loans except where the ECB is received from a foreign equity holder (either minimum 25% or direct or 51% of indirect holding or group companies with common overseas parent).	



Import/export controls

Over the years, Indian trade policy has undergone fundamental shifts to correct the previous anti-import bias, through the withdrawal of quantitative restrictions, reduction and rationalisation of tariffs, liberalisation in the trade and payments regime, improvement in access to export incentives, and establishment of a realistic and market-based exchange rate.

Export and import of goods and services from India are allowed under FEMA, read with the Foreign Exchange Management (Current Account) Rules as amended from time to time.

The said export and import regulations stipulate guidelines pertaining to the settlement and payment of export and import transactions, realisation of proceeds, advance receipts and payments written off and limits permissible for them. Further, Export Data Processing and Monitoring System and Import Data Processing and Monitoring System has been introduced in order to monitor the relevant filings.

The export regulations also set out the obligations for Indian exporters of goods such as submission of certain prescribed declarations along with supporting documents. Nevertheless the export proceeds are required to be realised within a stipulated time period (currently nine months).

Similarly, the import regulations provide the manner and documents required to be followed by persons, firms and companies for making payments towards imports into India. Further, the said regulations provide the timelines within which remittances against imports should be complete (not later than six months from date of shipment) or an approval be sought from the authorised dealer (AD)/RBI prior to the expiration of the due date (up to three years from the date of shipment).

Overseas direct investment

Indian parties (company incorporated in India or a body created under an act of Parliament or a partnership firm registered under the Indian Partnership Act 1932 or a limited liability partnership (LLP) incorporated under the LLP Act, 2008) are eligible to undertake 'overseas direct investment' outside India signifying a long-term interest in the foreign entity (joint venture or wholly owned subsidiary).

An Indian party can make overseas direct investment under the automatic route in any bonafide activity up to the prescribed limit of its net worth (currently 400% of net worth). It may be noted that real estate and banking business are prohibited sectors for overseas direct investment. Overseas investment in the financial services sector is subject to specified conditions including a satisfactory track record of the investing party, and the prior approval of the concerned financial regulator in India.

The regulations also prescribe provisions with respect to aspects such as issuance of guarantee, ongoing compliance and reporting requirements and conditions for disinvestment.

Finance

Introduction

The government's extensive focus on digitisation of various financial services has aided rapid expansion of the financial services sector.

Within financial services, banking is the biggest and one of the most important sectors contributing to the growth of the economy.

In the last few years, the focus of the government to build a digital payment ecosystem has led to the channelising of retail investments into financial products offered by mutual funds, insurance companies, etc. which have resulted into exponential growth in these sectors and have helped Indian capital markets insulate from any external shocks.

Considering the importance of the financial services sector in the Indian economy, the government has, from time to time, endeavoured to address the tax and regulatory issues faced by the industry to make India a more competitive economy and to provide easy access to the foreign capital into the Indian markets.

Indian financial services sector

The Indian financial sector has the following broad categories:

Sr. No.	Categories
1	Banks
2	White label automated teller machine
3	Non-banking financial companies
4	Housing finance companies
5	Insurance companies
6	Capital markets
6A	Capital market - Intermediaries
7	Pension funds
8	Mutual funds
9	Private equity and venture capital funds
10	Asset reconstruction companies
11	REIT/InvIT
12	Fintech
13	Gift City

Banks

Financial markets in India have acquired increased liquidity and depth over the years with banks dominating the space. Banking is a highly regulated and administered sector given that its ability to withstand stress is critical for overall financial stability. The sector is regulated by the RBI, the central bank of India.

Reforms in the banking sector have encouraged entry of new players, making it a more market-driven one, with increased efficiency and productivity.

The banking sector comprises commercial banks (i.e. PSU banks, co-operative banks, regional rural banks, private banks and foreign banks), small finance banks (SFBs) and payments banks.

Commercial banks deal in all types of commercial banking businesses including cash management system, ATMs, credit cards, term and working capital loans, housing and consumer finance, and purchase and sale of foreign currencies. There are over 100 commercial banks in India.

In order to improve the lending capacity of PSBs, in the Union Budget 2019 the government has proposed to re-capitalise PSBs by INR 70,000 crore.

SFBs have been conceptualised to further financial inclusion by (i) provision of savings vehicles, and (ii) supply of credit to small business units, small and marginal farmers, micro and small industries, and other unorganised sector entities through high technology-low cost operations. SFBs are a modified/updated version of micro-finance institutions (MFIs). Many MFIs have converted themselves into SFBs given the cheap access to funds by directly accepting deposits from the public instead of borrowing through banks.

Payments banks are a new model of banks conceptualised by RBI for intensifying financial inclusion by providing (i) small savings accounts and (ii) payments/remittance services to migrant labour workforce, low income households, small businesses, other unorganised sector entities and other users. Payments banks typically reach customers mainly through mobile phones rather than through conventional banks.

In 2018, in an endeavour to safeguard banks against various risks associated with virtual currencies, RBI prohibited all banks from providing services associated with virtual currencies such as maintaining account, registering, trading, settling, clearing,

giving loans against virtual currencies, etc.

White label automated teller machine (WLA)

ATMs set-up, owned and operated by non-bank entities are called WLAs. They provide banking services to the customers of banks in India based on the cards (debit/credit/prepaid) issued by banks. The Union Cabinet has approved 100% FDI under the automatic route for non-banking entities that operate WLA, subject to certain prescribed conditions.

NBFCs

NBFCs are financial institutions whose financial assets constitute more than 50% of the total assets and income from financial assets constitute more than 50% of the gross income. NBFCs provide certain types of banking services but do not hold a full banking licence. Like banks, NBFCs are also regulated by RBI. NBFCs lend and make investments and hence their activities are akin to those of banks; however, unlike banks, NBFCs can neither accept demand deposits nor do they form part of the payment and settlement system and thus, cannot issue cheques drawn on themselves.

NBFCs are broadly characterised on the basis of the business activities conducted by them:

- Investment and credit company: A company in the business of providing finance by making loans or advances or in the business of acquisition of securities
- Infrastructure financing: A company granting infrastructure loans
- Core investment company: A company carrying on the business of acquisition of shares and securities
- NBFC factors: A company engaged in the business of factoring
- Mortgage guarantee NBFC
- Infrastructure debt: Facilitate the flow of long-term debt into infrastructure projects
- Micro financing: A company granting loans to a borrower with lower household annual income

Currently, there are approximately 10,200 NBFCs registered with RBI.

As a dedicated credit delivery channel for vast unbanked/under-banked segments, NBFC-MFIs have been playing a significant role in taking forward the financial inclusion agenda of the Government of India.

Due to the large NPAs in the banking sector and innovative products offered with the use of technology, NBFCs have been able to service urban customers as well as unbanked/

underbanked retail and MSME customers. This is evident from the exponential growth of over 18.7% in the credit growth of NBFCs during FY 2018.

The recent Union Budget 2019 has proposed that the upper limit in relation to the NOF requirement for commencing NBFC business be increased from INR 20 million to INR 1 billion.

Housing finance companies (HFCs)

HFCs in India are governed by the National Housing Bank Ltd which is in turn regulated by RBI. However, the government has recently proposed that RBI should act as the regulator for the housing finance sector while NHB would continue to act as a refinancer and lender to housing finance sector. HFCs regulate the housing finance system of the country to prevent the affairs of any housing finance institution being conducted in a manner detrimental to the interest of the depositors or in a manner prejudicial to the interest of the housing finance institutions.

100% FDI is permitted in an HFC under the automatic route. Currently, 83 HFCs are registered under the National Housing Bank Act.

Insurance

The insurance sector comprises insurance companies, insurance brokers, third-party administrators, surveyors and assessors, and such other intermediaries. The sector is regulated by the Insurance Regulatory and Development Authority of India (IRDAI).

Currently, there are over 60 insurers operating in India of which 8 are in the public sector and the remaining are in the private sector. The companies in the private sector are formed largely as a joint venture with foreign insurers. Currently, 49% FDI is permitted under the automatic route subject to certain conditions – key ones being that the company obtains approval from IRDAI for carrying out the insurance business and that its ownership and control remain at all times in the hands of resident Indian entities. The Union Budget 2019 proposed to allow 100% FDI for insurance intermediaries under the automatic route. The government will also be examining suggestions for further opening up of FDI in the insurance sector.

With the introduction of the private equity investment guidelines in December 2017, several private equity investors have started actively looking at investment opportunities in private insurance companies. There are at present 24 life insurers, 27 general insurers and seven standalone health insurers operating in India. Out of these, three life insurers, two general insurers and one re-insurer are listed on Indian stock

exchanges.

Since the opening of the sector to reinsurance players and Lloyd's of London in 2016, nine foreign reinsurers and Lloyd's of London have set up a branch office in India with the prior approval of IRDAI. Lloyd's of London has two syndicates currently operating in India.

IRDAI has also introduced detailed guidelines allowing domestic as well as foreign insurers/reinsurers and insurance intermediaries to set up their branch office in International Financial Services Centres (IFSCs), which would entitle them to certain fiscal incentives. The aim of the government is to develop India as the hub for global insurance business.

To encourage the on-shoring of international insurance transactions in IFSC, the government, in the Union Budget 2019, proposed that the NOF requirement for reinsurance branches be reduced from INR 50 billion to INR 10 billion

Capital markets

Indian companies are allowed to raise capital and access financial markets through public issue of securities within the regulatory framework of SEBI, which regulates the activities of capital market participants in India. The Indian capital market comprises equity, debt, foreign exchange, derivative markets and commodity market.

In order to boost foreign investment in Indian capital markets, SEBI recently relaxed the eligibility and know your customer (KYC) norms for foreign portfolio investment (FPIs) and allowed FPIs two years for complying with the relaxed norms.

The government recently announced that investment under the FPI route shall be permitted up to the sectoral limits prescribed under the exchange control regulation as against the present limit of 24%.

The government has also relaxed FDI norms by enhancing sectoral limits across various sectors in an effort to boost foreign investment. Sectors such as defence, retail, and airline have witnessed noteworthy reforms. There are talks of a further increase in sectoral limits in sectors such as insurance.

Initiatives by the government towards ease of doing business, enhanced sectoral caps, simpler mechanism to obtain approval for investment coupled by tax exemptions have helped maintain a robust business environment for foreign investors leading to a larger inflow of capital.

Capital market intermediaries

Some of the financial intermediaries introduced in Indian capital markets that are typically regulated by SEBI include stock exchanges, stock brokers, merchant bankers, credit rating agencies, investment advisors, portfolio managers, clearing corporations, etc. These intermediaries support the functioning of capital markets in India.

Pension funds

Pension funds are created by an employer to make contributions of funds for employees' future benefit. With the passage of the PFRDA Act 2013, the investment corpus in India's pension sector is expected to cross USD 1 trillion by 2025. Foreign investment in the pension sector is permitted up to 49%.

Mutual funds

Mutual funds are popular in India because they offer the ability to easily invest in increasingly complicated financial markets. A large part of the success of mutual funds is attributable to the advantages they offer in terms of diversification, professional management and liquidity.

After the streamlining of regulations, and with rising incomes, India now has several fund houses with record assets under management (AUM) of over INR 23,500 billion at last count, and several million unit holders. There has been a growth rate of approximately 67% in the last five years.

Other sources of finance

Alternative investment funds (AIFs)

In India, AIFs are regulated by SEBI. AIF refers to any privately pooled investment from Indian or foreign sources. AIFs are classified under three categories based on their investment strategy:

- Category I: Ventures capital funds, infrastructure funds, SME, etc.
- Category II: None of the two; typically unlisted equity and debt funds
- Category III: Complex derivative, listed equity

Foreign investors are permitted to invest in AIFs under the FDI route. Further, an FPI can also directly invest in a Category III AIF. With fresh inflow of foreign investments, there has been an accelerated growth in the AUM of AIFs, which has yielded better returns to investors as well as better investments for new and emerging businesses, social ventures and infrastructure.

By 31 March 2019, over 500 AIFs had been registered with SEBI with total AUM of over INR 748.90 billion, increasing from approximately INR 3.6 billion five years ago.

ARCs

ARCs have been created to bring about a system for recovering NPAs from the books of secured lenders and unlocking the value of NPAs. To help tackle the issue of declining asset quality of banks, 100% FDI is allowed in ARCs under the automatic route.

Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (InvIT) funds

REIT and InvIT are alternate fund-raising mechanisms offered to capital-intensive industries for companies that own income-producing real estate or infrastructure. As such, the unit holders of a REIT/InvIT earn a share of the income earned through real estate investment without actually having to go out and buy or finance property.

SEBI has relaxed the rules for REIT and InvIT by allowing them to invest more in under-construction projects, rationalised unit holder consent on related party transactions and removal of restrictions on special purpose vehicles (SPVs) to invest in other SPVs holding the assets.

Fintech

India is transitioning into a dynamic ecosystem offering fintech start-ups a platform to potentially grow into billion-dollar unicorns. From tapping new segments to exploring foreign markets, fintech start-ups in India are pursuing multiple aspirations.

From wallets to lending to insurance, the services of fintech have redefined the way in which businesses and consumers carry out their routine transactions. The increasing adoption of these trends is positioning India as an attractive market worldwide.

The fintech sector in India mainly includes:

- 1 Next-generation payments: Pre-paid instruments and payment wallets and payment gateways
- 2 P2P lending: Regulated NBFCs providing the services of loan facilitation via online medium through an eligible lender to an eligible borrower
- 3 Financial inclusion: Jan Dhan Yojna
- 4 Blockchain
- 5 Robo-advisory
- 6 Security and biometrics

GIFT City

Gujarat International Finance Tec-City (GIFT City), India's first IFSC, has been set up with an objective to enable Indian entities to compete on an equal footing with offshore financial centres and to provide facilities and regulations comparable to other leading IFSCs in the world. Units set up in the GIFT City are also eligible for certain tax incentives.

The regulators overseeing the financial transactions which may be undertaken in GIFT City are RBI, SEBI and/or IRDA,

depending on the nature of the activity undertaken. The government has in February 2019 approved the setting up of a unified authority that would regulate all the financial services in an IFSC.

SEBI has issued IFSC guidelines to facilitate and regulate the financial service activities relating to securities market in IFSCs. Currently, AIFs, FPIs, mutual funds, clearing corporations, stock exchange and capital market intermediaries and insurance/reinsurance companies are allowed to operate in IFSCs



Business entities

Introduction

A foreign company has the following business entity options through which it can establish its presence in India:

Unincorporated entities	<ul style="list-style-type: none">• Liaison office (LO)• Branch office (BO)• Project office• Partnership firm• LLP
Incorporated entities	<ul style="list-style-type: none">• Limited company (public/private)

These forms of business entities are discussed in detail as follows:

LO

A foreign company (a body corporate incorporated outside India, including a firm or other association of individuals) may establish its LO in India by making an application to the authorised dealer bank (AD bank) if the principal business of the entity resident outside India falls under sectors where 100% FDI is permitted in terms of the FDI policy. In certain cases, the application is to be made to the RBI and processed in consultation with the government, for instance, when the applicant is from certain specified countries or setting up the LO in specified states in India etc.

In addition, when the applicant is a non-government organisation, non-profit organisation, body/agency/department of a foreign government either wholly or partly and covered under any of the activities of Foreign Contribution (Regulation) Act, 2010 (FCRA), it shall obtain a certificate of registration under the FCRA only and no approval would be required from the RBI.

An LO is suitable for a foreign company which wishes to set up a representative office as a first step to explore and understand the business and investment climate in the country. This office serves as a communication channel between the parent company overseas and its present/prospective customers in India. The LO can also be set up to establish business contacts or gather market intelligence to promote the products or services of the overseas parent company. The LO cannot undertake any business activity or earn any income in India.

BO

A foreign company may establish its BO in India by making an application to its AD bank in most cases. The BO should be engaged in the activity in which the parent entity is engaged or a related activity. Permissible activities for a BO include exporting/importing goods, rendering professional or consultancy services, undertaking research work, promoting technical or financial collaborations, representing the parent company in India and acting as buying/selling agent in India, rendering information technology services and rendering technical support.

There is a general permission for establishing a BO in special economic zones (SEZs) for manufacturing and service activities subject to those sectors where 100% FDI is permitted along with other conditions.

Project office

A foreign company may open a project office in India without prior approval from the RBI, provided it has secured a contract from an Indian company to execute a project in India and met the prescribed conditions. Once the project execution is completed as per the terms of the contracts awarded, the project office would have to be closed down.

Partnership firms

Under the current FDI policy and the Foreign Exchange Management Law, foreign investment into Indian partnership firms (other than by NRIs or persons of Indian origin) requires prior permission from the RBI.

A partnership is an association of two or more persons who have agreed to carry on business as co-owners. Each partner

of a partnership firm has unlimited liability.

LLPs

An LLP is a hybrid between a partnership firm and a company. It is a separate legal entity, with the liability of the partners being limited to their agreed contribution in the LLP. Foreign investment into an LLP is permitted under the automatic route (without requiring prior approval) in those sectors in which 100% FDI is allowed.

An LLP is governed as per the LLP agreement between the partners. In the absence of such agreement, the LLP would be governed by the framework provided in the Limited Liability Partnership Act, 2008 (LLP Act). The LLP Act describes the matters relating to the mutual rights and duties of the partners and the LLP. Importantly, the Act makes it mandatory to have two individual Designated Partners, at least one of whom should be residing in India.

Any existing private company or existing unlisted public company can be converted into an LLP by complying with the relevant provisions of the LLP Act. Tax neutrality conditions have been stipulated under the Income-tax Act, 1961 (IT Act) for such conversion.

Limited company

A limited company is an incorporated entity which is a separate legal entity distinct from its members/shareholders. As mentioned above, foreign investment in India is governed by the FDI policy of the government as well as the Foreign Exchange Management Law. As per the current policy, all companies in India have to be incorporated under the provisions of the Companies Act, 2013.

Private company: A minimum of two members and two directors are needed to establish a private company with at

least one director being resident in India.

Public company: A public company can be incorporated with minimum three directors and seven members with at least one director being resident in India.

Foreign investors, while deciding to set up an entity in India as a private vis-à-vis a public company, need to consider several factors:

- A private company can provide for restrictions on transfer of its shares by inserting suitable clauses in the Articles of Association, but no such restrictions can be put on transfer of shares in a public company which are freely transferable.
- A private company cannot invite public to subscribe its securities.
- The compliances applicable to a private company under the Companies Act 2013 are fewer as compared to those applicable to a public company, such as formation of various governance committees, secretarial audits, appointment of independent directors and ceilings of managerial remuneration.

Labour

Employment contract

India has adopted various measures to regulate the conditions under which fixed-term employment contracts are written, applied and interpreted. Labour, being an item falling under the concurrent list of the Indian Constitution, is regulated by both the state and central governments. The Indian Contracts Act, 1872 defines the term 'contract' as an agreement legally enforceable by law. There must be a lawful offer and a lawful acceptance to result in an agreement.

Customary working hours and holidays

The normal working hours in a factory are eight hours per day. The usual working hours in India are 9:00 am to 5:30 pm or 9:30 am to 6:00 pm. In case of corporates, it is seven hours per day, six days a week. Indian subsidiaries of multinational corporations usually follow a five day, eight hour per day week. Normally, 10 days of casual leave and 20-30 days of privilege leave are allowed in a year.

Minimum wage

There are laws in India for workers in most sectors to receive a minimum wage. It is one of the most important aspects of starting a new line of work or running an organisation successfully. The law which enforces the employers to pay the set minimum wages in India is known as the Minimum Wages Act, 1948.

Work permits for foreign workers

A foreign national coming to India to work is required to get a visa based on the purpose of visit. Generally, employment visa, business visa or project visa are given for business/employment purposes. Employment visas are usually granted for one year or the term of the employment/project contract, and the time period can be extended. Business visa is granted for five years or such shorter duration as required. Project visa would be project-specific and initially valid for one year or for the duration of the project, whichever is less. Similarly, while applying for any other type of visa, the conditions attached to it should be complied with. Extension of visas may also be granted as per the requirements on a case-to-case basis.

All foreigners (including foreigners of Indian origin) visiting India on long-term visas (student, medical, research and employment visa of more than 180 days) are required to get themselves registered with the Foreigners Regional Registration Officer (FRRO). The FRRO registration process has recently been digitalised with the introduction of an e-FRRO portal with

an aim to provide faceless, cashless and paperless service to foreign nationals.

Persons of Indian origin who hold foreign citizenship (other than of Pakistan and Bangladesh) and meet the specified eligibility criteria may avail the Overseas Citizen of India (OCI) status as long as their home countries allow dual citizenship in some form or the other under their local laws.

Persons registered as OCIs do not have the right to vote or the eligibility to contest for elections to public/government offices, etc. Registered OCIs shall be entitled to the following benefits:

- Multiple entry, multi-purpose life-long visa to visit India
- Exemption from reporting to police authorities for any length of stay in India
- Parity with NRIs in financial, economic and educational fields, except in the acquisition of agricultural or plantation properties

A person registered as an OCI for five years is eligible to apply for Indian citizenship if he/she has been residing in India for one year out of the five years before making the request.

Social security

Social security is valid only for those individuals who are employed in the organised sector. The Employees' State Insurance Scheme provides medical care and other benefits for employees or labourers earning less than USD 300 a month (INR 21,000).

The Employees' Provident Fund Organisation (EPFO) is a statutory body under the Ministry of Labour and Employment, Government of India, which administers social security regulations in India. It is mandatory for all employers who employ more than 20 people to apply to the fund for the benefit of their workers. It covers all the pensions and the survivor benefits in the event of any employee's death. All employees are required to contribute 12% of their salary to EPFO with a matching contribution by the employer. Reduced rate of 8% is applicable for women employees for the first three years of their employment. This is automatically deducted by the employer. Subject to certain conditions, the interest earned on contributions made to the fund are exempt from tax. Even foreign or international workers who are employed in India are subject to the terms of this fund.

India also has social security agreements, which are bilateral

agreements between two governments. Such agreements serve to protect the interests of Indian citizens working in the following countries or foreign nationals coming to India from these countries:

- Australia
- Austria
- Belgium
- Czech Republic
- Canada
- Denmark
- France
- Finland
- Germany
- Hungary
- Japan
- Republic of Korea
- Luxembourg
- The Netherlands
- Norway
- Portugal
- Swiss Confederation
- Sweden

Sickness and pension arrangements

It is compulsory for an employer to provide medical facilities to its workforce by contributing towards Employees' State Insurance Scheme as applicable.

The employer contributes towards a Provident Fund scheme and a certain portion of the contribution is appropriated towards a Pension Scheme, which provides pension benefits to the employees and their family members. Workers are also entitled to gratuity on completion of five years of continuous service.

Trade unions

The trade unions in India are generally divided on political lines. Trade unions have struggled hard to achieve an adequate

measure of protection against exploitation. They work to protect the interest of the workers and discuss key workplace-related issues with the management such as wages and benefits.

The six major central trade unions in India are the United Trade Union Congress, Bhartiya Mazdoor Sangh, Hind Mazdoor Sang, All India Trade Union Congress, Centre of Indian Trade Unions and the Indian National Trade Union Congress. A trade union will be recognised if it functions for more than a year after its registration. In case an organisation has more than one union, for it to be recognised, it must have at least 15% of workers as its members.



* Rate of surcharge shall be restricted to 15% in case of capital gains arising:

- on sale of equity share in a company or a unit of an equity-oriented fund or a unit of business trust liable for securities transaction tax in the hands of an individual, HUF, AOP, BOI and AJP
- on sale of any security including derivatives, in the hands of foreign institutional investors

Accounting, reporting and audit requirements

In India, accounting, reporting and auditing requirements of business entities are primarily governed by the regulations issued by the Institute of Chartered Accountants of India (ICAI), the Securities and Exchange Board of India (SEBI), the Ministry of Corporate Affairs (MCA) and the Central Board of Direct Taxes (CBDT).

The ICAI has issued accounting standards that are applicable to all entities engaged in commercial, industrial or business activities. With respect to companies, the legal recognition for the applicability of these standards has been given by the central government by notification of these standards under the Companies Act, 2013 (2013 Act). The 2013 Act governs the incorporation of a company, manner of conducting the affairs of a company, responsibilities of its board of directors and other provisions including winding up. It also prescribes the financial reporting and auditing requirements to be followed by all companies including foreign companies as defined in the 2013 Act.

Companies listed on a recognised stock exchange in India are also governed by the rules and regulations issued by SEBI in addition to the above requirements. Further, there are industry-specific guidance relating to financial reporting issued by relevant regulatory authorities such as RBI, NHB, IRDAI, etc. The following sub-sections cover some of the basic requirements applicable to most companies doing business in India:

Records to be maintained

Every company should follow accrual basis of accounting. The 2013 Act requires that the records can also be maintained in electronic mode in the prescribed manner and are required to be retained for a minimum period of eight years. In certain cases, the central government has the power to direct a company to retain the statutory books for longer periods.

Inspection of records

The books of account and other records are open to inspection by any director, Registrar of Companies and other government authorities such as those involved with GST, Provident Fund, etc. Certain records are also available for inspection by the members of the company.

Accounting year

Under the 2013 Act, companies are required to adopt a uniform financial year ending on 31 March unless specifically permitted by the authorities under certain conditions such as a holding company incorporated outside India which follows a different financial year. For income-tax purposes, the accounting year must end on 31 March every year.

Preparation of financial statements

Every company is required to prepare both separate and consolidated financial statements on an annual basis in accordance with the accounting framework applicable to the company. A listed company is also required to publish quarterly or half-yearly interim financial information as may be applicable and subjected to review or audit. Listed companies' financial statements are prepared in the formats prescribed by SEBI within the specified timelines, i.e., 45 days from the end of each quarter for the first three quarters and within 60 days from the end of the financial year. From 1 April 2019, it is mandatory for listed companies to publish both separate and consolidated financial information. Earlier, it was optional to publish such information.

Contents of financial statements

The 2013 Act lays down the form and certain content in addition to the requirements under the accounting standards for presentation of financial statements of companies except insurance, banking, electricity companies and other classes of companies for whom the form of financial statements is specified by the governing Acts. Financial statements comprise balance sheet, statement of profit and loss, cash flow statement, a statement of changes in equity (if applicable) and related notes.

Audit of financial statements

Every company in India must have its financial statements audited by a Chartered Accountant in practice (member of the Institute of Chartered Accountants of India [ICAI]). The audits are required to be conducted in accordance with the auditing standards issued by the ICAI and as per the guidance under the 2013 Act. In addition, the IT Act mandates audits of taxpayers meeting certain specified thresholds to be conducted by a Chartered Accountant in practice (member of the ICAI).

National Financial Reporting Authority

In October, 2018, the MCA constituted the National Financial Reporting Authority (NFRA) by notifying section 132 of the 2013 Act and subsequently notified the related Rules describing NFRA's role. The primary responsibility of NFRA, inter alia, is to monitor and enforce compliance with the accounting and auditing standards, and to oversee the quality of service of the professionals associated with ensuring such compliance.

Mandatory firm rotation

To promote auditor independence and in the interest of improving audit quality, the 2013 Act prohibits auditor appointment for more than five consecutive years (in the case of the auditor being an individual) or more than two periods of five consecutive years (in the case of an audit firm as an auditor) by listed companies and certain other class of companies (wherein thresholds have been defined based on nature of entity, paid-up share capital and public borrowings or public deposits). An individual/audit firm that has completed the above prescribed period as an auditor is eligible for re-appointment only after a period of five years from the completion of such term.

Auditing standards

The Standards of Auditing issued by the ICAI are substantially similar to the International Standards on Auditing issued by the International Auditing and Assurance Standards Board (IAASB) of the International Federation of Accountants.

However, there are additional reporting responsibilities on auditors governed by Section 197 and Section 143 of the 2013 Act which, inter alia, includes the Companies (Auditor's Report) Order, 2016 that requires the auditor to include a statement on matters as specified in such order, reporting whether the company has adequate internal financial controls in place and reporting to the central government on any fraud identified above the prescribed thresholds.

The ICAI has also issued additional guidance notes on auditing-specific areas of the financial statements and specific industries that are required to be complied with by the auditors for discharge of their duties.

Accounting framework

The 2013 Act prescribes two accounting frameworks: (i) Indian Accounting Standards (Ind AS) prescribed under the Companies (Indian Accounting Standards) Rules, 2014, which

are based on International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board with certain carve-outs and carve-ins, mandatory for certain class of companies, and (ii) the accounting standards prescribed under Companies (Accounting Standards) Rules, 2006 (Indian GAAP), which are substantially different from Ind AS. Companies are required to determine the relevant accounting framework as per the roadmap discussed below. Further, a company may irrevocably opt to prepare Ind AS compliant financial statements for the accounting periods beginning on or after 01 April 2015. The MCA has notified 40 Ind AS till date, including a new standard Ind AS 116 on 'Leases', which is effective from 1 April 2019. The following is the roadmap for mandatory adoption of Ind AS to be followed by all companies other than insurance companies, banking companies and NBFCs:

- Under Phase I, Ind AS were mandatory to be adopted for accounting periods beginning on or after 01 April 2016, with comparative financial information required to be given for FY 2015-16 for companies, whether listed or unlisted, whose net worth was INR 5 billion or more.
- Under Phase II, Ind AS were made mandatory to be adopted for accounting periods beginning on or after 01 April 2017, with comparative financial information required to be given for FY 2016-17 for all companies whose equity or debt securities are listed or are in the process of being listed on any stock exchange in India or outside India which were not covered above, and for unlisted companies having net worth more than INR 2.5 billion but less than INR 5 billion.
- Under both Phase I and Phase II, Ind AS would be mandatorily applicable to the holding, subsidiary, joint venture or associate companies of the reporting companies covered above. Further, the determination date for net worth thresholds as mentioned above was 31 March 2014 or any day thereafter.

There are separate roadmaps for banks, insurance companies and NBFCs to transition to Ind AS with the earliest accounting period beginning on or after 01 April 2018. Commercial banks were required to implement Ind AS for preparation and presentation of their financial information from 01 April 2019. However, RBI has deferred the implementation pending necessary legislative amendments to the Banking Regulation Act, 1949.

Filing of financial statements/results

A company is required to hold an annual general meeting (AGM) within six months of the end of a financial year. Financial statements are laid down before the members of the company in the AGM. Such financial statements are required to be filed with the Registrar of Companies within 30 days of the AGM. Listed companies also need to file the audited (or reviewed, as applicable) financial results with the stock exchange within 60 days in case of annual periods and 45 days in case of quarterly periods except for the last quarter.

The MCA requires filing of financial statements with the Registrar of Companies, using the eXtensible Business Reporting Language (XBRL) taxonomy, for the following companies:

- All companies listed in India and their Indian subsidiaries
- All companies having a paid up capital of INR 50 million and above
- All companies having a turnover of INR 1 billion and above

All the remaining companies are required to fill the prescribed forms.

The XBRL documents of financial statements are required to be certified by a Chartered Accountant or Company Secretary or Cost and Management Accountant in whole-time practice.

Reporting on internal financial controls

In case of a listed company, directors are required to lay down internal financial controls to be followed by the company and report annually whether such internal financial controls were adequate and operating effectively. In case of other companies, directors are required to report whether such internal financial controls were adequate.

In case of all companies, except for certain private companies meeting prescribed thresholds for which exemption is given, the auditors are required to report whether internal financial controls over financial reporting in relation to separate and consolidated financial statements were adequate and operating effectively during the financial year.

Income Computation and Disclosure Standards (ICDS)

In view of the significant developments in convergence with IFRS, ICDS were notified under the IT Act which are, in principle, closer to the existing Indian GAAP than the IFRS-based Ind AS. These standards are effective from FY 2016-17 and are required to be followed by all taxpayers following the accrual system of accounting for the purpose of computation of income from business and 'other income' chargeable to tax.



Direct tax

Income tax is chargeable on taxable income computed in accordance with the provisions of the IT Act. Income can be brought within the tax net under the following heads of income:

1. Income from salary
2. Income from house property
3. Profits and gains from business and profession (business income)
4. Capital gains
5. Income from other sources (income not specifically covered under above heads of income like interest and dividend)

All taxpayers are required to follow a uniform tax year from 01 April to 31 March for tax purposes which is referred to as 'previous year', irrespective of the financial year followed for accounting purposes.

India follows a mix of source-based and residence-based taxation. Global income of a resident is taxable in India. However, non-residents are taxable on certain India-sourced income.

Taxation of individuals

Depending upon the duration of physical presence in India, an individual can be:

- Resident and ordinarily resident
- Resident and not-ordinarily resident
- Non-resident

Scope of taxation of an individual is as follows:

- Residents and Ordinary residents are taxable on their worldwide income
- Residents and not-ordinarily residents and non-residents are taxable on their India-sourced income

The personal tax rates for the financial year 2019-20 are as follows:

Income slabs (INR)	Income slabs (USD)	Rate of tax (%)
Up to INR 250,000 [#]	Up to USD 3,528*	Nil
INR 250,000 to INR 500,000	USD 3,528 to USD 7,056	5% of the amount of total income exceeding INR 2,50,000
INR 500,000 to INR 1,000,000	USD 7,056 to USD 14,111	INR 12,500 + 20% of the amount of total income exceeding INR 500,000
Above INR 1,000,000	Above USD 14,111	INR 112,500 + 30% of the amount of total income exceeding INR 1,000,000

* USD rate taken at 70.87

[#] Minimum exemption limit for:

Senior citizens (age 60 years and above but less than 80 years): INR 300,000 (USD 4,233)

Very senior citizens (age 80 years and above): INR 500,000 (USD 7,056)

Tax rebate for individual taxpayers

The Finance Act, 2019 has enhanced the tax rebate available to individuals with taxable income up to INR 500,000. Such taxpayers will be eligible for a tax rebate of up to INR 12,500, thus resulting in a nil tax liability. Taxable income is arrived at after adjustments for deductions.

All rates mentioned in this chapter are exclusive of applicable surcharge and Health and Education Cess. Please refer to the section on 'Rate of surcharge and cess' for further details.

Standard deduction for salaried individual taxpayers

Individual taxpayers with income from salary are eligible for a standard deduction of INR 50,000 on the salary. The deduction is allowed irrespective of the actual expenditure incurred by the employee.

Tax incentives for individual taxpayers introduced by Finance (No. 2) Act, 2019

- **Deduction for interest paid on housing loan for first homebuyers**
An additional deduction of INR 150,000 per annum has been allowed to homebuyers on housing loans sanctioned during FY 2019-20. This is subject to the condition that the stamp duty value of the house property should not exceed INR 4,500,000. This deduction shall be available in addition to the existing deduction of INR 200,000.
- **Incentives for National Pension System subscribers**
Tax exemption on commuted pension has been increased to 60% of the total pension fund. The exemption was earlier limited to 40% of the pension fund.
- **Tax incentive for purchase of electric vehicles**
Deduction for interest up to INR 150,000 has been allowed on loans taken for purchase of electric vehicles from 1 April 2019 to 31 March 2023.

Taxation of partnership firm (including LLP)

The scope of taxable income of a firm is as follows:

- Resident: Taxed on worldwide income
- Non-resident: Taxed on income (a) received/deemed to have been received in India or (b) accrued/deemed to have been accrued in India

A firm is said to be resident in India in every case except where during that year the control and management of its affairs are situated wholly outside India.

The tax rate for the financial year 2019-20 is 30%.

Taxation of companies

Scope of taxable income of a company is as follows:

- Resident*: Taxed on worldwide income
- Non-resident: Taxed on income (a) received/deemed to have been received in India or (b) accrued/deemed to have been accrued in India

(*From FY 2016-17 onwards, a company shall be a resident in India if it is an Indian company or its place of effective management (PoEM) is in India. PoEM has been defined to mean a place where key management and commercial decisions that are necessary for the conduct of business of an entity as a whole are, in substance, made. The Indian revenue authorities have also released guidelines for the determination of PoEM of a foreign company in India.)

Tax rate for domestic company

The corporate tax rates for the financial year 2019-20 are as follows:

Sr. no	Prescribed conditions	Tax rate
(a)	Total turnover or the gross receipts in the FY 2017-18 does not exceed INR 4,000 million (USD 56.33 million)	25%
(b)	Other than corporates falling under (a) above	30%

From financial year 2019-20, domestic companies may opt for lower corporate tax rate subject to specified conditions as under:

Sr. no	Prescribed conditions	Tax rate
(a)	Existing domestic company which does not avail any of the specified exemption/incentives	22%
(b)	New domestic company set up on or after 1 October 2019, commences manufacturing activity by 31 March 2023 and does not claim specified exemptions/incentives	15%

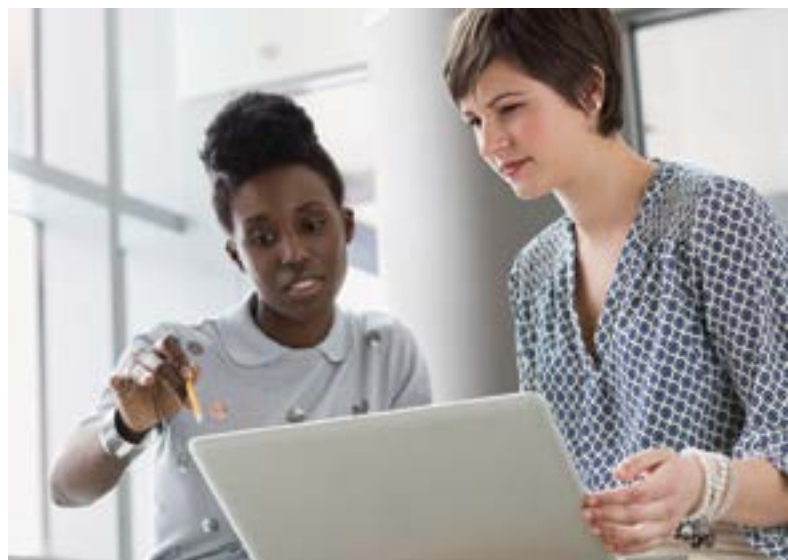
Tax rate for foreign company

The corporate tax rate for a foreign company is 40%.

Rate of surcharge and cess

Rate of surcharge

Taxpayer	Net income		
	Up to INR 10 million (USD 0.14 million)	INR 10-100 million (USD 0.144 million - 1.44 million)	Above INR 100 million (USD 1.44 million)
Domestic company not opting for lower tax rate	Nil	7%	12%
Domestic company opting for lower corporate tax rate of 22%/15%	10%	10%	10%
Foreign	Nil	2%	5%



Taxpayer	INR 5-10 million (USD 0.07-0.14 million)	INR 10-20 million (USD 0.14-0.28 million)	INR 20-50 million (USD 0.28-0.70 million)	Above INR 50 million (USD 0.70 million)
Individual/association of persons (AOP), body of individual (BOI), artificial juridical person (AJP)	10%	15%	25%*	37%*
Firm/LLP/local authority	Nil	12%	12%	12%

* Rate of surcharge shall be restricted to 15% in case of capital gains arising:

- on sale of equity share in a company or a unit of an equity-oriented fund or a unit of business trust liable for securities transaction tax in the hands of an individual, HUF, AOP, BOI and AJP
- on sale of any security including derivatives, in the hands of foreign institutional investors

Rate of Health and Education Cess

A Health and Education Cess of 4% is applicable on all taxpayers and all levels of income, and is computed on the amount of tax computed, inclusive of surcharge (wherever applicable).

Minimum Alternate Tax (MAT)/Alternate Minimum Tax (AMT)

India has a minimum tax regime, whereby MAT/AMT is payable by corporates/other persons on profits as per books (subject to specified adjustments)/adjusted total income, where tax payable on total income under the normal provisions of the IT Act is less than MAT/AMT.

Type of taxpayer	Rate of tax (%)	Applicability	Credit availability
Domestic company liable to corporate tax rate of 22%/15%	Nil	MAT is leviable where tax payable on the total income is less than 15% per cent of book profits.	The excess of MAT over normal tax is treated as credit, which can be set off in any 15 subsequent years against normal tax liability subject to prescribed limitation
Domestic company liable to corporate tax rate of 25%/30%	15% of book profits		
Foreign company	15% of book profits		
Persons (other than company) claiming certain specified deductions*	18.5% on adjusted total income	AMT is leviable where tax payable on the total income is less than 18.5 % of adjusted total income.	The excess of AMT over normal tax is treated as credit, which can be set off in any 15 subsequent years against normal tax liability subject to prescribed limitation

* It is applicable when the adjusted total income exceeds INR 2 million (USD 0.028 million)

MAT provisions apply to a foreign company only if it has a permanent establishment (PE) in India (in accordance with the provisions of relevant tax treaty) or in case where there is no tax treaty available, if it is required to seek registration under any law for the time being in force relating to companies.

Taxation of dividends

Income distributed in the form of dividends by domestic companies is chargeable to a Dividend Distribution Tax (DDT) in the hands of the company. Such dividend income is generally exempt from tax in the hands of the shareholder. DDT is required to be calculated on the grossed-up amount.

Particular	Rate of tax (%)	Basis for levy
Domestic company paying dividend	15% as DDT	Dividends declared, distributed or paid after specified adjustments*

*Deduction of dividends received from a subsidiary is allowed, subject to certain conditions, for computing DDT. However, no credit of DDT paid on the dividend received is allowed under the Indian laws. Further, DDT is not a tax deductible expense.

Where a resident taxpayer (except domestic companies and specified charitable institutions) receives aggregate dividend in excess of INR 1 million (USD 14,400) from domestic companies, tax at the rate of 10% on the amount of dividend received in excess of INR 1 million is payable by the shareholder.

Dividend received from a foreign company is taxable in the hands of Indian shareholders at the rate of tax applicable to them. However, in the case of dividends received by an Indian company from a foreign company in which the Indian company holds 26% or more equity, tax at a concessional rate of 15% is levied. However, in computing dividend income from such foreign company, no deduction of any expenditure is allowed.

Taxation on income distributed by way of buy-back of shares

Earlier, tax was levied at the rate of 20% on the 'distributed income' paid by unlisted companies to their shareholders on buy-back of their own shares.

The Finance (No. 2) Act, 2019 has introduced buy-back tax at the rate of 20% on the listed company's shares bought back on or after 5 July 2019, where the public announcement for buy-back has been made after this date.

'Distributed income' is computed as the difference between the amount paid as consideration for buying back the shares and the consideration received by the company at the time of issuing such shares computed in accordance with the prescribed rules. Such tax would be paid by the company while buying back its own shares.

Income from buy-back of shares is exempt in the hands of the shareholders.

Capital gains tax

Capital gains tax is levied on the transfer of a capital asset. Capital gains are computed by deducting the cost of acquisition from the sale consideration. Capital gains are categorised into short-term capital gain (STCG) and long-term capital gain (LTCG) depending on the period of holding of the asset transferred.

In case of non-resident investors, gain from transfer of shares/debentures of an Indian company is computed in foreign exchange used for the investment and then converted in Indian rupees on the date of transfer, thus providing for adjustment of fluctuation in foreign exchange.

STCG

Status of taxpayer	Type of asset	Rate of tax
Applicable to both residents and non-residents	Equity shares or units of an equity-oriented fund or unit of a business trust on which Security transaction tax (STT) is paid*	15%
Applicable to both residents and non-residents	Capital assets other than those mentioned above	a. Slab rates for individual and HUFs b. Applicable tax rate for those not covered above such as 40% for foreign companies

LTCG

Status of taxpayer	Type of asset	Rate of tax
Both residents and non-residents	Equity shares, unit of equity-oriented funds or unit of business trust on which STT is paid*	10%**
Residents	Listed securities (other than a unit) on which STT is not paid* or zero coupon bond (ZCB)	Lower of: 20% with 'indexation' (indexation is not available on ZCBs) or 10% without 'indexation'
Residents	Capital assets other than those covered above	20%
Non-residents	Listed securities (other than a unit) on which STT is not paid or ZCB	10% after taking into account foreign exchange fluctuation; however, forex fluctuation is not available on ZCBs
Non-residents	Shares and debentures other than covered above for non-residents	10% without taking into account foreign exchange fluctuation
Non-residents	Capital assets other than those covered above for non-residents	20%

* The benefit shall also be available if STT is not paid but transaction is undertaken on a recognised stock exchange located in an international financial service centre and consideration is in foreign currency.

** As per the Finance Act, 2018, the existing tax exemption on LTCG arising on transfer of a listed equity share or a unit of an equity oriented fund, etc. (subject to STT) has been withdrawn. Any LTCG arising from such transfers made on or after 01 April 2018 and in excess of INR 0.1 million shall be taxed at 10%. Further, LTCG earned upto 31 January 2018 has been grandfathered.

There is a separate computation mechanism for capital gains for depreciable business assets, which form part of the block of assets held by a taxpayer.

Taxation of NRs

NRs are taxable on the income received or accruing in India and income deemed to have been received or accrued in India. Deemed accrual provides for taxation on the following terms:

Business income: The business income of a non-resident is taxable in India if it has a 'business connection' in India. The term 'business connection' is conceptually similar to PE as defined in tax treaties. Profits from a business of a non-resident, attributable to operations carried out in India, are taxable in India.

The term 'business connection' includes in its ambit (a) 'significant economic presence' and (b) any business activity carried out through a person who habitually plays the principal role leading to conclusion of contracts by a non-resident.

The terminology of 'significant economic presence' was introduced to levy tax on non-residents who operated without having a physical presence in India like e-commerce companies and other digitised form of businesses.

Fees for technical services (FTS): Fees for managerial, technical or consultancy services rendered by an NR are taxable in India (where an NR does not have a PE in India) at the rate of 10% of gross receipt.

Royalty income: Royalty payable to a non-resident is taxable at the rate of 10% of gross receipts. The IT Act has a wide definition of what constitutes 'royalty' and includes payments for use or right to use any industrial, commercial or scientific equipment; transfer of rights (including granting of a licence) in respect of a patent, trade mark, copyright, literary, artistic or scientific work or similar property, etc.

Interest income: Tax at the rate of 20% is applicable on interest payable by an Indian company to a non-resident NR for money borrowed in foreign currency. A lower withholding rate of 5% is applicable on interest payable on external commercial borrowings (ECBs), long-term bonds and rupee denominated bonds issued before 01 July 2020. Similarly, lower rate of withholding of 5% is available for interest payable to a FII or a qualified foreign investor (QFI) on a rupee denominated bond of an Indian company or a government security issued before 01 July 2020, subject to certain other conditions.

Capital gains: Gains accrued to a non-resident on account of transfer of a capital asset situated in India are taxable in India.

As per the indirect transfer provisions in the IT Act, shares or an

interest in a foreign company shall be deemed to be situated in India if such shares or interest derives, directly or indirectly, its value substantially from assets located in India.

If a PE of a non-resident is formed in India, the aforesaid incomes would be taxable on a net basis at the rate applicable to foreign companies.

Tax treaty benefit: A non-resident covered by a tax treaty can be taxed under the tax treaty or the IT Act, whichever is more beneficial. India has a vast network of favourable tax treaties. Till date, India has entered into comprehensive tax treaties with 96 countries. Recently, India entered into a tax treaty with Hong Kong.

Tax treaties with various countries provide benefits in the form of capital gains exemption on transfer of shares of Indian companies. However, in the recent past, tax treaties with Mauritius, Singapore and Cyprus have been revised to withdraw capital gains exemption on transfer of shares acquired on or after 01 April 2017, while simultaneously grandfathering tax benefit to the shares acquired before 01 April 2017. Further, tax treaties with Australia, US, UK, Singapore, etc., provide restrictive tax treatment for income from FTS.

In order to avail tax treaty benefits, a non-resident is required to furnish a Tax Residency Certificate, which is issued by the revenue authorities of his/her state of residence. In addition, the non-resident is required to furnish certain additional information, as prescribed.

Equalisation levy

An equalisation levy of 6% of the amount of consideration for specified services, i.e., online advertisement, provision for digital advertising space, etc., payable to a non-resident (not having a PE in India), is to be deducted by the remitter in India. The levy was introduced to tax digital services rendered by foreign service providers without having a presence in India.

Security Transaction Tax (STT)

STT is levied on various security transactions carried out through a recognised stock exchange in India. A reduced rate of capital gains is prescribed for the transactions which have been subjected to STT.

With effect from 1 September 2019, the Finance (No. 2) Act, 2019 has introduced levy of STT on transactions in respect of sale of options. The STT shall be levied on the difference between the strike price and the settlement price.

Commodities transaction tax (CTT)

CTT is levied along the lines of STT. CTT is levied on taxable commodities traded at recognised associations.

Wealth tax

Wealth tax has been abolished vide the Finance Act, 2015.

Gift tax

India does not levy gift tax under a separate statute. However, certain receipts of sum of money or property (including immovable or movable property, shares and securities etc.) by any person without adequate consideration are taxed as other income in the hands of the recipient. Further, the IT Act seeks to tax share premium received in excess of fair market value in the hands of the issuer of shares.

The Finance [No. 2] Act, 2019 has introduced source-based taxation for gift of money exceeding INR 50,000 on or after 5 July 2019 by a resident to a non resident, not being a company or to a foreign company. Gifts to specified relatives or on the occasion of marriage, etc., shall be exempt from this provision

Estate duty

No estate or death duty is charged.

Computation of business income

Business income is generally taxable on a net basis, i.e., gross income less allowable tax deductions. Expenses laid out and expended for business purposes (other than capital expenses) are deductible from the income of the taxpayer for income-tax purposes. The deductibility is further subject to exceptions and fulfilment of conditions as stated in the Income-tax Act, such as withholding tax.

The following principles are generally applied for examining the admissibility of an expense:

- Expense should be incurred for the business
- Expense should be incurred in the previous year
- Expense should not be of a personal nature
- Expense should be of a revenue nature – expenses of a capital nature are not allowed
- Expense should not be for a purpose prohibited by law

Certain expenses are specifically disallowed or the quantum of deduction is restricted. These include:

- Income-tax
- Expenditure incurred on corporate social responsibility activities

- Expenditure for the purpose of earning exempt income
- Expenses incurred in cash beyond specified limit.
- Provision for taxes, duties, interest on loans from public financial institutions or on term loans from a scheduled bank and certain contributions to statutory funds on behalf of employees, not actually paid. However, such expenditure is deductible in the year in which it is actually paid.

Depreciation of capital assets is allowed on the basis of the reducing balance method using varying rates, depending on the nature of assets. All similar types of assets eligible for the same rate of depreciation are clubbed together in a 'block' and depreciation is charged on the value of that block. Depreciation is available for a full year, irrespective of the actual period of use of the asset. However, in the year of acquisition of the asset, depreciation is allowed at half the normal rates if the asset is used for less than 180 days in that year.

Further, additional depreciation at the rate of 20% in the case of any new plant and machinery (other than ships and aircraft) shall be allowed provided such plant and machinery has been acquired and installed by the assessee engaged in the business of manufacture, production of any article or a thing, or generation or generation and distribution of power.

Depreciation on intangible assets such as know-how, patents, copyrights, trademarks, licences, franchises or other similar business or commercial rights is also available.

The rates of depreciation for different blocks of assets are as follows:

Blocks of assets	Rate
Residential buildings except hotels and boarding houses	5%
Buildings meant for non-residential purposes such as hotels and boarding houses	10%
Furniture and fittings	10%
General plant and machinery	15%
Intangible assets	25%
Computers	40%

ICDS

The central government has notified ICDS, which prescribe the detailed provisions to be applied while computing tax under the heads profits and gains from business and profession and other income. These standards are applicable from FY 2016-17 onwards.

Set-off of business loss and unabsorbed depreciation

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

Key direct tax incentives/tax holidays

India provides various tax incentives in the form of higher deduction/tax exemptions. However, most of the tax incentives are being gradually phased out.

Research and development activities

The IT Act provides for deduction for expenditure incurred on scientific research ranging from 100% to 150% of the amount of expenditure. Most of the weighted deductions will be phased out w.e.f. FY 2020-21.

Patent box regime

- In order to encourage indigenous research and development activities, royalty income of the eligible assessee in respect of a patent developed and registered in India shall be taxable at 10% on the gross amount of royalty.
- An 'eligible assessee' means an Indian resident who is the true and first inventor of the invention and whose name appears on the patent register as the patentee in accordance with the Patents Act, 1970.

Tax incentives for manufacturing companies

- Domestic companies set up on or after 01 March 2016, engaged in the business of manufacture or production of any article/thing, have an option to pay taxes on a lower corporate income tax rate of 25%. The total income of such companies should be computed in the prescribed manner and the company shall not be eligible for any other tax incentives.
- 100% deduction of profits and gains available for 10 consecutive years to any undertaking involved in the manufacture and production of any article/thing located in North-Eastern states (provided the undertaking had commenced manufacturing by 31 March 2017) and carrying on any eligible business.

A deduction of 15% of the cost of certain prescribed assets is provided to assessee engaged in the manufacture or production of any article/thing in any notified backward areas

in the state of Andhra Pradesh, Telangana, Bihar and West Bengal.

Special economic zones

An SEZ is a specifically delineated duty-free enclave deemed to be a foreign territory for purposes of trade operations, duties and tariffs.

The deductions are:

- **To SEZ developers:** 100% of profits and gains derived from developing and maintaining an SEZ for 10 consecutive assessment years out of 15 years commencing from the year in which an SEZ has been notified by the central government. The deduction shall not be available where the development of SEZ begins on or after 01 April 2017.
- **To SEZ units:** For profits and gains derived by a unit set-up in any SEZ that commences the manufacture or production of any article/thing or starts providing services on or before 31 March 2020 as follows:
 - 100% export profits for the first five years
 - 50% of export profits for the next five years
 - Up to 50% of export profits for the next five years (subject to the transfer of profits to a special reserve)

Start-ups

- An eligible start-up can avail 100% deduction of the profits earned in any of the three consecutive years out of the initial seven years of its operations.
- The deduction is, however, available only to a new entity which is not set up by way of splitting up or restructuring of an existing undertaking.
- The start-up should be engaged in a business which involves innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation.
- The start-up should hold a certificate of eligible business from the Inter-Ministerial Board of Certification as prescribed by the Department for Promotion of Industry and Internal Trade (DPIIT).
- Further, the start-up should not have a turnover exceeding USD 3.60 million (INR 250 million) in the year(s) in which deduction is claimed.

Taxation of issue of share by start-ups at a premium

- The IT Act contains provisions for taxation of unlisted companies in respect of issue of shares in excess of the fair market value. The government has notified that these anti-abuse provisions shall not apply for investments made by

resident investors in ‘eligible start-ups’ fulfilling the conditions prescribed by the DPIIT. Accordingly, start-ups with aggregate share capital (including premium) of up to INR 250 million and fulfilling the prescribed conditions have been exempted from these provisions. Further, for claiming the exemption, the start-up is required to file a self-declaration in Form 2 stating that it has fulfilled the prescribed condition and undertakes that it shall not invest funds in the restricted assets for a period of seven years.

- The Finance (No. 2) Act, 2019 has clarified that in case of violation of any of the conditions for claiming exemption, the difference between the consideration and the fair market value shall be taxed as income in the year of violation

Business-specific incentives for capital expenditure

- 100% deduction on capital expenditure is available for the following categories of specified businesses which commence operations on or after specified dates:
 - Laying down or operating cross-country natural gas or crude pipeline
 - Laying down and operating slurry pipeline for transportation of iron ore
 - Setting up and operating semi-conductor and wafer fabrication manufacturing facility
 - Building and operating a hotel of two stars or above
 - Bee-keeping and production of honey and beeswax
 - Setting up and operating an inland container depot or a container freight station
 - Developing or operating and maintaining a new infrastructure facility on or after 1 April 2017
- 150% deduction (restricted to 100% with effect from 01 April 2017) on capital expenditure shall be available for the following categories of specified businesses which commence operations on or after specified dates:
 - Setting up and operating a cold chain facility
 - Setting up and operating a warehousing facility for storage of agricultural produce
 - Building and operating a hospital with at least 100 beds for patients
 - Developing and building a housing project under specific schemes
 - Production of fertiliser

Corporate tax compliance

Withholding tax

The IT Act casts an obligation on each taxpayer to withhold tax on specified payments, including, among others, the following:

- Salaries
- Interest
- Rent
- Commission or brokerage
- Payments to contractors
- Professional/technical fees/royalty
- Consideration payable on transfer of immovable property

All payments to non-residents which are taxable in India attract tax withholding.

Indian tax withholding provisions also extend to payments made by NRs. Thus, in certain situations, an NR making payment to another non-resident/resident is required to undertake tax withholding as per the Indian regulations.

Further, the deductee, i.e., the person whose receipts are subject to tax withholding, needs to disclose his/her Permanent Account Number (PAN). In case the person fails to do so, withholding tax rate would be the higher of the following rates:

- The rate prescribed in the IT Act
- At the rate in force, i.e., the rate mentioned in the Finance Act, 2019
- 20%

However, the increased rate of withholding tax would not trigger for certain payments to NRs not having PAN if the non-resident furnishes the prescribed information.

The person deducting tax is required to file quarterly returns (in the prescribed form depending on the nature of payment) with respect to taxes withheld during the relevant quarter.

Extensive provisions are built in for enforcing compliance with tax withholding obligations. Interest and penalties may be levied in case of non-compliance with withholding tax obligations.

Advance tax

Every taxpayer is required to pay his/her tax liability for the year during the previous year itself in installments prescribed. The tax liability is to be worked out on the basis of an estimate of current year income, and the income tax thereon shall be calculated at the rates in force during the relevant previous year. Interest is levied for non-compliance with advance tax provisions.

Self-assessment tax

Every taxpayer is liable to compute the required tax payable (if any) on the basis of actual income after considering the credit for the advance tax paid and taxes deducted at source. Self-assessment tax is payable before filing the return of income.

Permanent Account Number

Every person (as per the criteria prescribed in the Income-tax Act) is required to make an application for the allotment of tax registration number, termed as PAN.

This number is to be quoted on all tax returns, correspondence with the tax authorities and documents relating to the prescribed categories of transactions. Failure to quote PAN by the income recipient may result in a higher rate of tax withholding.

Non-individual resident persons which enter into a financial transaction amounting to INR 0.25 million or more are also required to obtain PAN. Further, any managing director, director, partner, trustee, principal officer or similar person competent to act on behalf of such non-resident entity is also required to obtain PAN.

Tax Deduction and Collection Account Number (TAN)

Every person responsible for withholding tax in accordance with the provisions of the Income-tax Act is required to make an application for the allotment of withholding tax registration number which is called the TAN. The application is to be made within one month from the end of the month in which the tax is deducted.

Recently, the requirement for obtaining PAN and TAN has been eased for corporate assesseees. A common application may be submitted by the company for incorporation, PAN and TAN through the MCA portal.

Tax return filing

All taxpayers being companies and firms are required to file a return of income for the previous year within the prescribed due dates. Persons other than companies or firms are required to file tax returns where the total income during the year is above the basic exemption limits.

However, NRs earning only interest and dividend income are not required to file a return of income in India if tax has been withheld on such income.

Different due dates have been prescribed for filing tax return under the IT Act, which are as below:

In case of:

Taxpayer	Tax filing due date
<ul style="list-style-type: none">a companya person (other than a company) whose accounts are required to be audited under the Income-tax Act or under any other law in force during the perioda working partner of a firm whose accounts are required to be audited under the Income-tax Act or under any other law in force during the period	30th day of September of the assessment year
<ul style="list-style-type: none">a taxpayer who is required to file an accountant's report under the transfer pricing regulations	30th day of November of the assessment year
<ul style="list-style-type: none">any other assessee	31st day of July of the assessment year

The Finance (No. 2) Act, 2019 has introduced the following additional categories of persons (other than companies or firms) who are required to file tax return:

- Has deposited amounts more than INR 10 million in one or more current accounts maintained with banks or co-operative banks, or
- has incurred expenditure exceeding INR 0.20 million for self/ any other person for travel to a foreign country, or
- has incurred expenditure exceeding INR 0.10 towards consumption of electricity, or
- fulfils any other such conditions as may be prescribed

A maximum fees of INR 10,000 (USD 144) is prescribed where return of income is filed after prescribed due dates. Further, interest at the rate of 1% on the amount of tax on total income is prescribed for every month of default in furnishing the return of income.

General Anti-Avoidance Rules (GAAR)

To control an impermissible avoidance arrangement entered into by a person to avoid taxes, the provisions of GAAR have been introduced in India. An arrangement would be considered an IAA where its main purpose is to obtain a tax benefit and it meets one of the other four tainted element tests.

However, GAAR provisions will not apply to an IAA where the tax benefit arising in aggregate does not exceed INR 30 million (USD 0.43 million).

GAAR deals with aggressive tax planning involving the use of sophisticated structures. The provisions of GAAR are effective 01 April 2017.

Direct tax enforcement in India



*AO can make a reference to the transfer pricing officer (TPO) for transfer pricing (TP) audit. The TPO completes TP audit on receipt of reference from AO and forwards the TPO order to the AO for merging it with the assessment order on completion of the audit of return of income.

It takes about 21 to 33 months from the end of the assessment year to complete an audit (depending upon whether a reference is made to TPO). This period is proposed to be gradually reduced to 12 months over the next three years.

E-assessment

Initially, the central government had introduced e-assessment procedures in 2016 on a pilot basis, which was further extended

in 2017. As a part of this pilot, the revenue authorities have been issuing e-notices for scrutiny assessments to the assesseees.

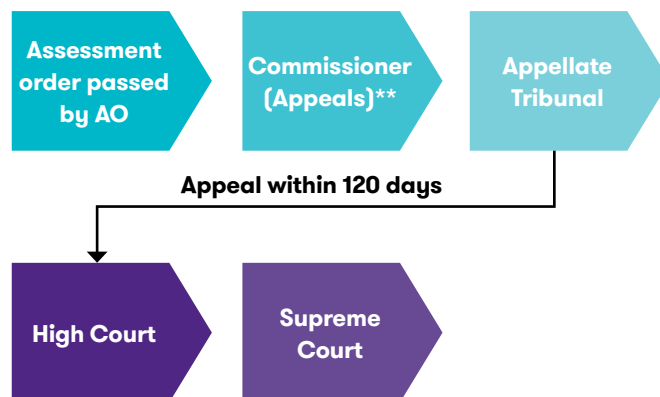
Subsequently, the Finance Act, 2018 amended the IT Act to enable the central government to notify a new e-assessment scheme for scrutiny assessments to be carried out without any personal interface between the taxpayer and the revenue authorities.

Faceless e-assessment

The Finance (No. 2) Act, 2019 had announced digitisation of compliances and assessments to be launched in a phased manner. The process of assessments shall be carried out electronically by randomly allocated officers, thereby minimising human intervention.

Direct tax dispute resolution process

Dispute resolution is a multi-layered process in India.



**Alternatively, application may be filed with the dispute resolution panel objecting to variations proposed by the AO to the income of the taxpayer.

The entire litigation, till the Supreme Court level, generally gets settled over a period of 10 years.

Other alternatives to resolve tax litigation

- Settlement commission
- Advance ruling for transactions (including proposed ones) involving non-residents and certain residents.
- MAP: An alternate mechanism under tax treaties for resolving international tax disputes by the competent authorities of each state.

Indirect tax

India embarked on the GST journey on 1 July 2017, and the journey has been both challenging and exciting. GST has addressed issues relating to classification, input tax credit restrictions, manual compliances, check-post barriers, etc. Although challenges exist on certain aspects, this endeavour by the Government of India will further improve ease of doing business. The key indirect taxes applicable in the country are:

- **GST** – Tax on supplies of goods and services
- **Customs Duty** – Duty imposed on import or export of goods
- **Professional Tax** – Tax on professions, trades and employments

GST

The nation's biggest tax reform – GST – aims to mitigate the cascading or double taxation by way of a single point taxation system with free flow of input credits.

Scope of GST

GST is to be levied on supply of all goods and services except the supply of alcohol for human consumption. Levy of GST on petroleum crude, high-speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel has been postponed and to be notified by the government at a later date.

Dual structure levy

GST is a dual structure wherein both centre and states/union territories have the power to levy the tax on supplies on goods and services. The dual levy structure will be as under:

- Central Goods and Services Tax (CGST) to be levied by the centre and State Goods and Services Tax (SGST)/Union Territory Goods and Services Tax (UTGST) to be levied by

respective states/union territories on all supplies within a state/union territory.

- Integrated Goods and Services Tax (IGST) to be levied by the centre on all supplies between the two different states/union territories. Further, IGST is also to be levied on export/import of goods or services from/to India.
- Compensation Cess (Cess) to be levied on specified supplies to compensate the states for the loss of revenue on account of implementation of GST.

Nature of supply

Levy of CGST and SGST/UTGST or IGST will depend upon the nature of supply. Separate provisions for goods and services have been incorporated under GST law to identify the nature of supply. Location of supplier and the place of supply of goods or services are the two factors to determine the nature of supply.

- Intra-state supply: Location of supplier and place of supply

of goods or services are within the same state/union territory.

- Inter-state supply: Location of supplier and place of supply of goods or services are with different states/union territory.

Point of levy under GST

The earlier indirect taxes prevailing in India entailed multiple points of levy. For instance, excise duty was levied on the manufacture of goods, service tax was levied on the provision of taxable services and VAT was levied on the sale of goods.

The triggering point for levy of GST is the supply. Provisions for determining the time of supply have been provided, in respect of both goods and services. Hence, the tax incidence would be at the 'time of supply' as against the multiple points of levy under the earlier regime.

Tax rates under GST

All goods and services are fitted into a four-tier rate structure of 5%, 12%, 18% and 28%. While essential items like food grains attract a zero rate, demerit and luxury goods attract the highest rate and may attract cess also.

Anti-profiteering

To safeguard the consumers, anti-profiteering provisions have been incorporated under GST, casting responsibilities on the suppliers to reduce the prices of goods and services on account of benefit of reduced tax rate or availability of input tax credits. Suppliers not complying with the anti-profiteering provisions are liable for penal consequences and also cancellation of registration under GST. The National Anti-Profiteering Authority had issued final orders in 73 cases till July 2019.

GST Council

The GST Council has been formed for providing recommendations to the government on various GST-related aspects inter alia including:

- Rationalisation of tax rates
- Simplification of compliances and extension of due dates from time to time
- Introduction of nationwide e-way bill mechanism
- Addressing sector-specific issues and formation of GoM to analyse/provide recommendation in relation thereto.

Formation of GoM

On the recommendation of the GST Council, a GoM has been formed to analyse/study tax rates, issues and challenges and provide suitable recommendations on:

- GST revenue trends
- MSME sector
- Real estate sector
- Lotteries

Advance rulings under GST regime

As per the provisions of GST law, an advance ruling can be obtained by an applicant on various issues/aspects inter alia including registration, classification, tax rate, input tax credit, taxability etc. An application for advance ruling needs to be filed with the State Authority for Advance Ruling. The AAR comprises one member from Central GST and one member from State GST appointed by the central and state government respectively. Any person aggrieved by the order of AAR has the right to appeal to the Appellate Authority for Advance Ruling (AAAR).

Even though advance rulings are binding only on the applicant and on the jurisdictional tax authorities, they act as a guiding tool for other taxpayers with similar issues.

Approval for formation of GSTAT

The government in January 2019 approved the creation of National Bench of the Goods and Services Tax Appellate Tribunal (GSTAT) as the forum of second appeal in GST law and the first common forum for dispute resolution between the centre and states. The appeal against the orders in first appeals issued by the Appellate Authorities under the Central and State GST Acts shall lie before the GSTAT. Being a common forum, GSTAT will ensure that there is uniformity in the redressal of disputes arising under GST.

Constitution of National Appellate Authority

The government has announced the constitution of the National Appellate Authority for Advance Ruling. It will take up appeals against conflicting advance rulings on similar issues pronounced by two or more existing appellate authorities.

Legacy Dispute Resolution cum amnesty Scheme

A Legacy Dispute Resolution cum amnesty Scheme called the 'Sabka Vishwas Legacy Dispute Resolution Scheme, 2019' has been introduced to allow resolution/settlement of legacy cases under the erstwhile Central Excise and Service Tax regime. The scheme shall come into with effect from 1 September 2019.

Customs duty

Customs duty, a federal government levy is, leviable on import/export of goods to/from India. The taxable event for levy is import/export, and import/export duty is payable at the time of import/export of goods to/from India.

India follows the Harmonised System of Nomenclature (HSN) classification rules, and the goods are classified under different chapter/tariff headings, primarily according to their description, components and use. The duties or taxes applicable on import shall comprise:

- Basic customs duty – BCD (standard rate of 10%)
- Customs cess (leviable on component of BCD at 3%)
- IGST at 18% (leviable on total value of BCD plus customs cess)

Currently, the effective standard rate of customs duty that is applicable on the import of goods is approximately around 30.15% with input tax credit of IGST, subject to exemption/concession as may be available/notified from time to time and Free Trade Agreements entered into by India with other countries. However, currently, there is no export duty leviable

on goods exported from India, except for a few goods such as minerals (which are scarcely available).

Professional tax

Professional tax is levied by the state on professions, trades, or employment in a state. Thus, every person who is engaged in any of the activities mentioned above is liable to pay professional tax. Not all the state governments currently levy professional tax. In states where such a levy exists, every enterprise and employee earning a salary is required to register and pay professional tax.

Transfer pricing in India

Background

Globalisation and increased integration between economies worldwide have paved the way for global business operations and subsequently complex inter-company transactions. These transactions could lead to base erosion and shifting of profits to opaque tax jurisdictions. Therefore, transfer pricing is under constant scrutiny of tax authorities globally.

Indian Transfer Pricing Regulations (TP Regulations) were introduced in India in 2001 to avoid shifting of profits from India to another jurisdiction due to international transactions with related parties, i.e., Associated Enterprise(s) (AEs). Further, the scope of TP Regulations was extended to include specified domestic transactions (SDTs) with effect from 2012.

Legislation

As per TP Regulations, international transactions and SDTs between AEs should comply with the arm's length principal, i.e., a price which is applied or proposed to be applied in a transaction between persons other than AEs in uncontrolled conditions.

International transaction

The IT Act defines the term 'international transaction' as a transaction between two or more AEs, either or both of whom are non-residents, in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, financing or any other transaction having a bearing on the profits, income, losses or assets of such enterprises or any cost contribution agreement.

Further the definition of 'international transaction' also includes 'deemed international transaction', which means that a transaction entered into by an enterprise with a person other than an AE (whether resident or non-resident) shall be deemed as an international transaction, if:

- there exists a prior agreement between such other person and the AE, or
- the terms of such a transaction are, in substance, determined between such other person and the AE

SDTs

TP provisions were also introduced for SDT to curb the shift of profits between resident entities. The nature of transaction includes transaction entered into with entities/within business units claiming tax exemptions. SDT provisions are applicable where the aggregate of such transactions exceeds a sum of INR 200 million (USD 3 million) in a year.

AEs

In the TP Regulations, the definition of AEs is broadly similar to the definition in the Organisation for Economic Co-operation and Development (OECD) TP Guidelines. AEs in relation to another enterprise mean an enterprise:

- which participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise, and
- in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.

Further, the Act prescribes 13 situations where two or more enterprises are considered as AEs.

AEs for the purpose of SDT are any entities closely connected to entities claiming certain specified tax holidays/exemptions benefit.

Methodologies

The Arm's length price (ALP) in relation to an international transaction and SDT is required to be determined by any of the following methods:

- Comparable uncontrolled price method
- Resale price method
- Cost plus method
- Profit split method
- Transactional net margin method
- Any other method as prescribed

The TP Regulations do not prescribe any priority criteria in terms of selection/application of methods.

ALP

ALP means the price charged or which would have been charged for a transaction between independent parties under similar situations. The TP Regulation prescribes the use of either the range concept (35th to 65th percentile) or arithmetic mean depending on the method applied and number of comparables selected.

Compliance requirement

Compliance requirement	Due date of submission
Obtain accountant's report in Form 3CEB Accountant's report is a brief summary of international transaction(s) and SDT along with the method used to justify the arm's length nature. This document is to be certified by a Chartered Accountant or a firm of Chartered Accountants	30 November of each assessment year for international transactions or SDT undertaken during the relevant financial year (April – March)
TP documentation (TP study) TP study is a detailed documentation (requirements are in line with the OECD guidelines) relating to international transaction(s) or SDT which is used to justify their arm's length nature. This documentation is to be maintained, and updated on an annual basis, if the aggregate value of the international transaction(s) entered into the enterprise exceeds INR 10 million (USD 0.1 million)	Enterprise is required to maintain contemporaneous documentation and needs to submit documentation on request by the Income Tax Department

Country-by-Country (CbC) reporting

In order to meet the commitment to Base Erosion and Profit Shifting (BEPS) initiative of G-20 and the OECD, a new section has been inserted in the Act which mandates the requirement of CbC reporting in line with Action 13 of the BEPS action plans.

These regulations require an Indian entity which is part of a multinational enterprise (MNE) group to maintain the following group information by way of three files (in addition to the information already required in relation to international transactions):

- Master file (MF)
- Local file
- CbC Reporting (CbCR) is required to be filed by the parent entity of an MNE group with annual consolidated group revenue in the immediately preceding accounting year of more than INR 55 billion (€ 750 million/USD 830.50 million)

The MF and CbCR (as applicable) are required to be filed by 31 March each year.

Secondary adjustment

The concept of secondary adjustment was introduced in India in 2017 and is applicable in respect of income of FY 2016-17 and onwards or if the amount of primary adjustment exceeds INR 10 million (€123,000/USD 140,000).

A secondary TP adjustment is required where a primary adjustment to the transfer price occurs in one of the following circumstances:

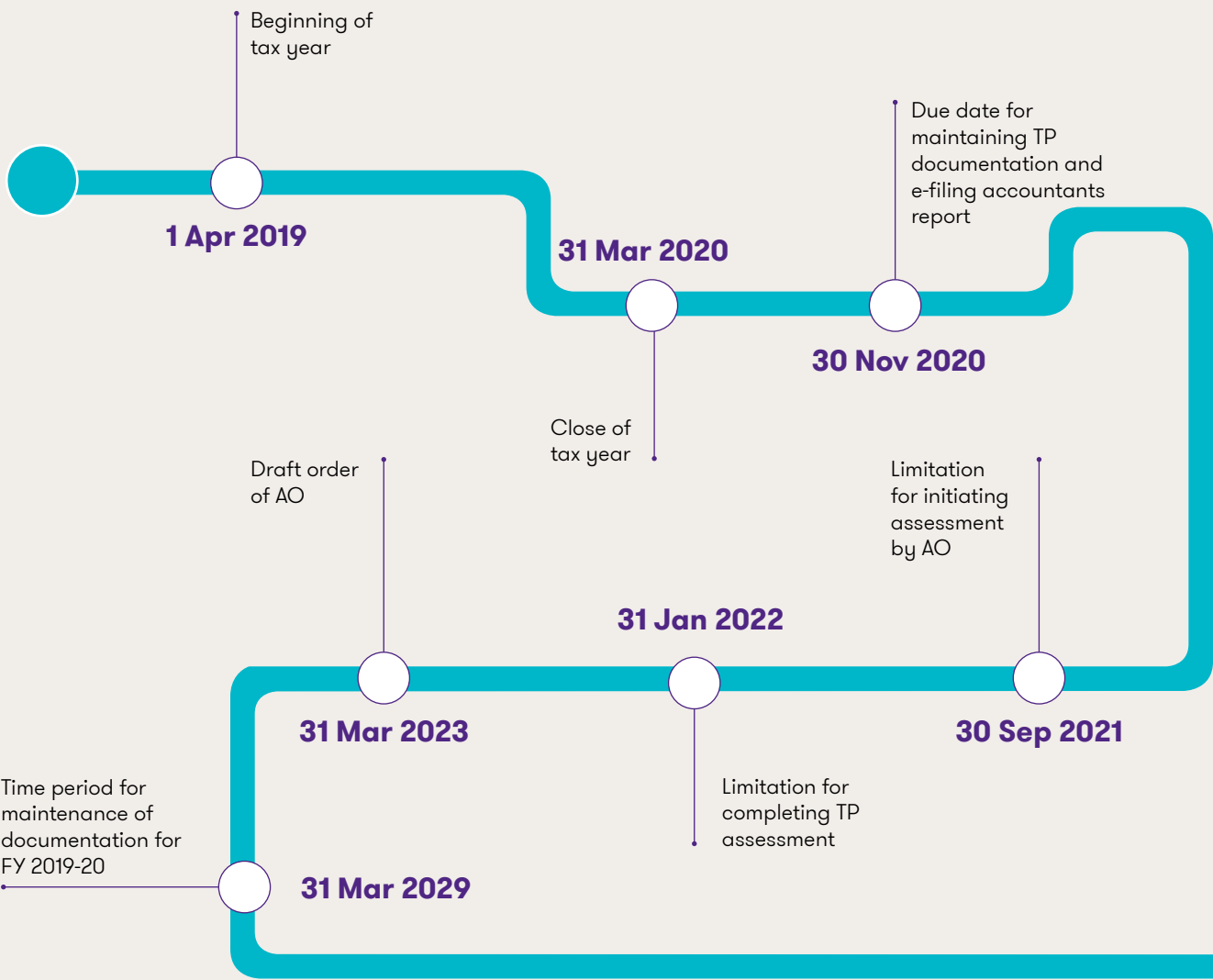
- Voluntarily made by the taxpayer in the tax return
- Made by the tax officer and accepted by the taxpayer
- Determined by an Advance Pricing Agreement (APA) entered into by the taxpayer on or before 1 April 2017
- Made as per the safe harbour rules
- Resulted from a MAP resolution

Therefore, secondary adjustment is an adjustment in the books of accounts of both the taxpayer and the AE to reflect that the actual allocation of profits between the taxpayer and its associated enterprise is consistent with the ALP.

The Finance (No. 2) Act 2019 has further provided that a taxpayer would have an option to either pay 18% tax on the secondary adjustment amount or have the same repatriated from any non-resident AE.

Note: The Indian Income-tax Act defines 'primary adjustment' to a transfer price as the determination of transfer price in accordance with the arm's length principle resulting in an increase in the total income or reduction in the loss, as the case may be, of the assessee.

Compliance timeline



Safe harbour rules

‘Safe harbour’ is defined as the circumstances in which the income-tax authorities shall accept the transfer price that is declared by the assessee. Safe harbour rules are effective in India from the financial year 2012-13 and are available for a period of three years. At present, safe harbour rules have been prescribed for the following transactions:

- Provision of software development services
- Provision of IT-enabled services
- Providing corporate guarantee
- Contract R&D services relating to software development
- Manufacture and export of core auto components
- Manufacture and export of non-core auto components
- Low value adding intra-group services

Penalty provisions

Penalty provisions for the following non-compliances have been prescribed by the IT Act:

- Underreporting and misreporting of income
- Failure to maintain statutory TP documents
- Failure to report a transaction in the accountant’s report
- Failure to furnish Master File
- Failure to furnish the accountant’s report

TP audit

TP audit is conducted by the TPO, a specialised officer from the Revenue Department. If the regular AO of a taxpayer considers it necessary or expedient so to do, he/she may, with the previous approval of the Commissioner, refer to the computation of the ALP in relation to the international transactions or SDT of the taxpayer to the TPO.

The taxpayer has the option of approaching the dispute resolution panel or filing appeal before the Commissioner of Income-tax (Appeals).

APA

The APA programme was introduced in the Indian TP Regulations in 2012. Under the APA scheme available from

FY 2013-14, any person can enter into an agreement with the CBDT after the approval of the central government, for determining the ALP or for specifying the manner in which the ALP is to be determined in relation to an international transaction to be entered into by that person.

An APA can be entered in relation to an international transaction only. The APA can be unilateral, bilateral or multilateral.

In 2014, roll-back provisions were introduced in the Indian APA scheme, which enable persons entering into an APA to roll back the results of the APA to a period not exceeding four preceding years from the year from which the APA is proposed to be applicable.

MAP

In order to avoid double taxation, MAP has proved to be an effective method where the revenue authorities of two different nations try to resolve a dispute together.

Under MAP, an agreement which seeks to avoid economic double taxation or conflicting taxation would be reached between the tax authorities. Also, under MAP, disputes are resolved through competent authorities of the contracting states.

Safe harbour rules and APA are dispute-avoidance mechanisms and MAP is a dispute-resolution mechanism.

Glossary of abbreviations

AAAR	Appellate Authority for Advance Ruling	Ind AS	Indian Accounting Standards
AD:	Authorised dealer	InVIT:	Infrastructure Investment Trust
AE	Associated enterprise	IRDAI	Insurance Regulatory and Development Authority of India
AGM	Annual general meeting	IT & ITeS:	Information technology and information technology enabled services
AIF:	Alternate investment fund	IT Act:	Income-tax Act, 1961
AJP	Artificial juridical person	KYC:	Know your customer
ALP:	Arm's length price	LLP	Limited liability partnership
AMT:	Alternate minimum tax	LO:	Liaison office
AO:	Assessing officer	LTCG:	Long-term capital gain
AOP	Association of persons	MAT:	Minimum alternate tax
APA:	Advance pricing agreement	MCA	Ministry of Corporate Affairs
ARC:	Asset reconstruction company	MDR:	Merchant discount rate
AUM	Asset under management	MFI:	Micro-finance institutions
BCD:	Basic customs duty	MSME	Micro, small and medium enterprises
BEPS:	Base erosion and profit shifting	MNE	Multinational enterprise
BO:	Branch office	NAM:	National Agriculture Market
BOI	Body of individuals	NBFC:	Non-banking financial company
CAGR:	Compounded annual growth rate	NFRA	National Financial Reporting Authority
CbC:	Country-by-Country	NHB:	National Housing Bank
CbCR	CbC Reporting	NOF:	Net owned funds
CBDT:	Central Board of Direct Taxes	OCI:	Overseas Citizen of India
CGST:	Central Goods and Services Tax	OECD:	Organisation for Economic Co-operation and Development
CTI:	Commodities transaction tax	OEM:	Original equipment manufacturer
DDT:	Dividend distribution tax	PAN:	Permanent Account Number
DPIIT:	Department for Promotion of Industry and Internal Trade	PE:	Permanent establishment
ECB:	External commercial borrowing	PFRDA	Pension Fund Regulatory and Development Authority
EPFO	Employees' Provident Fund Organisation	PMJDY:	Pradhan Mantri Jan-Dhan Yojana
EV	Electric vehicle	PMKVY:	Pradhan Mantri Kaushal Vikas Yojana
FAME	Faster Adoption and Manufacturing of (Hybrid & Electric Vehicles	PoEM	Place of effective management
FCRA:	Foreign Contribution (Regulation) Act 2010	PSB:	Public sector bank
FDI:	Foreign direct investment	RBI:	Reserve Bank of India
FEMA:	Foreign Exchange Management Act 1999	REIT:	Real Estate Investment Trust
FIPB:	Foreign Investment Promotion Board	RERA:	Real Estate Regulation Authority
FMCG:	Fast-moving consumer goods	SDT:	Specified domestic transaction
FPI:	Foreign portfolio investor	SEBI:	Securities and Exchange Board of India
FRRO	Foreigners Regional Registration Officer	SEZ:	Special economic zone
FTS:	Fees for technical services	SGST:	State Goods and Services Tax
GAAR:	General Anti-Avoidance Rules	SPV:	Special purpose vehicle
GDP:	Gross domestic product	STCG:	Short-term capital gain
GIFT City	Gujarat International Finance Tec-City	STT:	Security transaction tax
GoM:	Group of Ministers	TAN:	Tax Deduction and Collection Account Number
GST:	Goods and Services Tax	TP:	Transfer pricing
GSTAT:	Goods and Services Tax Appellate Tribunal	TPO:	Transfer pricing officer
HFC:	Housing finance company	UTGST:	Union Territory Goods and Services Tax
HSN:	Harmonised System of Nomenclature	VR:	Virtual reality
IBC:	Insolvency and Bankruptcy Code	WLA:	White label automated teller machine
ICAI	Institute of Chartered Accountants of India	XBRL	eXtensible Business Reporting Language
ICDS:	Income Computation and Disclosure Standards	ZCB:	Zero coupon bond
IFRS	International Financial Reporting Standards		
IFSC:	International Financial Services Centre		
IGST:	Integrated Goods and Services Tax		
IMF:	International Monetary Fund		

Acknowledgements

Editorial review

Tanmay Mathur

Design

Gurpreet Singh

For media queries, please contact:

Spriha Jayati

E Spriha.Jayati@in.gt.com

M +91 93237 44249



Grant Thornton in India

Grant Thornton in India is a member of Grant Thornton International Ltd. It has 4,500+ people across 15 offices around the country, including major metros. Grant Thornton in India is at the forefront of helping reshape the values in our profession and in the process help shape a more vibrant Indian economy. Grant Thornton in India aims to be the most promoted firm in providing robust compliance services to dynamic Indian global companies, and to help them navigate the challenges of growth as they globalise. Firm's proactive teams, led by accessible and approachable partners, use insights, experience and instinct to understand complex issues for privately owned, publicly listed and public sector clients, and help them find growth solutions.



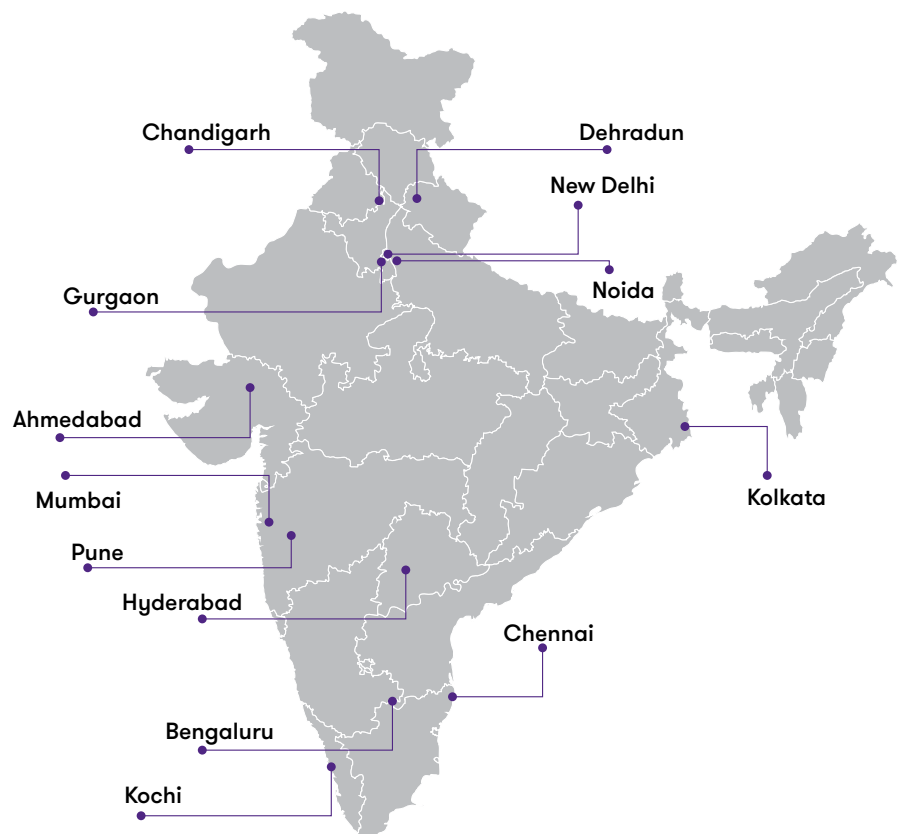
4,500+
people



15 offices in
13 locations



One of the largest
fully integrated
Assurance, Tax &
Advisory firms in India



About Grant Thornton International Ltd.

Grant Thornton is one of the world's leading organisations of independent assurance, tax and advisory firms. We help dynamic organisations unlock their potential for growth by providing meaningful, forward-looking advice. Proactive teams, led by approachable partners, use insights, experience and instinct to understand complex issues for privately owned, publicly listed and public sector clients and help them to find solutions. More than 53,000 Grant Thornton people in over 135 countries are focused on making a difference to the clients, colleagues and the communities in which we live and work.



Notes

Notes

Contact us

To know more, please visit www.grantthornton.in or contact any of our offices as mentioned below:

NEW DELHI

National Office
Outer Circle
L 41 Connaught Circus
New Delhi 110001
T +91 11 4278 7070

NEW DELHI

6th floor
Worldmark 2
Aerocity
New Delhi 110037
T +91 11 4952 7400

AHMEDABAD

7th Floor,
Heritage Chambers,
Nr. Azad Society,
Nehru Nagar,
Ahmedabad - 380015

BENGALURU

5th Floor, 65/2, Block A,
Bagmane Tridib, Bagmane
Tech Park, C V Raman Nagar,
Bengaluru - 560093
T +91 80 4243 0700

CHANDIGARH

B-406A, 4th Floor
L&T Elante Office Building
Industrial Area Phase I
Chandigarh 160002
T +91 172 4338 000

CHENNAI

7th Floor,
Prestige Polygon
471, Anna Salai, Teynampet
Chennai - 600 018
T +91 44 4294 0000

DEHRADUN

Suite no. 2211, 2nd floor Building
2000, Michigan Avenue,
Doon Express Business Park
Subhash Nagar, Dehradun - 248002
T +91 135 2646 500

GURGAON

21st Floor, DLF Square
Jacaranda Marg
DLF Phase II
Gurgaon 122002
T +91 124 462 8000

HYDERABAD

7th Floor, Block III
White House
Kundan Bagh, Begumpet
Hyderabad 500016
T +91 40 6630 8200

KOCHI

6th Floor, Modayil Centre point
Warriam road junction
M. G. Road
Kochi 682016
T +91 484 406 4541

KOLKATA

10C Hungerford Street
5th Floor
Kolkata 700017
T +91 33 4050 8000

MUMBAI

16th Floor, Tower II
Indiabulls Finance Centre
SB Marg, Elphinstone (W)
Mumbai 400013
T +91 22 6626 2600

MUMBAI

9th Floor, Classic Pentagon
Nr Bisleri factory, Western
Express Highway, Andheri (E)
Mumbai 400099
T +91 22 6176 7800

NOIDA

Plot No. 19A,
7th Floor
Sector - 16A
Noida 201301
T +91 120 485 5900

PUNE

3rd Floor, Unit No 309 to 312
West Wing, Nyati Unitree
Nagar Road, Yerwada
Pune- 411006
T +91 20 6744 8800

For more information or for any queries, write to us at contact@in.gt.com



Follow us @GrantThorntonIN

© 2019 Grant Thornton India LLP. All rights reserved.

"Grant Thornton in India" means Grant Thornton India LLP, a member firm within Grant Thornton International Ltd, and those legal entities which are its related parties as defined by the Companies Act, 2013.

Grant Thornton India LLP is registered with limited liability with identity number AAA-7677 and has its registered office at L-41 Connaught Circus, New Delhi, 110001.

References to Grant Thornton are to Grant Thornton International Ltd (Grant Thornton International) or its member firms. Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered independently by the member firms.