Grant Thornton
Bharat

Guide to establishing presence in India

September 2020

Contents

About the guide

This guide explains the basics of entity establishment, sources of finance, import-export, labour regulations, financial reporting, audit regime, annual compliances, taxation laws and other compliances in the dynamic Indian market. It is intended to serve as a primer and provide a broad overview to a person planning to establish business in India as well as tap into significant opportunities in various sectors. The guide is updated with regulations as on 1 September 2020.

Disclaimer

The guide is not a substitute for professional advice. We recommend that appropriate professional advice is taken for specific requirements.

Foreword

India's young and educated population, growing and aspirational middle class, huge push on infrastructure development and focus on making policy regime more investor friendly are the right ingredients to propel growth.

India has emerged as one of the fastest growing large economies in the world. Despite the recent contraction in GDP, largely due to COVID-19, the fundamentals of the Indian economy suggest promising long-term growth.

FDI in India grew by 18% to a record of USD 73.5 billion (including reinvestment) in the financial year ending 31 March 2020, again depicting investor's confidence in the country.

With several pathbreaking structural reforms in the past few years, India is currently ranked 63 amongst 190 economies, in the ease of doing business. The country has seen a steady rise in its ranking in the last five years – it moved up 79 places from being ranked at 142 in 2015 to 63 in 2020.

In the recent past, the government had announced major tax reforms in the form of reduction in the effective corporate tax rate to 25.17% for most businesses. Further, corporate tax rate for new manufacturing businesses has been reduced to 17.16%, making it one of the most competitive tax rates among large economies.

India's young and educated population, growing and aspirational middle class, huge push on infrastructure development and focus on making policy regime more investor friendly, coupled with the government's vision to make India a USD 5 trillion economy by 2024, are the right ingredients to propel growth.

At Grant Thornton Bharat, we are delighted to be at the forefront of helping shape a more Vibrant Bharat by working with the government, leaders of India Inc. and global companies.

Vishesh C. Chandiok
Chief Executive Officer
Grant Thornton Bharat LLP

About India

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 with non-Asian countries
- Favourable geographical location, which makes India closer to markets, including the Middle East, South Asia, Southeast 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

"With a population of more than 1.2 billion, India is the world's largest democracy. Over the past decade, the country's integration into the global economy has been accompanied by economic growth. India has now emerged as a global player."

- The World Bank in India

Country profile

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 Strait 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 1.366 billion[1]. 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. The standard of living in metropolitan cities of the country is comparable to the best in other developing nations.

1. World Bank, 2019 data

Diversity

India is rich in history, culture, religion and diversity. There are 22 officially recognised languages spoken in the country across its 28 states and eight UTs. India is secular through its constitution with people from all faiths residing here, including Hindus, Muslims, Sikhs, Christians, Buddhists, Zoroastrians, Judaists and Jains, amongst others.

Education

The education system in India is considered as one of the best globally. The system has been build on public and private schools, universities and other institutions for higher learning. In 2018, the literacy rate in India was about 74.4%.

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 IITs and IIMs are recognised world-over as the premier higher educational institutions. The recently approved New Education Policy 2020 is expected to usher in education reforms and fast-track India's journey towards becoming a knowledge superpower.

Currency

The 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 FBIL reference rate for INR to USD 1 is 73.3528 (28 August 2020).

Key statistics

India's economic policies are designed to attract significant capital inflows 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.

Population
1.366 billion

Area
3.29 million square kilometres

GDP (nominal PPP*)[3]
USD 2.94 trillion

GDP per capita (nominal PPP)[4]
USD 2,170

Exports[5] (April 2019 to March 2020)
USD 313.2 billion

Imports[5] (April 2019 to March 2020)
USD 474 billion

Literacy rate
74.4%

Life expectancy
69.5 years[6]

Urban population
35%[7]

Local currency
INR

* Purchasing power parity

2. Statista

3. Provisional Estimates of Annual National Income, 2019-20 and Quarterly Estimates (q4) of Gross Domestic Product, 2019-20 (29 May 2020) - https://pib.gov.in/PressReleseDetailm.aspx?PRID=1627671

4. CSO

5. https://commerce-app.gov.in/eidb/iecnttopn.asp

6. 2018 – World Bank

7. Worldometer

Political and legal system

Structure of government

India is a sovereign secular democratic republic with the largest multi-party democracy in the world. The Parliament of the Union consists of two legislative houses:

- the Rajya Sabha (Upper House), which represents the states of the Indian Union, and
- the Lok Sabha (Lower House), which represents the people of India as a whole.

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 the Indian state and the chief minister is the head of the elected government in the state. Elections for the states are held every five years.

New Delhi is the national capital of India and the seat of the central government.

India is the largest democracy in the world. It is estimated that the country today has more than 200 political parties. 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 BJP, and United Progressive Alliance, a coalition led by the INC.

The country's general elections are held once in five years. The election result determines which political party or alliance will form the next government and the individual who will be elected as the prime minister of the country.

Judiciary and law

India has a well-established, independent judicial system, which comprises the Supreme Court of India based in New Delhi, 25 high courts spread across the major states and several district courts and subordinate courts. The Supreme Court is the apex court of the country, and its decisions are binding on all other courts of all the states and UTs.

India also has quasi-judicial authorities, consumer courts, Competition Commission, etc. The country has a framework of Tribunals and Appellate Tribunals to adjudicate on specific economic matters, e.g., ITAT, NCLT, etc.

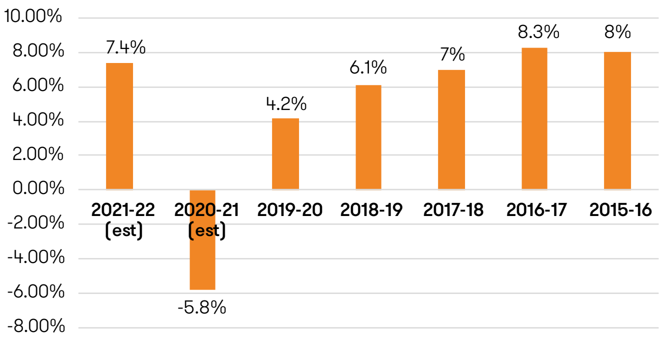
Key economic indicators

GDP and key fiscal indicators

- India's GDP growth rate stood at 4.2% in FY 2019-20.[8]
- With an average growth of 7.5% from 2014 to 2019, 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.[9]
- The COVID-19 pandemic has significantly affected India's growth projections. The IMF slashed India's growth estimate for FY 21 to 1.9% from 5.8% estimated in January 2020.

4.2% growth rate in FY 2019-20 - IMF

GDP growth rate at constant prices[10]



External factor and per capita national income[11]

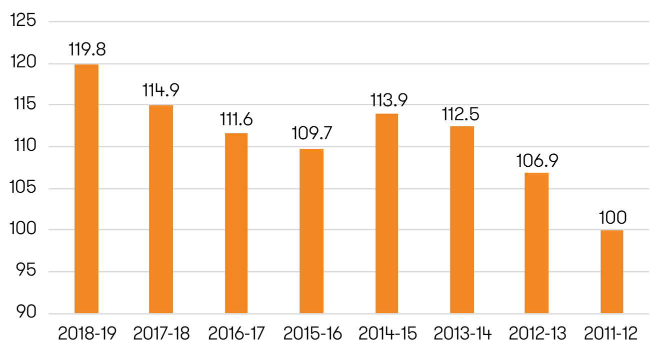
- Exports during April-March 2019-20 are at USD 313.2 billion whereas imports during April-March 2019-2020 are at USD 474 billion.
- According to First Advance Estimates provided by the CSO, in real term (at 2011-12 prices) during 2019-20, the per capita income is likely to attain a level of USD 1,311.41 as compared with USD 1257.10 for the year 2018-19. The growth rate in per capita income is estimated at 4.3% during 2019-20, as against 5.6% in the previous year.

Money and credit

- Indian foreign exchange reserve touched USD 477.81 billion by end of March 2020. Foreign currency assets, which form a majority of the country's foreign exchange reserves, stood at USD 442.21 billion, while gold reserves stood at USD 30.58 billion by end of March 2020.[12]

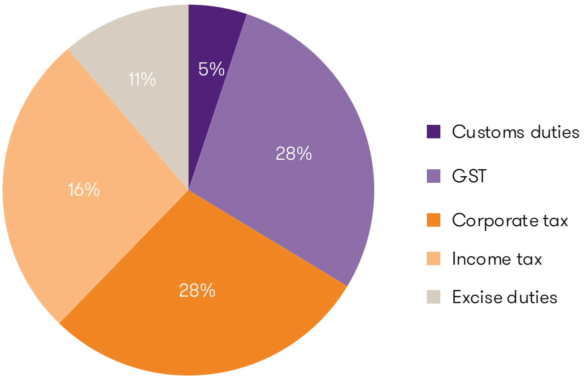
- FDI equity inflows in India stood at USD 73.5 billion (including reinvestment) in 2019-20. Data for 2019-20 indicates that the service sector attracted the highest FDI equity inflow, followed by computer software and hardware, telecommunications and trading.[13,14]

Wholesale price index[15]: Base year 2011-12



8. http://www.mospi.gov.in/
9. pib.gov.in, IMF Database
10. Survey of Professional Forecasters on Macroeconomic Indicators– Results of the 65th Round - www.rbi.org.in; Annual and Quarterly Estimates of GDP at constant prices, 2011-12 series - mospi.nic.in/data
11. pib.gov.in
12. pib.gov.in
13. dipp.gov.in
14. https://www.ibef.org/economy/foreign-direct-investment.aspx and https://dipp.gov.in/sites/default/files/FDI_Factsheet_March20_28May_2020.pdf
15. https://eaindustry.nic.in/display_data_201112.asp

Share of major tax revenue in FY 2020-21 (Budgeted estimates)



Atmanirbhar Bharat Abhiyan: Making the country self-reliant

On 12 May 2020, the Indian Prime Minister Narendra Modi announced a stimulus package of USD 266 billion (equivalent to 10% of India's GDP) with the aim of making the country self-reliant during and after the COVID-19 pandemic. The package also aims to empower the poor, labourers and migrants, who have been worst hit. Following this announcement, Finance Minister Nirmala Sitharaman announced the detailed measures under the package. Some of the key announcement under the scheme are:

- Privatisation of public sector enterprises, increasing the government's borrowing limits.
- Measures for boosting business including collateral-free loan for businesses fulfilling specified conditions, setting up of a corpus for MSMEs, amendments in the definition of MSMEs, etc.
- Concessional credit boost to farmers, setting up of Agri Infrastructure Fund, providing emergency working to farmers, agriculture marketing reforms, etc.
- Increasing FDI limit in defence manufacturing under automatic route from 49% to 74%. To improve the country's production capability, a list of banned weapons/platforms for import to be drawn up based on a year-wise timeline.
- Liquidity support for discoms and infrastructure development for evacuation of coal.

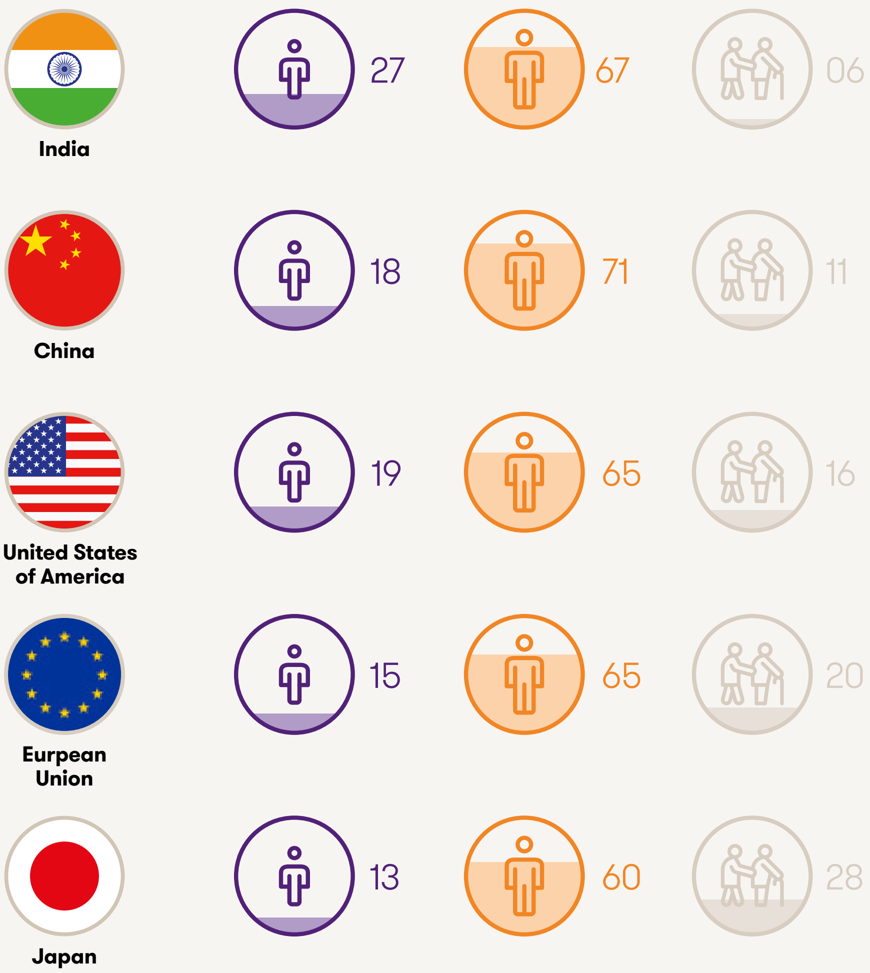
Five pillars of the Atmanirbhar Bharat Abhiyan are economy, infrastructure, system, vibrant demography and demand. Announcements made under the scheme primarily focused on businesses including MSMEs, poor, including migrants and farmers and agriculture.

India as an attractive investment destination

India's FDI inflows in 2019-20 remained strong at USD 73.5 billion (including reinvestment), marking a 18% growth over the previous year.[16]

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

India's demographic dividend*



- In 2018, India entered a 37-year period of demographic dividend, where its working-age population has grown larger than its dependent population.
- With a median age of 29, India is one of the world's youngest country.

Population in 0-14 age group (%)

Population in 15-64 age group (%)

Population in 65+ age group (%)

*Source: World Bank 2018

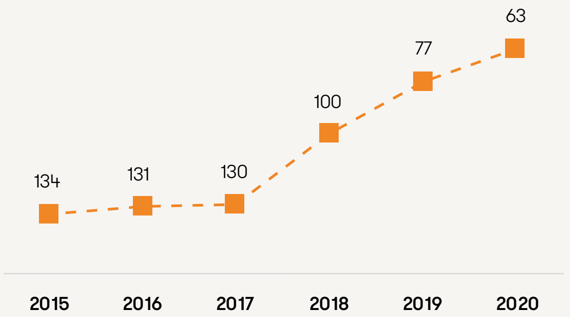
16. https://timesofindia.indiatimes.com/business/india-business/fdi-inflows-surge-18-in-2019-20-to-record-74bn/articleshow/76082201.cms

Ease of doing business

The World Bank, in its 2020 Doing Business Report, has placed India at the 63rd rank among 190 countries. This is a jump of 14 positions against its rank of 77 in 2019. India has improved its rank in seven out of 10 indicators and has moved closer to international best practices (Distance to Frontier score). Significant improvements have been registered across a slew of indicators, including resolving insolvency, dealing with construction permits, registering property, trading across boards and paying taxes.

In the last five years, India has gained 79 positions. Further, for the third consecutive year, India is amongst the top 10 improvers globally.

India's improving rank in the last five years



	2019	2020
▲ Resolving insolvency	108	52
▲ Dealing with construction permits	52	27
▲ Registering property	166	154
▲ Trading across borders	80	68
▲ Paying taxes	121	115
▲ Getting electricity	24	22
– Starting a business	137	136
– Enforcing contracts	163	163
▼ Getting credit	22	25
▼ Protecting minority investors	7	13

A snapshot of deal activities

M&A trend

Year	Number of deals	Value (USD billion)
2015	570	27.7
2016	511	42.6
2017	413	40.4
2018	474	90.3
2019	443	28

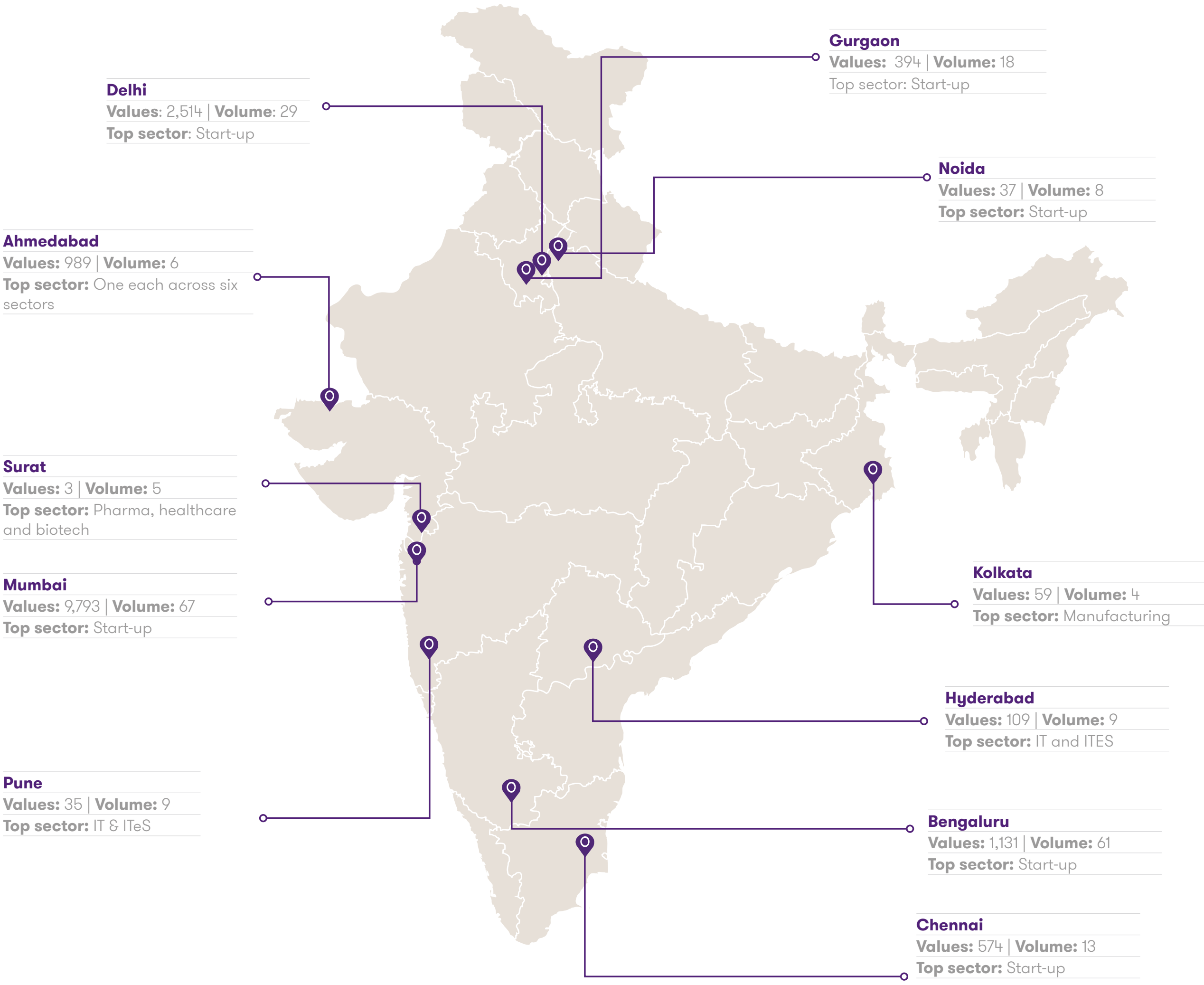
PE trend

Year	Number of deals	Value (USD billion)
2015	1,046	16.2
2016	971	13.9
2017	736	20.5
2018	793	20.7
2019	814	33.6

Source: Grant Thornton Dealtracker

Domestic deal activity – cities in focus

Mumbai, Bengaluru, NCR and Chennai recorded 78% of the domestic transactions in 2019. These cities commonly remained active executing transactions in the start-up sector. Tier II and III cities saw some activity in the IT, infra, pharma, manufacturing and energy sectors. Mumbai, Delhi and Bengaluru also remained the largest recipients of deal values, attracting 88% of total domestic deal values.



Values in USD million

The data only pertains to domestic deals and excludes mergers and internal restructuring deals.

Setting up a manufacturing base in India

As India gears up to increase its industrial output, various drivers are fueling growth in the manufacturing sector:

Make in India

Various steps taken as part of the Make in India initiative has helped India improve its 'ease of doing business' rank, fast-tracking its journey to become a global manufacturing hub. There are four major policies under the Make in India programme:

New Initiatives	Intellectual Property Facts
Foreign Direct Investment	National Manufacturing Policy

Major highlights of Make in India are as follows:

Invest India cell

An investor facilitation cell set up by the government that will act as the first reference point for guiding foreign investors on all aspects of regulatory and policy issues and assist them in obtaining regulatory clearances.

Consolidated services and faster security clearances

All central government services will be integrated with an e-biz single window online portal while states have been advised to introduce self-certification. The Ministry of Home Affairs has been asked to give all security clearances to investment proposals within three months.

Dedicated portal for business queries

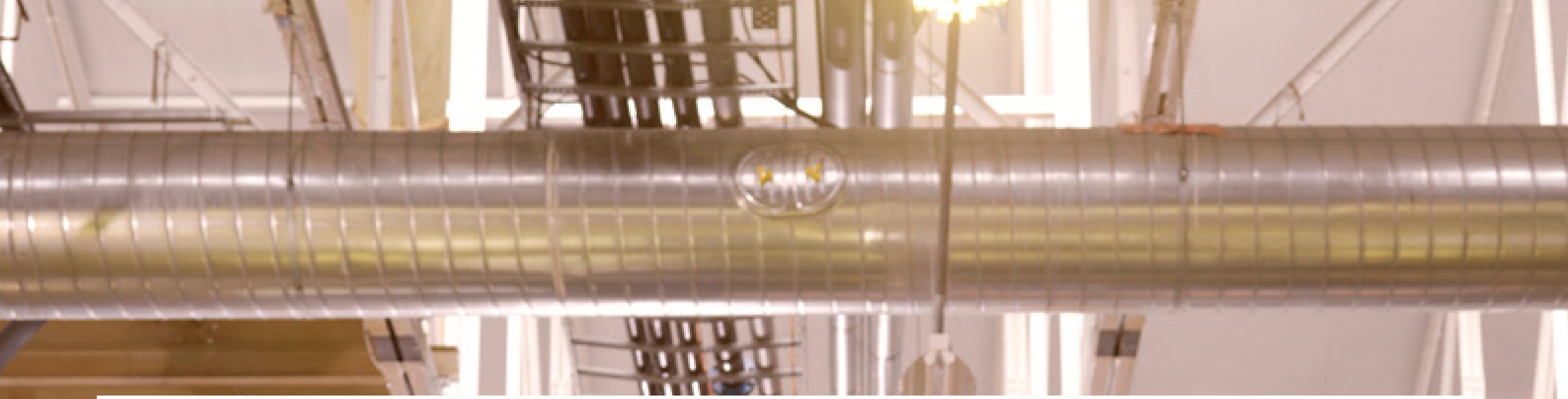
A dedicated cell created to answer queries from business entities through a newly created web portal (http://www.makeinindia.com).

Interactions with users/visitors

A pro-active approach will be deployed to track visitors for their geographical location, interest and real time user behaviour.

Easing policies and laws

The outdated frameworks of the past are being dismantled and replaced with transparent and investor-friendly policies to drive investment, foster innovation, develop skills, protect IP and build best-in-class manufacturing infrastructure.



Sectors covered under Make in India

Automobile	Auto Components	Aviation
Biotechnology	Chemicals	Construction
Defence Manufacturing	Electrical Machinery	Electronic Systems
Food Processing	IT & BPM	Leather
Media & Entertainment	Mining	Oil & Gas
Pharmaceuticals	Ports & Shipping	Railways
Renewable Energy	Roads & Highways	Space Technology
Textiles & Garments	Thermal Power	Tourism & Hospitality
Wellness		

National Manufacturing Policy

The policy was introduced to create an enabling policy framework and provide incentives for infrastructure development on PPP basis. Some of the key highlights of the policy are:

Under the policy, NIMZ's have been conceived as large industrial townships managed by a SPV. The SPVs would ensure planning of zones, pre-clearances for setting up industrial units and various other functions.

Central and state governments will provide exemptions, subject to fulfillment of conditions by the SPV, from compliance burdens for industries located in these zones.

A TADF has been launched for acquisition of appropriate technologies, creation of a patent pool and development of domestic manufacturing of equipment for reducing energy consumption.

Exemption from capital gains tax on sale of plant and machinery in case of re-investment of the capital gain amount for purchase of plant and machinery within the same or different NIMZ within three years of sale.

Industrial corridors

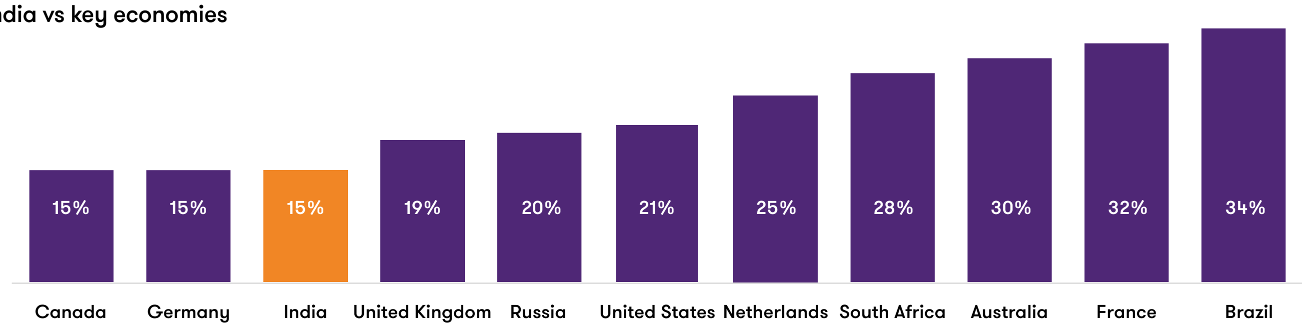
The government has launched five industrial corridor projects. These corridors are spread across India, with strategic focus on inclusive development to provide a boost to industrialisation and planned urbanisation.

- Delhi-Mumbai Industrial Corridor
- Amritsar-Kolkata Industrial Corridor
- Bengaluru-Mumbai Industrial Corridor
- Chennai-Bengaluru Industrial Corridor
- Vizag-Chennai Industrial Corridor

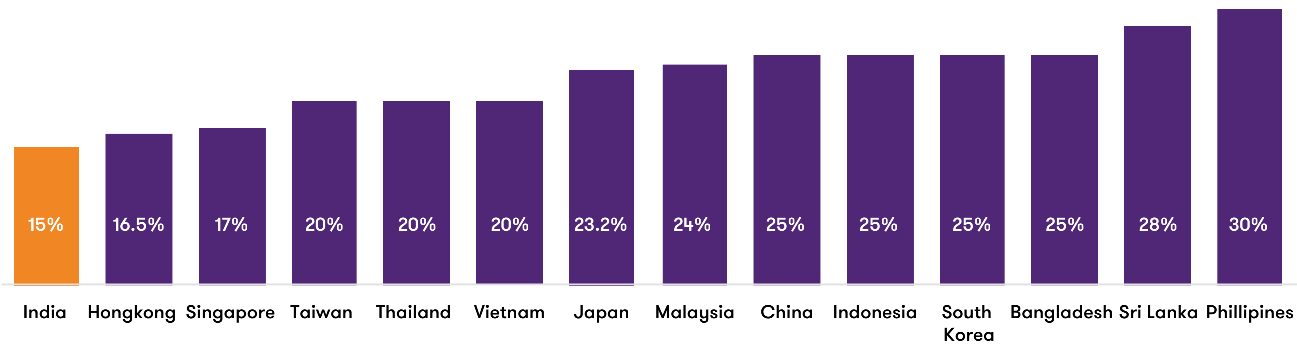
Favourable corporate tax

In 2019, the government announced a corporate tax rate of 15% (effective 17.16%) for new manufacturing units. This rate, available to new manufacturing company incorporated on or after 1 October 2019, is amongst the lowest in the world. The company should commence production by 31 March 2023 and fulfill prescribed conditions.

India vs key economies



India vs key Asian economies



Key sectors – an overview

Healthcare

India has been projected to rank amongst the top three global healthcare markets in terms of incremental growth by 2020. The Indian healthcare industry includes hospitals, medical devices and equipment producers, clinical trials labs, telemedicine operators and health insurance providers. The sector comprises two major types of players: public and private. While the public healthcare system aims at providing basic healthcare facilities with increased focus on rural areas, the private institutions are concentrated to Tier I and Tier II cities.[17]

Current scenario

The ongoing health crisis in the country has led to extreme stress on the public healthcare system. This has driven the government to identify shortcomings and key focus areas for developing a stronger and more inclusive healthcare system. India currently ranks 145 among 195 countries on quality and accessibility of healthcare. To expand coverage of healthcare services in the country, the government aims to increase healthcare spending to 2.5% of the country's GDP by 2022, which stood at 1.6% in FY20.[17]

To further boost the Indian healthcare system, the government has relaxed FDI norms allowing 100% FDI in greenfield and brownfield projects, leading to a boost in foreign capital investments. Hospitals, which account for 80% of the total healthcare market, attracted FDIs totaling USD 6.72 billion between April 2000 and March 2020.

In FY19, the Indian healthcare sector was the fourth-largest employer in the country with 319,780 people.

Way forward

The Indian healthcare sector is expected to witness a three-fold rise, registering a CAGR of 16.2% to reach USD 372 billion in 2022 from USD 140 billion in 2016. This growth is expected to be driven by rising income, ageing population, growing health awareness and changing attitude towards preventive healthcare.[17]

Furthermore, chronic diseases are on the rise in India. Death rate due to cardiovascular diseases rose by 34% between 1990 and 2016. India also has the highest number of diabetics at 50.8 million and this number is expected to increase to 73.5 million by 2025, such alarming rates are expected to boost the sector.[19]

Key trends

Integrating technology to improve services

- Healthcare players are leveraging technology to reduce service time, human error and improve patient outcomes. They are implementing AI to analyse x-rays and other radiology images. Industry players are also expanding their product portfolio and R&D capabilities by partnering with technology companies. As a result, 60% of the health-tech focused start-ups have been set up in the last eight years in India.[20]
- Convenience and rising adoption of technology has resulted in the surge of demand for telemedicine services. India's telemedicine market is expected to reach USD 32 million by 2020.[18]

Expanding presence in Tier II and Tier III cities

- Healthcare companies are looking to expand their service offerings in Tier II and Tier III cities due to rise in market competition and market saturation in Tier I cities.
- Major listed and unlisted corporate hospitals added 637 beds in 2019, of which 35% additions were in Tier I cities and 65% in Tier II cities.[21]

17. https://www.ibef.org/industry/healthcare-india.aspx
18. https://www.investindia.gov.in/sector/healthcare
19. https://www.worldometers.info/world-population/india-population/
20. https://www.deccanchronicle.com/business/in-other-news/151218/the-role-of-technology-in-transforming-healthcare-sector-of-india.html
21. https://www.thehindubusinessline.com/news/hospitals-see-healthy-prospects-in-tier-ii-cities/article28067158.ece

Rising M&A activity

- According to credit rating agency, ICRA Limited, the total value of M&A transactions in the healthcare sector in 2018-19 amounted to INR 7,755.4 crore, as against transactions worth INR 3,037.4 crore in 2017-18, an increase of 155%.[22]
- The rapid rise in collaboration has been attributed to tighter regulatory environment in 2019 that made it difficult for small players to maintain margins.

Government initiatives

- To expand coverage and easy access to healthcare services, the government launched Ayushman Bharat Pradhan Mantri Jan Arogya Yojana in September 2018. It aims to provide free health coverage at the secondary and tertiary level.
- In the Union Budget 2020-21, the government allocated INR 69,000 crore for the healthcare sector, of which INR 6,400 crore has been allocated to the scheme.
- The government also launched Mission Indradhanush, aimed at improving coverage of immunisation in the country.
- It also allocated USD 5.09 billion for nutrition-related programmes in the Union Budget 2020-21.[17]

The government launched Ayushman Bharat Pradhan Mantri Jan Arogya Yojana in September 2018. It aims to provide free health coverage at the secondary and tertiary level.

22. http://www.xinhuanet.com/english/2019-05/07/c_138040311.htm

Consumer, retail and e-commerce

The sector comprises consumer durables (electronics and appliances), FMCG, retail and e-commerce. With rising incomes and growing levels of consumer awareness, the sector is expected to witness growth in the coming years.

Current scenario

Consumer durables/Fast-moving consumer goods

The Indian appliance and consumer electronics market reached USD 10.93 billion in 2019 and is expected to double to USD 21.18 billion by 2025.[23]

Further, the FMCG industry, the fourth-largest sector in the Indian economy, expects revenues to reach USD 103.7 billion in 2020, up from USD 52.75 billion in FY18.[24]

Both segments attracted strong FDI inflows between April 2000 and March 2020, with appliances and consumer electronics receiving USD 2.79 billion and FMCG receiving USD 16.28 billion.[23/24]

E-commerce

India is the fastest-growing e-commerce market in the world and is expected to reach USD 200 billion by 2026 from USD 38.5 billion in 2017.[25] The growth has been primarily driven by the rising internet penetration in India, with customers enjoying the benefit of convenience and ease of digital payments.

Impact of COVID-19

Consumer durables/Fast-moving consumer goods

The consumer durables sector has been severely impacted by the COVID-19 pandemic. Sector players suffered from supply chain disruptions during the lockdown, resulting in a scarcity of manufactured units being imported from China, which ultimately increased prices of goods.[26] Several local manufacturers had to shut operations in the absence of labour.

While fears around the spread of COVID-19 have led to closure of retail outlets, the effect on mass merchandise stores has been minimal, with people increasing purchases of essential products including groceries, medicines and other household items.[27]

E-commerce

Despite the economic downturn, Indian e-commerce recorded a 17% increase in order volume as of June 2020, as compared with the pre-lockdown period, due to a shift in consumer behaviour and buying pattern.[28]

Way forward

India is expected to become the third-largest consumer market by 2030, driven by a large middle class, rising incomes and growing consumer awareness.[29]

The Indian e-commerce market is expected to continue witnessing growth, supported by use of digital payments, analytics-driven customer engagement and hyperlocal logistics.[30]

23. https://www.ibef.org/industry/indian-consumer-market.aspx
24. https://www.ibef.org/industry/fmcg.aspx
25. https://www.ibef.org/industry/ecommerce.aspx
26. https://www.thehindubusinessline.com/opinion/the-retail-sector-outlook-post-covid-19/article31555502.ece
27. https://www.thehindubusinessline.com/news/covid-19-impact-consumer-durable-firms-hope-for-revival-in-demand-by-may/article31285951.ece
28. https://www.business-standard.com/article/companies/e-commerce-recovered-witnessed-17-growth-post-covid-19-says-report-120082001442_1.html
29. https://economictimes.indiatimes.com/news/economy/indicators/india-poised-to-become- third-largest-consumer-market-wef/articleshow/67450935.cms#:~:text=NEW%20DELHI%3A%20India%20is%20poised,Economic%20Forum%20report%20said%20Wednesday
30. https://retail.economictimes.indiatimes.com/news/e-commerce/e-tailing/trends-to-watch-out-for-in-the-e-commerce-sector-2020/73422007

Key trends

Rise in contract manufacturing

- Consumer demand has been on the rise in India. This has led to companies outsourcing manufacturing activity, instead of increasing in-house capacity.[31]

Targeting rural markets with tailored products

- The rural consumer market in India is expected to grow to USD 220.00 billion by 2025 from USD 23.63 billion in FY18. Expecting strong growth, market players are creating products specific to the needs of the segment.

Focus on automation

- The increasing e-commerce operations shall necessitate end-to-end automation and use of progressive web apps to increase conversions and personalised services to customers.

Government initiatives

- The government launched the NPE aiming to attract the investment of USD 100 billion by 2020. NPE also targets production of one billion mobile handsets by 2025.
- It has also eased FDI norms, allowing 100% in the electronics hardware-manufacturing sector under the automatic route, and 100% foreign equity in single brand retail.
- In February 2019, the government released the Draft National E-Commerce Policy addressing concerns around data protection, development of required infrastructure and creation of a level playing field in e-commerce, amongst others.

31. https://www.bloombergquint.com/business/contract-manufacturers-prepping-for-consumer-demand-surge

Food and agriculture

The industry is the primary source of income for 58% of the country's population and makes India one of the leading exporters of agricultural products. The industry includes players involved in the production of raw materials (agriculture, forestry and fisheries), and the food processing industry. The Indian food and grocery market is the sixth-largest in the world, with retail contributing 70% of sales.[32]

Current scenario

The India agricultural industry contributes almost 17.6% [33] (2019-20) to the country's GDP. In FY20, GVA, by agriculture, forestry and fishing, was estimated at USD 276.37 billion, a year-on-year increase of 4%.[32]

India's food processing industry accounts for 32%[34] of its total food market. According to the DPIIT, the Indian food processing industry cumulatively attracted FDI inflows of USD 9.98 billion between April 2000 and March 2020.[32]

India is a leading producer and exporter of sugar, tea, coffee and spices. In FY20, the country's agricultural exports stood at around USD 28.94 billion (as of January 2020). To maximise export potential, the government launched the Agricultural Export Policy 2018, which aims to increase agricultural export to over USD 60 billion by 2022.[32]

India continues to face challenges around low farmer income and hunger. The country accounts for a quarter of the world's hungry, mainly due to lack of storage infrastructure and equitable distribution channels. To counter this, the government has undertaken initiatives, including the POSHAN Abhiyan, to ensure holistic nutrition and has set a target to double farmers' income by 2022.[35]

The government also launched Atmanirbhar Bharat Abhiyan on May 2020, with a special economic and comprehensive package of USD 266 billion to achieve the mission. Under this mission, the government also aims to transform agriculture into a sustainable enterprise and to build atmanirbhar krishi (self-reliant farmers) through new reforms.[36]

The COVID-19 crisis caused supply chain disruptions to the agricultural value chain. Moreover, the industry faced severe labour scarcity and declining exports due to imposition of travel restrictions amid the nationwide lockdown in March 2020.[37] The government has taken cognisance of the situation and has increased efforts, both by the central and state governments, to provide support to the industry through several agricultural reforms and measures. Some initiatives, such as scaling up of federal e-commerce platforms including E-NAM and Kisan Rath, have been rolled out for farmers and traders to ensure smooth trading and mobility of agri produce. The central government is also focussed on cutting down archaic regulations, raise farm-gate prices, unify domestic market as well as integrate farm economy into global value chains with an aim to bring farm to folk model into reality.

Way forward

The Indian agriculture sector is expected to gain momentum in the next few years driven by rising investment in agriculture infrastructure and growing use of genetically modified crops. The government also plans to triple the capacity of the food processing sector in India and has committed USD 936.38 billion for the same.

Driven by lifestyle changes in consumer preference towards health and wellness, the demand for organic food in India is expected to register a CAGR of 10%, reaching USD 10.73 billion by 2025. The COVID-19 pandemic is also shaping new trends in consumption and traceability. Of these trends, new safe packaging, export, home-cooked food, immunity foods and e-platform foods will change the face of the food industry. Increase in focus on some fine innovations in the area of food processing, logistics, storage and quality in agri-supply chain.

Moreover, the COVID-19 crisis will also give opportunities for Indian products to capture a major share in exports at a global level. Backed by strong domestic demand and transformational policy reforms, India is set to emerge as a world food factory and the food processing sector is expected to record double digit growth.

32. https://www.ibef.org/industry/agriculture-india.aspx
33. Agriculture statistics at a glance, 2019, Second advance estimates
34. https://eands.dacnet.nic.in/PDF/At%20a%20Glance%202019%20Eng.pdf
35. https://www.ibef.org/industry/indian-food-industry.aspx
36. https://www.republicworld.com/world-news/rest-of-the-world-news/un-supports-indias-measures-to-tackle-hunger-crisis-and-attain-sdg-2.html
37. https://www.livemint.com/opinion/online-views/opinion-how-can-india-become-an-agricultural-powerhouse-post-coronavirus-11591508334787.html

Key trends

Increase in development of agri-focused technology

- Players in the industry are leveraging agri-tech solutions to enhance productivity, create supply-chain efficiency and optimise costs.[38]
- India currently has more than 450 start-ups in the agri-tech space.
- Start-ups have developed numerous solutions, particularly for rural India. These include the use of monitoring sensors to detect soil moisture and livestock feed levels, and drones to monitor crops and seeds.[39]

Emergence of international players in the food processing industry

- Relaxation of industry regulations and growth of organised retail has driven several key global players to enter and command market share in the Indian food processing industry.
- An Italian confectionery recently announced that it will invest INR 2,000 crore by 2021 to make India a hub for developing new products.[40] Further, another global player plans to invest USD 100.16 million to set up its ninth factory in Gujarat by 2021.[41]

Rising demand for Indian products globally

- Driven by India's strategic position and the comparative cost advantage of Indian produce, global demand for domestic agricultural produce, such as rice, wheat and pulses, is growing.
- Major destinations where the Indian food sector has witnessed demand include the USA, Europe, Australia, New Zealand, Israel, Palestine and Egypt.[42]

Government initiatives

- Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020, will allow farmers to freely purchase and sell agriculture produce giving them multiple market options.
- The Farmers' (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020, will provide legal framework for agreements between farmers and buyers including processors, wholesalers and large retailers.
- The Essential Commodities (Amendment) Ordinance, 2020, will remove restrictions on stocking food produce, thus enabling better price realisation for farmers
- Formation and promotion of FPO Scheme to form and promote 10,000 new FPOs and support from formation to aggregation for five years.
- NABARD has extended financial support up to INR 42,313 crore for the development of rural infrastructure in the country. These funds will be deployed towards irrigation related projects and in building rural connectivity.[43]
- A total of 20 projects have been identified by the NIP. This includes modernisation of agri market infrastructure, upgrade of processing facility, construction of modern silos of 100 lakh metric tonne capacity, developing and upgradation of existing 22,000 Gramin Haats into GrAMs, etc.
- Under the Atmanirbhar Bharat Abhiyan, the government provided a stimulus package to strengthen infrastructure, logistics and capacity building in agriculture.[44] This includes:
  - INR 1 lakh crore agri infrastructure fund for creating farm-gate infrastructure for farmers, including cold chain and post-harvest management structure.
  - INR 10,000 crore scheme for formalisation of micro food enterprises to encourage export of local products.

38. https://www.consultancy.asia/news/3364/covid-19s-impact-on-indias-agricultural-sector

39. https://www.investindia.gov.in/team-india-blogs/emerging-scope-agri-tech-india

40. https://timesofindia.indiatimes.com/business/india-business/ferrero-looks-to-invest-rs-2k-cr-make-india-hub/articleshow/64362040.cms

41. https://www.foodprocessing-technology.com/news/nestle-to-invest-100m-to-set-up-factory-in-gujarat-india/

42. https://www.thehindubusinessline.com/economy/as-buyers-stock-up-exports-of-cereals-processed-food-spices-spike/article31144452.ece

43. https://economictimes.indiatimes.com/industry/banking/finance/nabard-extends-financial-support-of-rs-42313-crore-towards-rural-infrastructure/articleshow/74714259.cms

44. https://www.hindustantimes.com/india-news/nirmala-sitharaman-live-8-point-agricultural-reform-announced-in-3rd-tranche-of-aatma-nirbhar-bharat-pkg/story-cOEHn5XEy4alkL4kmyJGzH.html

- INR 20,000 crore fund under PM Matsya Sampada Yojana for growth and development of marine agriculture and infrastructure.
- For maintaining the quality of livestock population in the country, the government launched the National Animal Disease Control Programme with a total outlay of INR 13,343 crore.
- An animal husbandry infrastructure development fund of INR 15,000 crore.
- INR 4,000 crore allocated to support farmers growing herbal and medicinal plants along River Ganga.
- INR 500 crore allocated to support beekeeping initiatives.
- INR 500 crore as subsidy to support disruption of supply chain of fruits and vegetables; pilot scheme for six months.

Government has also launched eNAM, a pan-India electronic trading portal that networks the existing APMC mandis to create a unified national market for agricultural commodities.

Real estate

The sector is expected to account for 13% of the country's GDP by 2025.[45] It can be broadly classified into four sub sectors - residential, commercial, retail and hospitality.

Current scenario

During 2017-20, Indian real estate sector registered a CAGR of 19.5%.[45] This growth can be attributed to rapid urbanisation, rising household income, growth in demand for office space. Further, rising requirement of space from education, healthcare, e-commerce and logistics sectors is also driving demand.[45]

Growth opportunities coupled with the government initiatives aimed at increasing transparency (RERA), relaxation of FDI norms and institutionalisation of investments in completed properties in the form of REITs has boosted investors interest in the sector.[46] The sector attracted FDI worth USD 42.50 billion from April 2000 to March 2020, amounting to 9.5% of total FDI inflows during the period.[45]

India's economic slowdown aggravated by the COVID-19 pandemic has negatively impacted the sector, by bringing construction activities to a halt and significantly eroding the market of its potential buyer-base.[47] With property transactions dipping to near-zero during the nationwide lockdown, the sector is expected to witness challenging times ahead. The interdependence of supply chains, migration of labourers, cost overruns and liquidity constraints are some of the looming challenges.

Way forward

Despite these challenges, the sector stands to benefit in the longer run due to various initiatives taken by the government. These include Housing for All scheme, Smart City mission, interest rates benefits, extensions of commencement dates of project loans for commercial projects, and service tax exemption on construction of affordable housing.[48]

Some of the key drivers for the sector in mid-to-long term that are likely to increase focus on the sector are:

- Owing to COVID-19 impact, as businesses move towards cloud, data warehouse demand is likely to increase rapidly, according to estimates, data centre market in India presents a USD 5 billion opportunity.
- Owing to changing business environment and work flexibility across locations, demand for co-working and co-living is likely to see traction.
- As global supply chain see shift towards India, demand for commercial real estate is likely to see a boost in the long-run.

The Indian real estate industry is expected to reach USD 1 trillion by 2030.[45] The government's Housing for All initiative is expected to bring USD 1.3 trillion investment in the housing sector by 2025.[45]

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45. https://www.ibef.org/industry/real-estate-india.aspx
46. https://www.thehindu.com/news/national/housing-for-all-by-2022-government-plans-20-million-houses-for-urban-poor/article7326997.ece
47. https://www.financialexpress.com/industry/covid-19-impact-housing-sales-may-fall-35-in-2020-demand-for-office-space-may-shrink-30/1916959/
48. https://www.thehindu.com/news/national/housing-for-all-by-2022-government-plans-20-million-houses-for-urban-poor/article7326997.ece

Key trends

Growing investor interest for luxury properties

- According to a new study, over 2.3 lakh housing units were launched in the year 2019 in the top seven cities of the country: Bengaluru, Chennai, Hyderabad, Pune, Mumbai, NCR and Kolkata, with 10% of the total number of housing units launched belonging to the luxury and ultra-luxury segments.[49]
- This segment has witnessed strong demand from HNIs and NRIs, driven by rising purchasing power and increase in exchange rate of the USD as compared with the INR.

Growth of new real estate investment options

- India saw its first REIT being launched by Embassy Office Parks, a Bangalore-based real estate developer backed by Blackstone Group LP, in 2019. This has given strong returns since its listing.[50]
- There are likely to be more REIT launches in 2020, with investors looking to participate in the gains of the commercial real estate sector.[50]
- Apart from REITs, other investment options, such as fractional ownership of commercial real estate, are being taken to investors through technologies and digital marketplaces.[50]

Government initiatives

- The government has launched several schemes to support the industry. This includes the Housing for All scheme under which 60 million houses are to be built, including 40 million in rural areas and 20 million in urban areas by 2022.[45]
- The government has also set up the RERA, which works towards making the sector more transparent.[51]
- It has also allowed FDI of up to 100% for townships and settlements development projects.[45]
- It has also announced that bank credit to registered NBFCs towards the housing sector, up to prescribed limits, will be treated as priority sector loans for a year.[52]

49. https://www.financialexpress.com/money/nri-hni-demand-drives-growth-of-luxury-homes-in-india/1864238/
50. https://www.thehindubusinessline.com/opinion/the-trends-that-may-define-the-real-estate-sector-in-2020/article30394524.ece
51. https://rera.goa.gov.in/reraApp/
52. https://economictimes.indiatimes.com/industry/banking/finance/banking/on-lending-by-banks-to-nbfcs-hfcs-to-be-part-of-priority-sector-in-fy21-rbi/articleshow/74779082.cms?from=mdr

Automotive industry

India is expected to become the third-largest automotive market by 2026[53] with the presence of established domestic and international OEMs. The sector includes four segments: commercial vehicles, passenger vehicles, three wheelers and two wheelers.

Two wheelers and passenger vehicles dominate the domestic Indian auto market, accounting for 80.8% and 12.9% of the market share, respectively. These segments together accounted for a combined sale of over 20.1 million vehicles in FY20.[53]

Current scenario

India is currently the world's fifth-largest automotive market and the world's largest two-wheeler market. The flow of FDI in the automobile sector stood at USD 24.21 billion (5% of the total) between April 2000 and March 2020. India has significant cost advantages wherein the OEMs save 10-25% on operations in comparison with Latin America and Europe.

In FY20, the industry faced a year-on-year decrease of 17.96% in car sales.[54] This was driven by slowing economy, rise in vehicle prices and transition to BS-VI technology. In FY21, the industry has been negatively impacted by the COVID-19 pandemic.

COVID-19 impact on the industry

- Downshift in global demand
- Disruption in parts exports
- High cash and liquidity crunch
- Large scale manufacturing interruptions
- Loss of customer confidence

With India's GDP growth rate for FY21 being downgraded from 5% to nearly 0% and later to 5%; the Confederation of Indian Industries has estimated USD 2 billion worth revenue impact (monthly) across the Indian auto industry.[55]

How the demand would start coming back

Taking a cue from the Chinese automotive market, there will be significant changes in buying behavior after the lockdown. Consumer preference will be more towards individual health, hygiene and cleanliness during travel.

Post the pandemic, consumers are expected to switch towards personal mobility and shared mobility will take a backseat in the medium term. With subdued sentiments and an aversion to higher discretionary spends like buying new vehicles, demand for used vehicles is expected to rise in the next three to six months.

Service-based models such as pay-as-you-go, and lease rentals may also see uptake from Indian consumers. Recently, many OEMs launched online sales channels to digitally connect with consumers indicating new ways of doing business.

Way forward

Despite the challenges, the sector stands to benefit in the long run as the government is working towards building India into an automotive R&D and manufacturing hub, ensuring international emission standards, and pushing EV adoption. EV sales, excluding e-rickshaws, witnessed a growth of 20% and reached 1.56 lakh units in FY20 in India.

The Indian automotive industry (including component manufacturing) is expected to reach USD 251.4-282.8 billion by 2026[53] with strong support from the government. With a target to increase export volumes by five times during 2016-26, India could be a leader in shared mobility by 2030, providing opportunities for electric and autonomous vehicles.

53. IBEF
54. ET Auto
55. Financial Express

Key trends

Catering to customer needs

- OEMs have adapted themselves to cater to the large population by adopting new automotive structure and designs. The sector has turned to be highly competitive wherein reforms, such as GST, would help boost the sector's growth.

New financing options

- Banks are providing customised vehicle loans for customers to purchase vehicles at low EMI.
- Under the Union Budget 2019-20, the government announced additional income tax deductions of INR 1.5 lakh on the interest paid on the loans taken to purchase EVs.

Innovation through collaboration

- With plans to launch affordable EVs in the next three to four years, OEMs are entering in partnership to set up superfast chargers for EVs to offer end-to-end charging solutions and build charging infrastructure across the country

New business model and opportunities

- OEMs look forward at major trends with shifts in the mobility mix, and the strategic and operational actions that can help companies emerge stronger in the next normal.

The Indian automotive industry (including component manufacturing) is expected to reach USD 251.4-282.8 billion by 2026 with strong support from the government.

Government initiatives

Launch of schemes for increased demand

- The government has launched schemes, such as Make in India, Automotive Mission Plan 2026 and National Electric Mobility Mission Plan 2020,[53] to support the industry and increase demand for automotive.

Impetus to EV segment for future growth

- The government is also supporting future growth and strives to change the EV landscape. In 2019, FAME-II scheme provided INR 10,000 crore for FY20-22.[53]

Infrastructure

With the government prioritising investments in the sector, India is expected to become the third largest construction market globally by 2022.[56] The sector includes development of power, bridges, dams, railways, roads, coal mining and urban infrastructure.

Current scenario

Driven by rapid urbanisation, the sector has seen growth in urban construction activity, under housing initiatives, such as Housing for All and Smart City Mission. Further, a rise in industrial activity and growing number of on-road vehicles has driven the demand for road construction. Highway construction in India increased at a 21.44% CAGR between FY16-19, with 10,855 km of highways constructed in FY19.[57]

In April 2020, the government set a target to construct roads worth INR 15 lakh crore in the next two years.[57] Similarly, to accelerate development of rail, the government plans to invest INR 50 lakh crore in railways by 2030.[56]

To attract foreign investment, the government has permitted 100% FDI under the automatic route for various infrastructure sectors. The sector recorded FDI inflows of USD 25.66 billion between April 2000 and March 2020.[56]

The COVID-19 situation in early FY21 has disrupted construction activity in the short-term, resulting in projects being stalled. This has impacted cashflows in the sector for stakeholders including the government and private operators. Such an impact is expected to consequently affect free cashflows on future operations. However, government has unleashed set of reforms, which included opening of railways and coal sector for private participation that would go a long way in increasing investment and pep up the growth of sector.

Way forward

Despite short-term impact, the government expects the NIP to play a crucial role in offsetting the impact of COVID-19 on the economy.[58] Hence, it plans to invest INR 111 lakh crore on the 6,835 projects under the NIP by 2025.[59]

Bilateral investment opportunities in Indian infrastructure projects with countries, including Japan and the United Arab Emirates, are also expected to drive future growth in the sector.

India plans to expand its renewable energy capacity to 500 GW by 2030,[60] which is projected to create a USD 300 billion opportunity for infrastructure development in the next 10 years.[56]

Highway construction in India increased at a 21.44% CAGR between FY16-19, with 10,855 km of highways constructed in FY19.

56. https://www.ibef.org/industry/infrastructure-sector-india.aspx
57. https://www.ibef.org/industry/roads-presentation
58. https://economictimes.indiatimes.com/news/economy/finance/finance-minister-nirmala-sitharaman-seeks-investment-from-uae-for-rs-111-lakh-cr-national-infrastructure-pipeline/articleshow/77597635.cms
59. https://www.bloombergquint.com/economy-finance/india-lists-6835-projects-under-rs-111-lakh-crore-national-infrastructure-pipeline
60. https://www.ibef.org/industry/renewable-energy.aspx

Key trends

Facilitating PPP projects

- Infrastructure development through PPPs has helped in spurring economic growth, creating jobs, and providing opportunities for private sector participation.
- To ensure speedy appraisal of projects, eliminate delays and adopt international best practices, the government has set up the PPP Appraisal Committee for appraisal of PPP projects in the country.[61]

Rise in private equity/venture capital investments in infrastructure

- In 2019, PE/VC investment in the infrastructure sector reached an all-time high of USD 14.5 billion, accounting for 30% of total PE/VC deals in India by value.[62] This was driven by supportive government policies and opportunities arising from India's growing focus on sustainable development.
- Key infra deals in 2019 include: Brookfield's USD 3.7 billion acquisition of Reliance Jio's tower arm,[63] USD 1.1 billion investment in GVK Airport Holdings Ltd. from Abu Dhabi Investment Authority, Public Sector Pension Investments and National Investment and Infrastructure Fund.[64]

Government initiatives

- In its Union Budget 2020, INR 1.7 trillion was allocated for transport infrastructure to improve connectivity via road, rail, air and waterways.[65]
- 150 private trains proposed to be introduced under PPP mode with an investment of INR 30,000 crore.
- NIP released for FY19-25 with the aim to attract investments and develop world-class infrastructure in the country.[66]
- Under Pradhan Mantri Gram Sadak Yojana, the government has allocated INR 19,500 crore to build rural road networks using green and other eco-friendly technologies.[57]
- India has partnered with Japan for undertaking infrastructure projects in India's northeastern states.[56]
- Opening the coal sector by introducing commercial mining auctioning and revenue maximisation normal.

61. https://www.businessinsider.in/business/news/infra-dev-through-ppp-to-spur-growth-create-job-projs-worth-rs-27514-cr-in-fy20-till-date/articleshow/73866189.cms

62. https://economictimes.indiatimes.com/news/economy/finance/private-equity-vc-investments-hit-record-high-of-48-billion-in-2019-report/articleshow/74190932.cms

63. https://www.businesstoday.in/current/economy-politics/infra-drives-pe-vc-investments-to-an-all-time-high-in-2019/story/394497.html

64. https://www.vccircle.com/gvk-gets-1-1-bn-from-adia-psp-investments-niif-to-up-stake-in-mumbai-airport/

65. https://www.livemint.com/budget/news/budget-2020-sitharaman-allocates-rs-1-7-trillion-for-transport-infrastructure-11580541269728.html

66. https://indiainvestmentgrid.gov.in/national-infrastructure-pipeline

Pharma

India is the third largest pharmaceutical industry in the world by volume and 10th largest by value.[67] The sector comprises of API manufacturers, contract research and manufacturing service providers, formulations developers, as well as biosimilars manufacturers.

Current scenario

The domestic pharmaceutical market turnover stood at USD 20.03 billion in 2019, a 9.8% increase from USD 18.12 billion in 2018. By 2025, this turnover is expected to grow to USD 100 billion.[68] The pharmaceutical industry is one of the largest suppliers of generic drugs globally, supplying over 50% of the global demand for various vaccines, 40% of generic demand in the US and 25% of all medicines in the UK.[68]

Industry exports in FY 20 stood at USD 20.7 billion, up from USD 19.3 billion in FY 19.[67,68] Key exports include bulk drugs, intermediates, drug formulations, biologicals, AYUSH, herbal and surgical products.

The government has allowed 100% FDI in the pharmaceutical industry, which has led to the sector attracting FDI inflow worth USD 16.50 billion between April 2000 and March 2020.[68]

The Indian pharma sector is heavily dependent on China for its API needs to produce generic drugs. Currently, 70% of the industry's API requirements are met by China. This dependence was impacted during China's lockdown amid the COVID-19 pandemic, which resulted in supply chain disruptions for Indian pharma companies. In recent months, the government has imposed new self-reliant directives to reduce such dependency.[69,70]

Way forward

Growth of Indian pharma sector is expected to be supported by rise in medicine spending in the country, which is projected to grow 9–12% over the next five years as a result of rising health awareness post COVID-19 and increase in health insurance penetration in India.[68]

Further, the government's production-linked incentive scheme offering local production benefits and financial incentives is expected to encourage industry players to build bulk drug parks for mass production and export of drugs.[71]

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67. https://www.investindia.gov.in/sector/pharmaceuticals
68. https://www.ibef.org/industry/pharmaceutical-india.aspx
69. https://indianexpress.com/article/opinion/columns/india-china-tension-pharmaceutical-industry-covid-19-medicine-6489025
70. https://timesofindia.indiatimes.com/business/india-business/china-supplies-over-80-of-pharma-raw-materials/articleshow/76453541.cms
71. https://www.cnbctv18.com/healthcare/production-linked-incentive-scheme-over-a-dozen-bulk-drug-cos-keen-to-apply-says-industry-body-6434861.htm

Key trends

Focus on tapping new markets to drive growth

- Indian pharmaceutical players are looking at tapping new markets to increase growth, diversify revenue streams and widen geographical presence.
- For example, Dr Reddy Laboratories has been focusing on emerging markets, such as Russia, China, Brazil and South Africa. This resulted in generating 28% growth in the emerging market segment during FY19.[72]

Building specialty products portfolio in the US

- Indian pharmaceutical companies are increasing their focus on developing specialty products for the US. This is due to greater competition and lower profit margins in the generic products in the US.[73]
- For example, in 2019, Cipla partnered with Pulmatrix Inc., to co-develop a formulation for the treatment of allergic bronchopulmonary aspergillosis in asthma. patients.[74] Aurobindo Pharma also announced plans to launch its first set of oncology, respiratory, complex injectables and topical products in the US by 2021 to build its specialty products portfolio.[75]

Government initiatives

- Department of Pharmaceuticals launched the Pharma Vision 2020, with the aim to make India a major hub for end-to-end drug discovery.
- India plans to set up nearly INR 1 lakh crore fund to provide boost to companies to manufacture pharmaceutical ingredients domestically by 2023.
- There are also plans to set up a mega bulk drugs park in order to reduce industry's dependency on raw material imports. In October 2018, the Uttar Pradesh government announced plans to establish six pharma parks in the state.[76]

72. https://www.theweek.in/news/biz-tech/2019/08/26/emerging-markets-first-indian-pharma-companies.html
73. https://www.livemint.com/Companies/LitVhEP7R8IjPdYp9v3I9O/Pharma-RD-spending-grows-as-focus-shifts-to-specialty-produ.html
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76. https://www.ibef.org/industry/indian-pharmaceuticals-industry-analysis-presentation

Renewable energy

India ranks among the top five countries globally in terms of installed renewable power capacity. With a renewable energy potential of 1,000 GW, India is an attractive market for foreign investments.[77]

The sector is broadly classified into: wind, solar, small hydro, biopower, and waste to rnergy.[78]

Current scenario

As of April 2020, India had a total installed renewable power capacity of 86.26 GW, of which, solar and wind comprised 34.81 GW and 37.74 GW, respectively. Further, biomass and small hydro power constituted 9.86 GW and 4.68 GW, respectively.[79]

In FY 20, the renewable energy sector delivered more than two-thirds of India's new power capacity additions, with installations of 9.39 GW of new on-grid capacity.[80] Moreover, with a potential capacity of 363 GW[79], northern India, especially Rajasthan, Gujarat, Maharashtra and Jammu & Kashmir, is set to become the hub for renewable energy in the country.[81]

To meet the growing energy demand and address rising concerns for the environment, the government has set a target of achieving 175 GW of renewable energy capacity by 2022 and 500 GW by 2030.

Despite growth in recent years, the renewable energy sector requires significant capital inflows to achieve this target. Hence, the government has allowed 100% FDI in renewable power generation and distribution.[77]

India's non-conventional energy sector attracted FDI totaling USD 9.22 billion between April 2000 and March 2020.[79]

The current economic slowdown has significantly slowed down construction of projects in the sector, with only 12 MW of wind capacity and 176 MW of solar capacity installed in May 2020. This downward trend is likely to continue as the sector faces labour shortages, challenges in movement of goods and delays in site inspection and approvals. Moreover, wind energy installation is expected to face major delays as they have a more complex supply chain than solar projects.[82]

Way forward

As India plans to achieve 60% of its power generation from clean sources by 2030, the renewable energy sector continues to show high growth potential.[83] Moreover, government initiatives, such as the Smart Cities Mission and National Solar Mission will continue to drive the demand for clean energy sources.

Further, the government and the industry is committed towards making policy changes and investments to cover entire renewable energy value chain encompassing component manufacturing, innovation, such as modern energy storage technologies, R&D, skilling, modernisation of the grid infrastructure, etc. This would lead to fast track adoption of clean energy and make India a preferred destination in the field of renewable energy.

To meet the growing energy demand and address rising concerns for the environment, the government has set a target of achieving 175 GW of renewable energy capacity by 2022 and 500 GW by 2030.

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78. https://mnre.gov.in/img/documents/uploads/file_f-1597797108502.pdf
79. https://www.ibef.org/industry/renewable-energy.aspx
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81. http://www.mospi.gov.in/sites/default/files/publication_reports/ES_2020_240420m.pdf
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Key trends

Rise in PE investments in India's renewable energy sector

- A suitable policy environment coupled with high growth opportunities in India's renewable energy sector have made it an attractive market for investors.
- The sector has witnessed an increased PE activity in the last five years and received USD 2.2 billion in investments in FY19 up from USD 270.5 million in the previous fiscal.[84]
- In early 2019, PE firm EverSource Capital stated plans to invest USD 1 billion in the sector.[85]

Growing M&A activity in the sector

- India has emerged as a global clean energy investment destination, resulting in a significant rise in M&A deals in the sector.
- Various foreign players are entering into strategic partnerships with Indian energy companies, in order to expand their pan–India presence.[86]
- In February 2020, Total SA agreed to acquire a 50% stake in Adani's solar business.[87]

Expanding solar power capacity

- As of March 2020, solar installations accounted for 27.2% of total renewable energy capacity.[88] India plans to further expand its solar power capacity to reach 100 GW by 2022.
- In October 2019, India started working on a solar power plant in Rajasthan, which will be the world's largest solar plant with a capacity of 2,255 MW.[89]
- In addition, the Adani Group – a leading Indian conglomerate, aims to become the world's largest solar power company by 2025 and the biggest renewable energy firm by 2030.[90]

Government initiatives

- The Ministry of New and Renewable Energy has decided to provide custom and excise duty benefits to the solar rooftop sector, thereby lowering installation costs.
- Smart Cities Mission, development of solar parks and installation of solar pumps are policies being undertaken by the government to promote solar power generation in the country.
- The government is also working towards reducing operational bottlenecks, such as related to land acquisition, providing off-take assurance and financial support to Discoms, rationalisation of GST rates on solar and wind equipment, etc. The resolve of the government to make related reforms will lead to promotion of the sector in the country.

84. https://renewablewatch.in/2019/05/27/attractive-opportunity/
85. https://asian-power.com/project/news/pe-firm-eversource-capital-invest-1b-in-indias-renewable-energy-sector
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Technology

The IT industry in India is one of the leading contributors to India's GDP, employment and economic growth. The sector can be broadly classified into three major segments: IT services; software products and engineering services; and hardware. India is also the second largest telecom market in the world, with a subscriber base of 1.2 billion users.[91]

Current scenario

In 2019, the industry accounted for 7.7% of India's GDP and is expected to contribute 10% by 2025. Further, the telecom industry is expected to account for 8.2% of India's total GDP in 2020, up from 6.5% in 2017.[91]

India is also the leading sourcing destination across the world and holds a 55% market share of the global services sourcing business.[92]

Given the growing opportunities in the space, the computer software and hardware market attracted USD 44.91 billion of FDI inflows between April 2000–March 2020. In 2019, PE investment in Indian technology sector stood at USD 11.8 billion across 493 deals.[92]

Due to the impact of COVID-19 in key export regions, such as US and Europe, the Indian IT industry is expected to witness a revenue impact in the short-term but the overall long-term growth potential remains robust, as the world moves to a larger digital and technology enablement for business delivery. The pandemic has also forced Indian IT firms to restructure their working models, from a centralised delivery model to a work from home model.

Way forward

The industry is expected to reach a market size of over USD 300 billion by 2025,[92] driven by supportive government policies, such as Digital India and globally growing digital spending.

Growth of the Indian technology market over the next few years is expected to be fueled by rising internet penetration, driven by an improving network infrastructure and rising demand for internet consumption. Over 600 million users are expected to join by 2025.[93]

Moreover, Indian tech sector expects business recovery in FY21, due to growing preferences for remote working models, leading to increased demand for cloud, collaborative workplace technologies and automation of processes.

In 2019, the industry accounted for 7.7% of India's GDP and is expected to contribute 10% by 2025.

91. https://www.ibef.org/industry/telecommunications.aspx
92. https://www.ibef.org/industry/information-technology-india.aspx
93. https://www.businesswire.com/news/home/20200512005476/en/India-Telecoms-Industry-Report-2020-2025-Regional-Market

Key trends

Increasing automation in IT-BPM industry

- According to NASSCOM, RPA is gaining greater acceptance in the Indian BPM/BPO sector.
- Further, as per NASSCOM, BPM spending towards RPA will steadily rise, peaking in 2025 when as much as 30-40% of the overall BPO work will be driven by RPA, allowing BPM players to leverage benefits, such as costs reduction and increased operational efficiency.[94]

Favourable environment for startups

- In FY 19, number of Indian tech start-ups stood at around 8,900-9,300 with 1,300 start-ups being added in the year. This has been driven by growing support from the government and the private sector.[95]
- NASSCOM aims to accelerate the start-up ecosystem in India significantly by 2025. This entails increasing the number of unicorns to 95-105 potentially and the cumulative valuation to USD 350-390 billion.[95]

Development of 5G spectrum network

- 5G network technology is expected to offer better user experience through increased data speeds, ultra-low latency and more reliability.
- 5G is being touted as a game-changing technology for India, with a potential to create an economic impact of over USD 1 trillion by 2035.[96]
- Indian telecom players, including Airtel, Reliance, Vodafone Idea and Reliance Jio, have initiated partnerships with vendors including Ericsson, Huawei and Samsung to conduct 5G trials in India.

Increasing AI offerings

- Indian IT companies are looking to offer AI-enabled platforms to improve the delivery of digital solutions. This is being driven by the need to offset the contraction in their traditional businesses.
- Indian IT players are expected to secure a higher share of global digital services market between 2018-2021.[97]

94. https://www.business-standard.com/article/companies/30-40-of-bpm-works-to-be-automated-by-2025-says-nasscom-everest-group-report-115092301187_1.html
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97. https://economictimes.indiatimes.com/tech/ites/indian-it-cos-to-grab-larger-share-of-digital-services-pie-globally-icra/articleshow/64546778.cms?from=mdr

Foreign investment

Foreign investors keen to set up operations in India are required to comply, with the foreign exchange control laws of the country. The CA 2013, FEMA and the regulations thereunder govern the setting-up of incorporated entities (JVs or WOS) and offices of foreign incorporated entities (BO, LO or PO).

FDI policy

In recognition of the important role played by FDI in accelerating the economic growth of the country, the government is now opening up sectors. FDI is allowed in most sectors, including the services sector, through the automatic route without requiring any prior government approval.

In 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 in May 2017. New proposals for FDI under the approval route are now directly handled by the concerned ministries.

Towards this end, the DPIIT has issued SOP for processing FDI proposals. This SOP clearly lays down the procedure to submit the online application through the FIFP (formerly known as the FIPB portal).

Applicability of the FDI policy may vary based on the category of foreign investor - for example, investments by NRIs or OCIs are subject to certain relaxations under the FDI policy, NDI Rules, 2019 and specific guidance should be sought by the foreign investors.

Sectoral FDI policy

The table below gives an indicative summary of 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 the prescribed 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 ARCs.

FDI not permitted

FDI is not permitted in the following sectors:

Lottery business including government/private lottery, online lotteries, etc.	Nidhi company
Gambling and betting including casinos, etc.	Trading in transferable development rights
Chit funds	Real estate business, or construction of farmhouses (subject to certain exceptions)
Activities/sectors not open to private sector investment, e.g., atomic energy and railways (except mass rapid transport systems)	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 transactions 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. 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 inter alia provide, 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.

Equity instruments

Provisions relating to inbound investments are classified into two separate rules (i.e. non-debt and debt). Accordingly, all equity instruments, such as equity shares, fully compulsorily and mandatorily convertible debentures and fully compulsorily and mandatorily convertible preference shares and share warrants (issued in accordance with the regulations issued by SEBI), subject to the pricing guidelines/valuation norms and other prescribed reporting requirements are governed by NDI Rules, 2019.

NDI Rules, 2019 have recently been amended to curb the vulnerable acquisitions by acquirer from neighbouring countries.

Prior approval of the government is required for investments made by entities incorporated in a country which shares land border with India or where the beneficial owner of investment into India is situated in or is a citizen of any such country.

Further, in the event of the transfer of ownership of any existing or future FDI in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within aforesaid restriction/ purview, such subsequent change will also require prior government approval.

FPIs were earlier allowed to invest, through equity instruments, upto 10% of the paid-up share capital of a listed Indian company together with an overall cap of 24% (of the paid-up share capital in such listed company) made by all FPIs taken together.

The government has recently made amendments whereby with effect from 1 April 2020, the investments under the FPI route is now permitted up to sectoral limits prescribed under the exchange control regulation.

Foreign currency loans

With effect from 16 January 2019, a new ECB regime has been introduced wherein Indian entities who are eligible to receive FDI can 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 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

Parameter	Foreign currency ECB	Rupee denominated 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 • FCCB, FCEB • 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 • Financial lease • RDB issued overseas, which can be either placed privately or listed on exchanges as per host country regulations
Eligible borrowers	FDI in certain sectors is subject to sectoral caps such as insurance (49%), defence subject to industrial licence (49%) and airlines (49%)	
Recognised lender	The lender should be a resident of a FATF or 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

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 and repatriated within a stipulated time period (generally nine months – However, due to COVID-19, the timeline has been increased to 15 months for this year).

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 AD Bank/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 LLP incorporated under the LLP Act, 2008) are eligible to undertake ODIs outside India signifying a long-term interest in the foreign entity (JV or WOS).

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.

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.

Finance

As the result of a concerted effort by the government and the private sector, India is undoubtedly one of the most vibrant capital markets in the world with its robust banking insurance and fund industry. Within financial services, banking is the biggest and one of the most important sectors contributing to the growth of the economy.

The government is of the view that a robust financial sector is indispensable to achieve its target of making India a USD 5 trillion economy by 2024. The government has, from time to time, endeavoured to address several tax and regulatory issues faced by the sector to make India a more competitive economy and help attract domestic as well as foreign capital.

Financial services sector

The Indian financial sector has the following broad categories:

- Banks
- Insurance companies
- Capital markets
- Non-banking financial companies
- Housing finance companies
- Capital markets intermediaries
- Gujarat International Finance Tec-City
- Asset reconstruction companies
- Private equity and venture capital funds
- Mutual funds
- Pension funds
- Fintech
- Real estate investment trust/Infrastructure investment trusts

Banks

Financial markets in India have acquired increased liquidity and depth over the years with banks dominating the space. The RBI, the apex bank of the country, regulates the banking sector. Reforms in the banking sector have encouraged entry of new players, making it more market-driven 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): 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.
- **SFBs:** SFBs have been set up to further financial inclusion by (i) providing savings vehicles, and (ii) supplying credit to small business units, small and marginal farmers, micro and small industries, and other unorganised sector entities through high technology, low cost operations.
- **Payments banks:** Payments banks are also a new model of banks for intensifying financial inclusion by providing: (i) small savings accounts and (ii) payments/remittance services.

The RBI has also introduced detailed guidelines allowing Indian and foreign banks with a presence in India, carry out operations in the IFSC. The key business activities in IFSC include ECB, loan syndication and trade finance. At present, there are approximately 14 banking units set up in the IFSC.

Non-banking financial companies

These are financial institutions, regulated by the RBI, 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 lend and make investments and hence their activities are akin to those of banks. However, unlike banks, NBFCs can accept neither 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 based on business activities conducted by them, which include investment and credit company, infrastructure financing, core investment company, mortgage guarantee company, infrastructure debt, micro financing, etc.

HFCs are other type of NBFCs that were erstwhile regulated by the NHB, which in turn was regulated by RBI. However, vide a recent proposal, RBI would now act as the regulator for the housing finance sector while NHB would continue to act as a refinancer and lender to the housing finance sector.

Insurance

The insurance sector comprises insurance companies, insurance brokers, third-party administrators, surveyors and assessors and other such intermediaries. The sector is regulated by the IRDAI.

Currently, there are over 60 insurers operating in India of which eight 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 the company obtains approval from the IRDAI for carrying out the insurance business and its ownership and control remain at all times in the hands of resident Indian entities.

Recently, the government has approved 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. Since the opening of the sector to reinsurance players, 10 foreign reinsurers have set up a branch office in India with the prior approval of IRDAI.

To boost foreign investment in Indian capital markets, the SEBI has recently issued revised FPI Regulations and corresponding operational guidelines, which provide simplified registration and KYC requirements.

Capital markets

Indian companies are allowed to raise capital and access financial markets through public issue of securities within the regulatory framework of the 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.

To boost foreign investment in Indian capital markets, SEBI has recently issued revised FPI Regulations and corresponding operational guidelines, which provide simplified registration and KYC requirements. Further, the guidelines have removed the broad-basing requirement, removed opaque structure restrictions, liberalised conditions for hedging of ODIs and allowed appropriately regulated entities to invest on behalf of their clients.

In order to deepen the bond market and achieve the aspirational growth rate through flow of additional capital in the financial system, a new route viz. fully accessible route is introduced, to enable non-residents to invest in specified securities issued by the government without being subject to any investment limit.

All these initiatives by the government on tax and regulatory front 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 in Indian capital markets include stock exchanges, stockbrokers, merchant bankers, credit rating agencies, investment advisors, portfolio managers, clearing corporations, etc. These intermediaries support the functioning of capital markets in India.

Mutual funds

Mutual funds are popular in India because they simplify investment in the 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.

Pension funds

Pension funds are created by an employer to make contributions of funds for employees' future benefit. With the passage of the PFRD 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%.

Alternative investment funds

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 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; this has yielded better returns for investors as well as better investments for new and emerging businesses, social ventures and infrastructure.

SEBI has also issued operational guidelines to enable setting up of AIFs in IFSC.

Asset reconstruction companies

These 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/ infrastructure investment trusts

These 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 REITs and InvITs by allowing them to invest more in under-construction projects, facilitating rationalised unit holder consent on related party transactions and removal of restrictions on SPVs to invest in other SPVs holding the assets. Further, SEBI has also done away with requirement of mandatory listing of InvIT and REIT units.

Fintech

India is transitioning into a dynamic ecosystem offering fintech start-ups a platform to 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:

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

Recently, the RBI and SEBI have issued a draft framework for regulatory sandbox. The regulatory sandbox framework enables fintech start-ups to test their financial products, services or technology in a controlled regulatory environment before launch.

Gujarat International Finance Tec-City

GIFT City, India's first IFSC, has been set up with an objective to enable Indian entities compete on an equal footing with offshore financial centres and to provide facilities and regulations comparable to other leading IFSCs in the world. Currently, banks, AIFs, FPIs, mutual funds, clearing corporations, stock exchange and capital market intermediaries and insurance/reinsurance companies are allowed to operate in IFSC.

The regulators overseeing the financial transactions that may be undertaken in GIFT City are RBI, SEBI and/or IRDAI, depending on the nature of the activity. The government has recently established a unified authority that would regulate all the financial services in IFSC.

In the Union Budget 2020, the government also proposed to set up an International Bullion Exchange at GIFT-IFSC as an additional option for trade by global market participants. Recently, the regulators have permitted trading of Rupee-Dollar (i.e. INR-USD) currency derivatives on the IFSC exchanges.

The government has also made amendments under the Indian tax laws to provide various exemptions to entities operating from IFSC and making investments on the IFSC stock exchanges.

Business entities

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

Unincorporated entities

- Liaison office
- Branch office
- Project office
- Partnership firm

Incorporated entities

- Limited liability partnership
- Limited company (public/private)

These forms of business entities are discussed below:

Liaison office

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 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 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 that 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.

Branch office

A foreign company may establish its BO in India by making an application to its AD bank in most cases. The BO should engage 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 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 PO 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 meet the prescribed conditions. Once the project is executed as per the terms of the contracts awarded, the PO is required to be closed down.

Partnership firms

Under the current FDI policy and the FEMA, 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.

Limited liability partnership

It 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 sectors where 100% FDI is allowed.

An LLP is governed as per the LLP agreement between the partners. In the absence of such agreement, the framework provided in the LLP Act would govern the LLP. The LLP Act describes matters relating to the mutual rights and duties of the partners and the LLP. Importantly, the LLP 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 IT Act for such conversion.

Limited company

It 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 FEMA. As per the current policy, all companies in India have to be incorporated under the provisions of the CA 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 the resident of 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 that are freely transferable.
- A private company cannot invite public to subscribe its securities.
- The compliances applicable to a private company under the CA 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

India has adopted various measures to regulate the conditions under which fixed-term employment contracts are written, applied and interpreted. Both the state and central governments regulate Labour, being an item under the concurrent list of the Indian Constitution. 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.

Employment contracts

Customary working hours

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.

Applicable labour laws

The Minimum Wages Act, 1948; Payment of Wages Act, 1936; Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976 are the key legislations that regulate wage and bonus payments in all employments where any industry, trade, business, or manufacturing is carried out.

Code of Wages

The government enacted the Code of Wages in August 2019 replacing the above legislations and expanding the scope and applicability of benefits. The date of enforcement of the Code of Wages is pending notification as on 1 September 2020.

Lok Sabha recently approved three labour laws related bills:

- **Industrial Relations Code, 2020:** To ensure quick resolution of labour disputes
- **Occupational Safety, Health & Working conditions Code, 2020:** Provides for free health check-up once a year by the employer for workers beyond a certain age
- **Social Security Code, 2020**: Proposed to amalgamate the nine labour laws including the ESIC and the EPFO Act

Social security

The 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 to apply to the fund for all establishments employing 20 or more people at any point of time. It also covers provision of pensions and other survivor benefits in the event of any employee's death. Employees are required to contribute 12% of their salary to the EPFO with a matching contribution by the employer. Foreign or international workers employed in India are also subject to the terms of this fund.

Social security agreements

India also has SSA, which are bilateral agreements between two governments. Such agreements serve to protect the interests of Indian citizens working outside India in any of these countries or foreign nationals coming to India from these countries. Presently, India has signed SSAs with 18 countries as under:

Australia	**Austria**	**Belgium**
The 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.

Certain portion of provident fund 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

They work to protect the interest of the workers and discuss key workplace-related issues with the management such as wages and benefits. Law will recognise a trade union if it functions for more than a year after its registration.

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. The validity of a visa depends upon the type of visa granted. 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 FRRO. The FRRO registration process is digitalised and the e-FRRO portal provides a faceless, cashless and paperless service to foreign nationals.

Overseas Citizenship of India

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

Registered OCIs shall be entitled to certain benefits like multiple entry, multi-purpose life-long visa to visit India, parity with NRIs in financial, economic and educational fields, except in the acquisition of agricultural or plantation properties, etc.

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.

Generally, employment visa, business visa or project visa are given for business/employment purposes. The validity of a visa depends upon the type of visa granted. Extension of visas may also be granted as per the requirements on a case-to-case basis.

Accounting, reporting and audit requirements

In India, accounting, reporting and auditing requirements of businesses are primarily governed by the regulations issued by the ICAI, the SEBI, the MCA and the 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 the CA 2013. The 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 CA 2013.

Companies listed on a recognised stock exchange in India are also governed by the rules and regulations issued by the SEBI. Further, industry- specific guidance relating to financial reporting are also issued by relevant regulatory authorities such as RBI, NHB and IRDAI.

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.

Financial statements of listed companies are prepared in the formats prescribed by the 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, with certain relaxations in the current year due to the COVID-19 pandemic.

From 1 April 2019, it is mandatory for listed companies to publish both separate and consolidated financial information.

Accounting year

Under the CA 2013, 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.

Contents of financial statements

The CA 2013 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.

Records to be maintained

Every company should follow accrual basis of accounting. The CA 2013 requires that the records can also be maintained in electronic mode in the prescribed manner and should 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, RoC and other government authorities, such as those involved with GST and provident fund. Certain records are also available for inspection by the members of the company.

Audit of financial statements

Every company in India must have its financial statements audited by a chartered accountant in practice (member of the 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 CA 2013. 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).

Mandatory firm rotation

To promote auditor independence and in the interest of improving audit quality, the CA 2013 prohibits auditor appointment for more than five consecutive years (if the auditor is an individual) or more than two periods of five consecutive years (if the auditor is an audit firm) 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 largely similar to the International Standards on Auditing issued by the IAASB of the International Federation of Accountants.

However, there are additional reporting responsibilities on auditors governed by Section 197 and Section 143 of the CA 2013 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 CA 2013 prescribes two accounting frameworks:

1. The accounting standards prescribed under Companies (Accounting Standards) Rules, 2006 as notified under the Companies Act, 1956 (Indian GAAP)
2. Ind AS prescribed under the Companies (Indian Accounting Standards) Rules, 2015, based on IFRS as issued by the International Accounting Standards Board, with certain carve-ins and carve-outs

Following class of companies, other than insurance and banking companies, are required to prepare financial statements as per the Ind AS framework:

- 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
- Unlisted companies having net worth of more than INR 2.5 billion as per previous year audited financial statements
- Holding, subsidiary, JV or associate companies of the reporting companies covered above

Companies may also voluntarily adopt Ind AS irrevocably earlier than above prescribed roadmap.

Banking and insurance companies were earlier required to implement Ind AS for preparation and presentation of their financial information from 1 April 2019 in a phased manner. However, RBI has deferred such implementation for banking companies till further notice in view of preparedness of banks and pending necessary legislative amendments to the Banking Regulation Act, 1949, while IRDAI has deferred Ind AS implementation for insurance companies until Ind AS 117 on insurance contracts is notified by the MCA.

National Financial Reporting Authority

In October 2018, the MCA constituted the NFRA by notifying Section 132 of the CA Act 2013 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.

Filing of financial statements/ results

A company is required to hold an 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 RoC within 30 days of the AGM. Listed companies also need to file the audited (or reviewed) 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. Certain relaxations have been provided in the current year due to the COVID-19 pandemic.

The MCA requires filing of financial statements with the RoC, using the 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

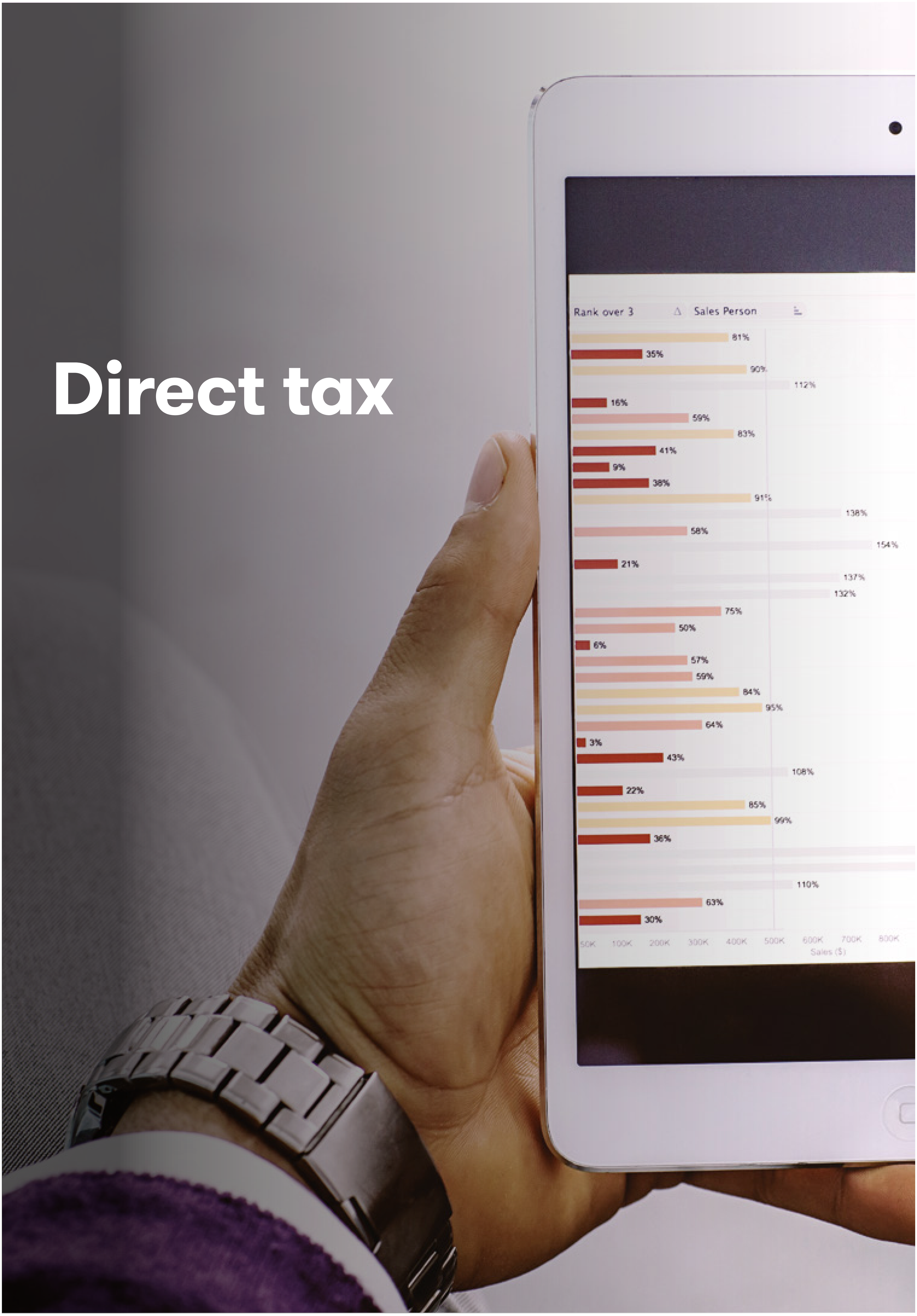
In case of a listed company, directors are required to implement internal financial controls to be followed by the company and report annually whether such internal financial controls were adequate and operating effectively. In case of other companies, directors are only required to report whether such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

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 income from other sources.

Direct tax


Rank over 3
Sales Person
81%
35%
90%
112%
16%
59%
83%
41%
9%
38%
91%
138%
58%
154%
21%
137%
132%
75%
50%
6%
57%
59%
84%
95%
64%
3%
43%
108%
22%
85%
99%
36%
110%
63%
30%
100K
200K
300K
400K
500K
600K
700K
800K
Sales ($)

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

- **Income from salary**
- **Income from house property**
- **Profits and gains from business or profession**
- **Capital gains**
- **Income from other sources (income not specifically covered under other heads)**

All taxpayers are required to follow a uniform tax year from 1 April to 31 March for tax purposes, referred to as previous year, irrespective of the financial year followed for accounting purpose.

India follows a mix of source-based and residence-based taxation. The IT Act provides for such taxation vis-à-vis the residential status of the person in relevant previous year, i.e. ROR, RNOR and NR.

The government announced various compliance and fiscal measures to provide relief to businesses in view of COVID-19. The due dates for various compliances, such as filing of return of income, investment for purpose of deduction and assessments, have been extended to enable the taxpayers to comply swiftly with the statutory requirements.

The government had introduced Vivad se Vishwas scheme to minimise and achieve closure on ongoing litigations for past years. The due date for payment of prescribed tax under the scheme is also extended to 31 December 2020 from 30 June 2020.

Taxation of individuals

Depending upon the duration of physical presence in India, an individual and his scope of taxation can be considered as following:

Resident and ordinarily resident

ROR are taxable on their global income.

Resident but not ordinarily resident

RNOR are taxable on their global income. However, the income that accrues or arise to him outside India shall not be included, unless the income is derived from a business controlled from India or from a profession set up in India.

Non resident

NR are taxable either on receipt or source basis in India.

The Finance Act 2020 has modified the existing tax residency rules. It now provides that an Indian citizen will be considered to be 'deemed resident' in India for tax purpose, if his total income, other than income from foreign sources exceeds INR 15 lakh during any previous year, and such citizen is not liable to tax in any other jurisdiction, either by reason of his domicile or residence. It is provided that for the purpose of such provision the person shall be treated as RNOR.

Optional concessional tax regime

The Finance Act, 2020, introduced a concessional tax regime granting an option to all individuals/HUFs to pay tax at lower rates on total income computed without claiming any deductions/exemptions otherwise available under the existing provision.

Individual/HUF with business income:
Reduced tax rates once exercised will be applicable for all subsequent years and AMT provisions shall not apply. In this case, the taxpayer will have an option to opt out of the concessional regime without any option to re-exercise such benefit.

Individual/HUF without business:
Can exercise the option for lower tax rates on a year-to-year basis.

The personal tax rates for the FY 2020-21 are as follows:

Option 1: Old tax regime

Income slabs	Rate of tax (%)
Upto INR 250,000*	Nil
INR 250,000 to INR 500,000	5%
INR 500,000 to INR 1,000,000	20%
Above INR 1,000,000	30%

Option 2: Concessional tax regime

Income slabs	Rate of tax (%)
Upto INR 250,000	Nil
INR 250,001 to INR 500,000	5%
INR 500,001 to INR 750,000	10%
INR 750,001 to 1,000,000	15%
INR 1,000,001 to 1,250,000	20%
INR 1,250,001 to 1,500,000	25%
Above INR 1,500,000	30%

*Minimum exemption limit for:

Senior citizens being resident
(age 60 years and above but less than 80 years)
INR 300,000

Super Senior citizens being resident
(age 80 years and above)
INR 500,000

Tax rebate for individual taxpayers

Individual taxpayers with taxable income up to INR 500,000 are entitled to a tax rebate of up to INR 12,500. Taxable income is arrived at after adjustments for deductions.

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. However, the benefits will be available in the old tax regime only.

Tax incentives for individual taxpayers introduced in the Finance Act, 2020

Deduction in respect of interest paid on loan taken for residential house property: The benefit of deduction[98] relating to the interest paid on the specified housing loans was allowed only to the loan availed on or before 31 March 2020. The Finance Act 2020 has extended the benefit to the loans sanctioned on or before 31 March 2021.

98. 80EEA of the IT Act

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 be received in India or (b) accrues or arises or is deemed to accrue or arise 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 is situated wholly outside India.

The tax rate for FY 2020-21 is 30%.

Taxation of companies

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

Resident
Taxed on worldwide income

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

Non-resident
Taxed on income (a) received/deemed to be received in India or (b) accrues or arises or is deemed to accrue or arise in India

Tax rate for domestic company

The corporate tax rates for the FY 2020-21 are as follows:

	Prescribed conditions	Tax rate
(a)	Total turnover or the gross receipts in the FY 2018-19 does not exceed INR 4,000 million	25%
(b)	Other than corporates falling under (a) above	30%

Domestic companies may opt for lower corporate tax rate subject to specified conditions as under:

	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 March 2016, engaged in the business of manufacture or production of any article or thing and does not claim specified exemptions/incentives	25%
(c)	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%

The Finance Act 2020 included the companies engaged in the business of electricity generation under the concessional tax regime granting beneficial tax rate of 15%.

Tax rate for foreign company

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

Rate of surcharge

	Net income		
Types of company	**Up to INR 10 million**	**INR 10-100 million**	**Above INR 100 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 company	NIL	2%	5%

	Net income			
Taxpayer	**INR 5-10 million**	**INR 10-20 million**	**INR 20-50 million**	**Above INR 50 million**
Individual/AOP/BOI/AJP	10%	15%	25%	37%
Firm/LLP/local authority	NIL	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 FIIs**

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/Alternate Minimum Tax

India has a minimum tax regime, whereby MAT/AMT is payable by corporates/other persons on profits as per books/adjusted total income (subject to specified adjustments), 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 (%) for MAT	Applicability	Credit availability
Domestic company liable to corporate tax rate of 22%/15%	Not applicable	NA	NA
Domestic company liable to corporate tax rate of 25%/30%	15% of book profits	MAT is leviable where tax payable on the total income is less than 15% 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
Foreign company[99]	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

***The provision of AMT shall apply to an individual/HUF/AOP/BOI/AJP/LLP/firm subject to the prescribed provisions. However, where the adjusted total income does not exceed INR 2 million in the case of said person except LLP/firm, the AMT provision shall not apply.**
Further the provisions of AMT are not applicable to individual/HUF/cooperative society who has opted for the concessional tax regime.

99. MAT provisions apply to a foreign company only if it has a permanent establishment 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

DDT was abolished and replaced with the classical system of taxation in the hands of the shareholder with effect from 1 April 2020.

From 1 April 2020, dividend income is taxable as per the applicable slab rates in the hands of the investors/ shareholders. Further, domestic companies are required to deduct tax at source at the rate of 10%, where the dividend paid during the FY to a resident shareholder exceeds INR 5,000. However, where the dividend is payable to a non-resident or a foreign company, the tax shall be deducted at 20% subject to benefits available in accordance with relevant DTAA.

Further, the recipient of dividend can claim deduction of interest expenditure, which has been incurred to earn that dividend income to the extent of 20% of total dividend income. No other expenditure can be deducted from such dividend income.

The Finance Act has also eliminated the cascading tax effect in case of intercorporate dividends by providing a deduction in respect of dividends received by a domestic company to the extent such dividend is distributed. The scope has been expanded to include dividends received by a foreign company and a business trust.

Due to the abolition of DDT, income from units of a mutual fund, which were earlier exempt in the hands of unit holder, is now taxable in the hands of the unit holder. The payer shall withhold tax at the rate of 10% on such income if it exceeds INR 5,000 and the unit holder is a resident in India otherwise, the rate of deduction shall be 20% subject to treaty benefits.

Capital gain tax

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

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 INR on the date of transfer, thus providing for adjustment of fluctuation in foreign exchange.

Short-term capital gains

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

Long-term capital gains

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 ZCBs	20% with 'indexation'[100] or 10% without 'indexation' whichever is lower
Residents	Capital assets other than those covered above	20%
Non-residents	Listed securities (other than a unit) on which STT is not paid* or ZCBs	10% after accounting for foreign exchange fluctuation[101]
Non-residents	Shares and debentures other than covered above for non-residents	10% without accounting for foreign exchange fluctuation
Non-residents	Capital assets other than those covered above for non-residents	20%

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

The Finance Act, 2020, has increased the tolerance limit, between sale consideration and stamp duty value, from 5% to 10% where the capital asset transferred being land or building or both.

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

** As per the Finance Act, 2018, the existing tax exemption on long-term capital gains arising on transfer of a listed equity share or a unit of an equity-oriented fund, etc., (subject to STT) has been withdrawn. Any long-term capital gain arising from such transfers made on or after 1 April 2018 and in excess of INR 0.1 million shall be taxed at 10%. Further, long-term capital gains earned up to 31 January 2018 has been grandfathered.

100. Indexation is not available on ZCBs
101. Forex fluctuation is not available on ZCBs

Taxation of non-residents

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 permanent establishment 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 concept of 'significant economic presence' has been introduced to levy tax on non-residents who operated without having a physical presence in India, i.e. e-commerce companies and other digitised form of businesses. The applicability of provisions of 'significant economic presence' is deferred to FY 2021-22.

Fees for technical services

Fees for managerial, technical or consultancy services rendered by an NR are taxable in India (where an NR does not have a permanent establishment 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'. It 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, trademark, 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 NR for money borrowed in foreign currency. A lower withholding rate of 5% is applicable on interest payable on ECBs, **long-term bonds and RDBs issued before 1 July 2023.**

Similarly, lower rate of withholding of 5% is available for interest payable to a FII or a QFI on a RDB of an Indian company or a government security issued before 1 July 2023, 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 permanent establishment 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 entered into comprehensive tax treaties with 96 countries so far.

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 NR (not having a permanent establishment 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.

The Finance Act 2020 has expanded the scope of equalisation levy to cover non-resident ECO at 2% of the amount of consideration received or receivable by a non-resident ECO from e-commerce supply or services made or provided or facilitated by it to:

- Person resident in India
- NR in specified circumstances (specified circumstances shall include sale of advertisement targeting Indian customer or any person accessing such advertisement through internet protocol address located in India and sale of data collected from an Indian resident person or from a person using internet protocol address located in India)
- Person who buys such goods or services or both using Indian internet protocol address.

Securities transaction tax

It 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 that have been subjected to STT.

With effect from 1 September 2019, STT on transactions in respect of sale of options has been introduced. The STT shall be levied on the difference between the strike price and the settlement price.

Commodities transaction tax

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

Wealth tax

No wealth tax is levied in India.

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.

Estate duty

No estate or death duty is charged.

General Anti-avoidance Rules

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. GAAR deals with aggressive tax planning involving the use of sophisticated structures. The provisions of GAAR came into effect from 1 April 2017.

Computation of business income

Business income is generally taxable on 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. This deductibility is further subject to exceptions and fulfilment of conditions, such as withholding tax, as stated in the IT Act.

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.

Depreciation

Depreciation of capital assets is allowed on the basis of the reducing balance method using varying rates, depending on the type 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 rate 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:

Block of asset	**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%

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 that could not be 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 with effect from FY 2020-21.

Patent box regime

To encourage indigenous R&D activities, royalty income of eligible taxpayers in respect of a patent developed and registered in India is taxable at 10% on the gross amount of royalty.

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, is eligible for the patent box regime.

Special economic zone

A 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 began on or after 1 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 30 September 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 of 100% deduction of the profits earned in any of the three consecutive years of the initial 10 years of operations. The deduction is, however, available only to a new entity, which is not set up by way of splitting up or re-construction of an existing undertaking. The start-up should:

- Be engaged in a business that 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
- Hold a certificate of eligible business from the Inter-Ministerial Board of Certification, as prescribed by the DPIIT
- Not have a turnover exceeding INR 1,000 million in the year(s) in which deduction is claimed

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

The Finance Act 2020 has introduced a withholding tax at the rate of 1% on the gross amount of sales or service by an ECO on payments made to a resident e-commerce participant (i.e. person selling goods and/or services on electronic or digital platform). Payments made to an individual or HUF e-commerce participant are exempt from withholding tax if the gross amount does not exceed INR 500,000, subject to furnishing of PAN/Aadhaar.

Further, the Finance Act, 2020 has expanded the scope of provisions related to TDS on cash withdrawal by amending the existing provisions. The section now stipulates separate withholding tax rates vis-à-vis the return filing status of the persons and accordingly provides for different threshold limits.

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

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

To provide more funds at the disposal of the taxpayers for dealing with the economic situation arising out of the COVID-19 pandemic, the rates of TDS for the specified non-salaried payments made to residents have been reduced by 25% for the period from 14 May 2020 to 31 March 2021.

Tax collection at source

The IT Act casts an obligation on each seller to collect tax on specified receipts, including the following goods:

- Alcoholic liquor for human consumption
- Tendu leaves
- Timber obtained under a forest lease
- Timber obtained by any other mode
- Any other forest produce not being
- Scrap
- Minerals such as coal, lignite and iron ore

The Finance Act, 2020, amended the provisions relating to TCS to require collection of tax from a person remitting the amount outside India under LRS or buying an overseas tour program package. TCS rate was prescribed at the rate of 5% subject to certain threshold limits specified therein. The said provisions will be applicable from 1 October 2020.

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 IT 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.

Tax deduction and collection account number

Every person responsible for withholding tax, in accordance with the provisions of the IT Act, is required to make an application for the allotment of withholding tax registration number called TAN. Corporate taxpayers can now submit a common application form by incorporation of both PAN and TAN.

Tax return filing

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

Government has recently extended the due date to file Income tax return for FY 2019-20 to 30 November 2020 for all taxpayers subject to chargeability of specified interest.

Transparent taxation – Honouring the Honest scheme

India move towards seamless, painless and faceless assessments

On 13 August 2020, the Indian Prime Minister announced Transparent Taxation - Honouring the Honest. The scheme was launched with three main objectives of

1. Introducing faceless assessment
2. Adopting a taxpayer's charter
3. Moving towards faceless appeal

Faceless assessment

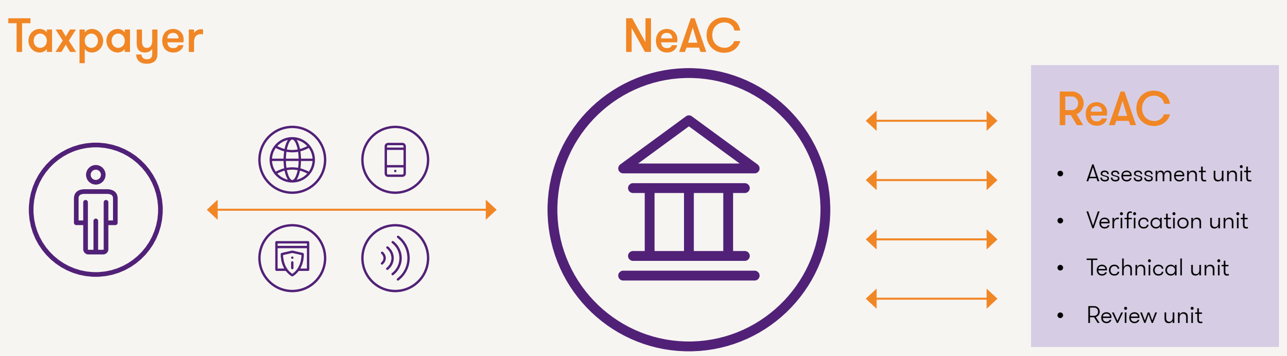
NeAC will act a nodal agency and single point of contact between the taxpayer and the income tax department.

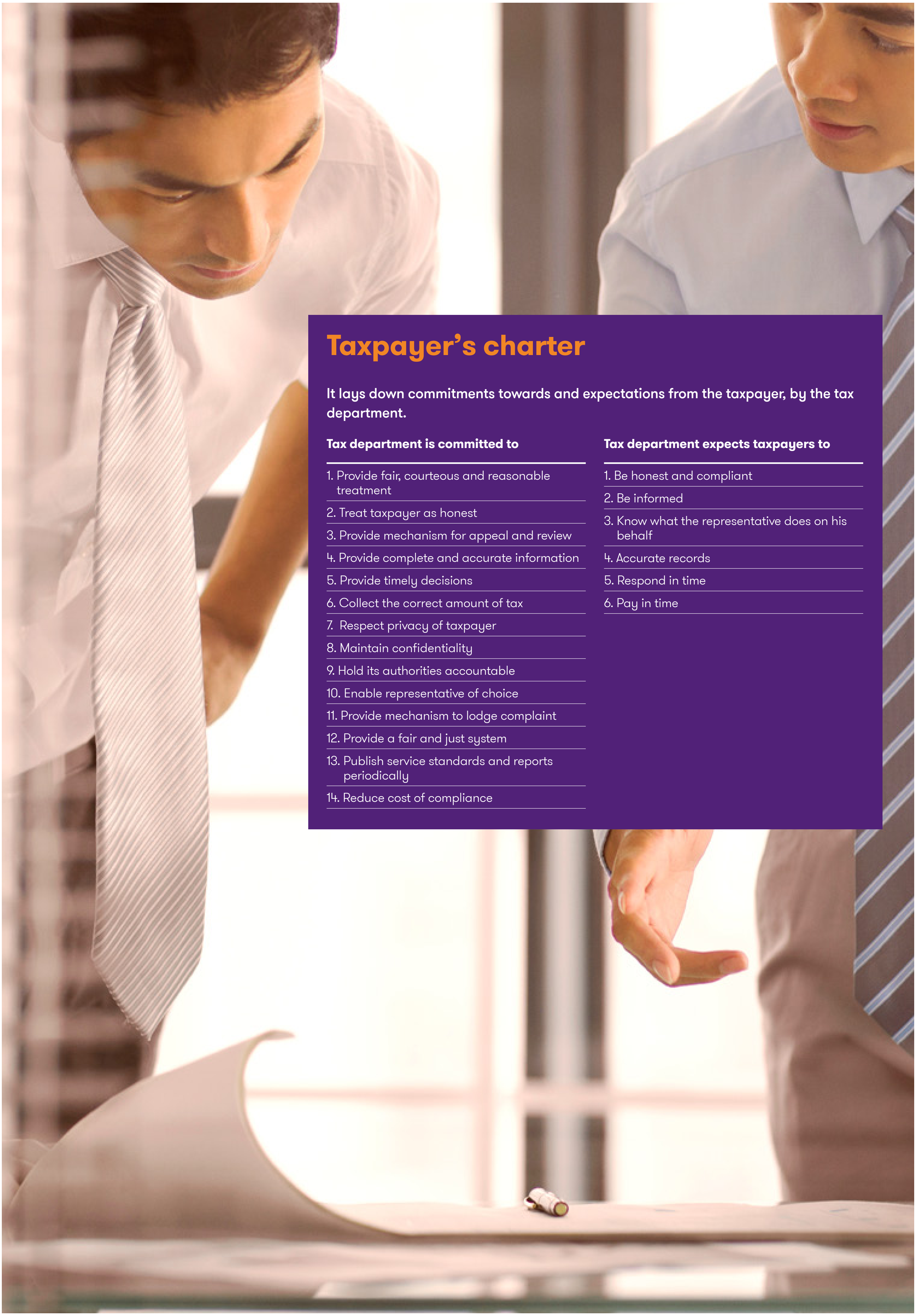
Assessment proceedings will be carried out by ReAC, with support from various units (e.g., assessment, verification, technical and review)

Key features of faceless assessment

Selection of cases through data analytics and AI	Dynamic jurisdiction	Automated random allocation of cases
Central issuance of notices	No physical interface	Team-based assessment and review

Faceless assessment ecosystem





Taxpayer's charter

It lays down commitments towards and expectations from the taxpayer, by the tax department.

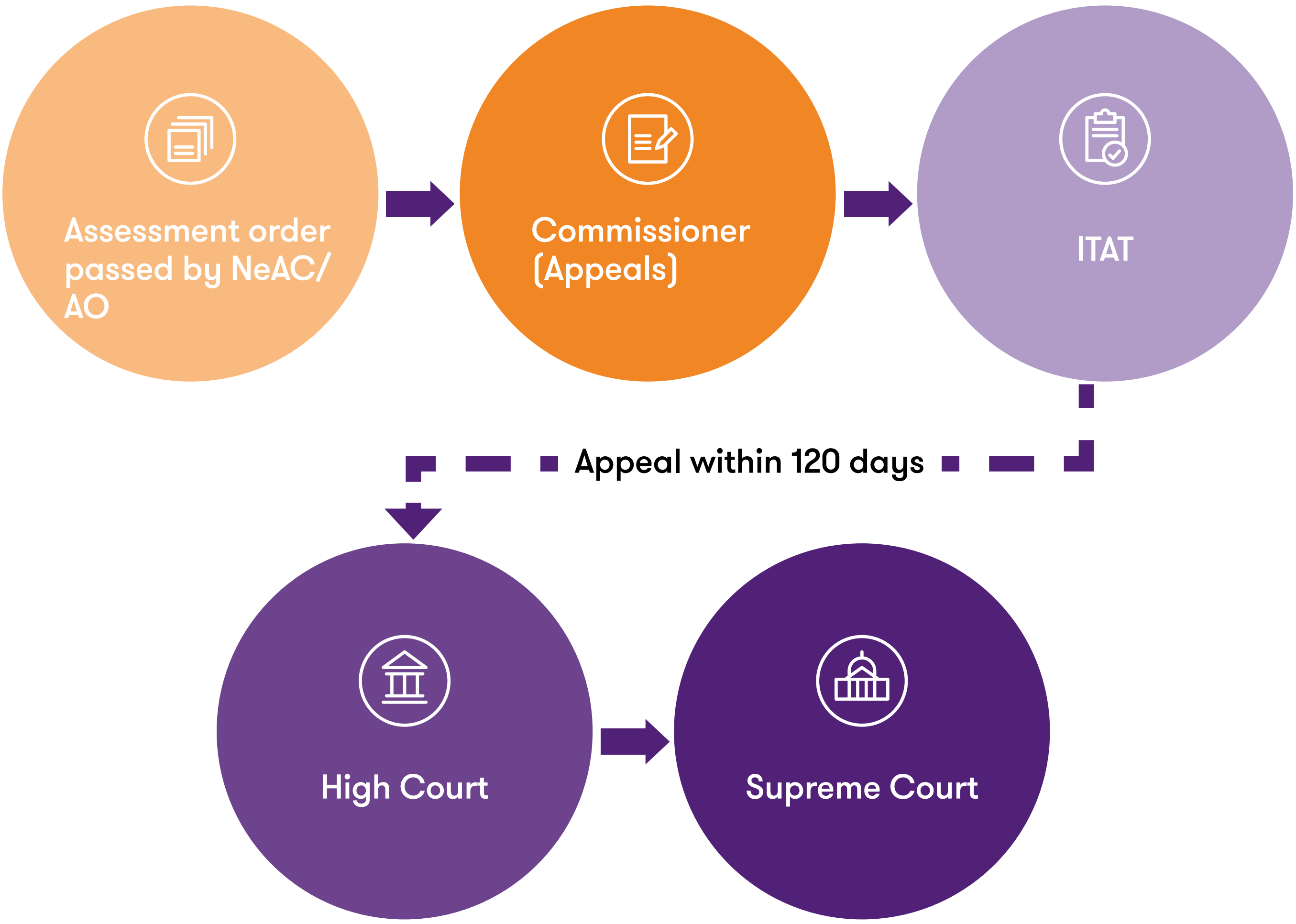
Tax department is committed to

1. Provide fair, courteous and reasonable treatment
2. Treat taxpayer as honest
3. Provide mechanism for appeal and review
4. Provide complete and accurate information
5. Provide timely decisions
6. Collect the correct amount of tax
7. Respect privacy of taxpayer
8. Maintain confidentiality
9. Hold its authorities accountable
10. Enable representative of choice
11. Provide mechanism to lodge complaint
12. Provide a fair and just system
13. Publish service standards and reports periodically
14. Reduce cost of compliance

Tax department expects taxpayers to

1. Be honest and compliant
2. Be informed
3. Know what the representative does on his behalf
4. Accurate records
5. Respond in time
6. Pay in time

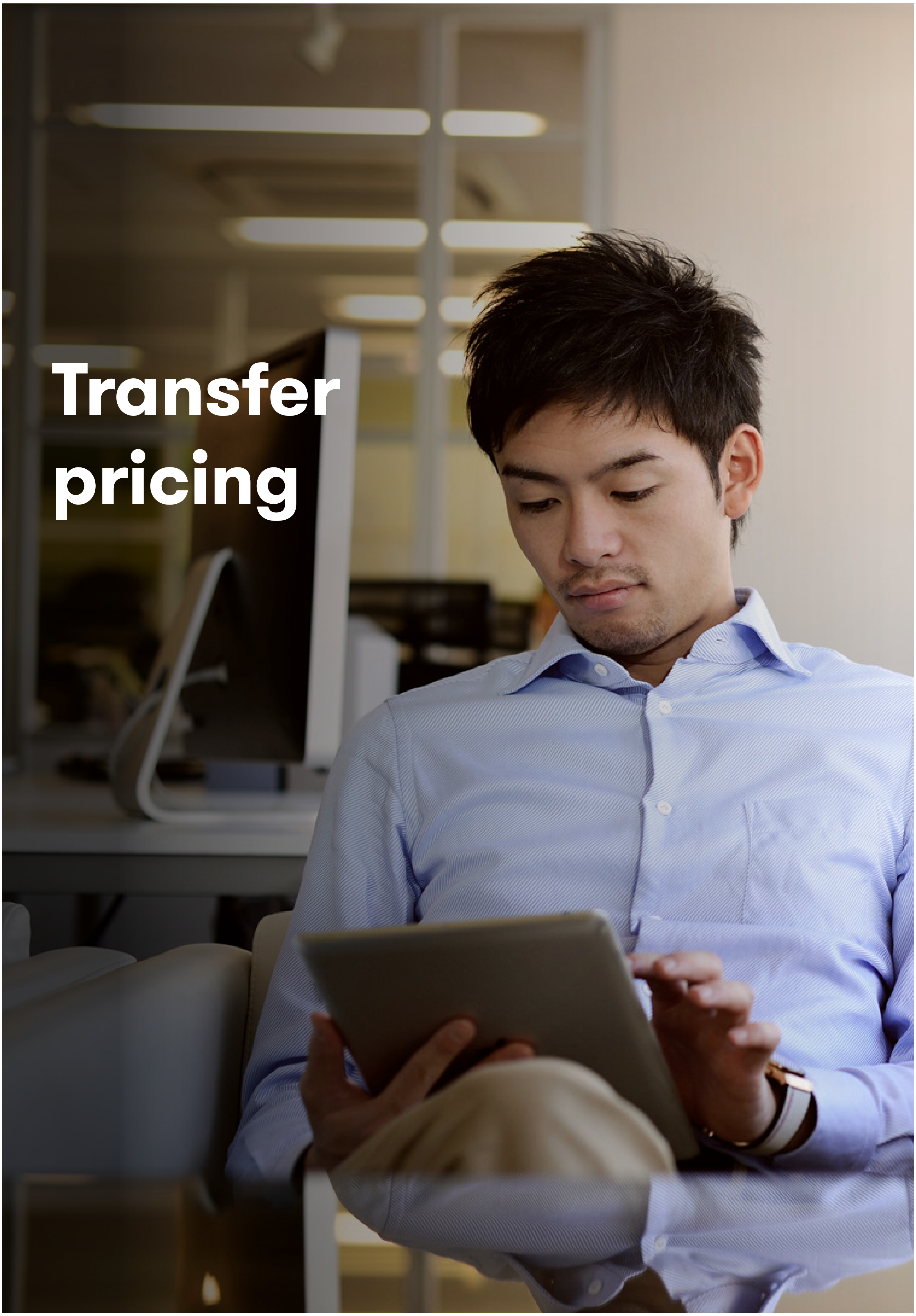
Direct tax dispute resolution process



Other alternatives to resolve tax litigation

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

Transfer pricing



TP regulations were introduced in India in 2001 to prevent erosion of Indian tax base. Keeping up with both global and local development, the regulations have evolved over the past two decades. Introduction of domestic TP and APA programmes in 2012, three tier TP documentation structure as per BEPS Action Plan 13 in 2016 and Secondary Adjustment in 2017 are examples of evolution in Indian TP Regime.

According to TP regulations, international transactions between AEs and SDTs should comply with the ALP. It is defined as 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. The transactions can be in the nature of purchase, sale or lease of tangible or intangible property, 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.

Indian regulations also cover capital financing, business restructuring and intangible related transactions within the scope of international transactions. The term intangible in this context has been given a very wide and inclusive meaning to intangibles related to marketing, technology, artistic and human capital, among others.

The definition of 'international transaction' also includes deemed international transaction within the scope of TP. Deemed international transaction means a transaction entered into by an enterprise with a person other than an AE, where:

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

Specified domestic transactions

Following categories of transactions are covered within the ambit of SDTs:

- Transfer of goods or services between units of an entity claiming/eligible to claim tax holiday under specified sections of the IT Act
- Any business transacted between an entity claiming tax holiday under specified sections of the IT Act and a closely connected person

Though the provisions are referred to as SDT or domestic TP provisions, the residential status of the closely connected person does not affect applicability of these provisions.

Associated enterprises

The definition of AEs under Indian TP regulations is broadly similar to the definition in the TP guidelines issued by the OECD. Under the TP regulations, direct or indirect participation in management, control or capital is the triggering factor for determining AE relationship.

For the purposes of ascertaining participation in management, control or capital, the IT Act prescribes 13 situations where two or more enterprises are considered as AEs. Some of the prescribed situations that trigger AE relationship include ownership of 26% or more shares carrying voting rights, loan advanced amounts to 51% or more of book value of assets of borrowing enterprise, guaranteeing of 10% or more borrowings of other enterprise, control in appointment and/or representation in board or directors/governing board.

TP methods

Prescribed methods for determination of ALP under Indian TP regulations are:

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

There is no priority prescribed in terms of selection/ application of methods.

Arm's length price

It is the price charged, or which would have been charged, for a transaction between independent parties under similar situations. The TP regulations prescribe the use of either the range concept (35-65 percentile) or arithmetic mean, depending on the method applied and number of comparable selected. Where arithmetic mean is used as a measure of ALP, a tolerance band of 3% (1% for wholesale traders) from the actual transfer price is available to the taxpayer.

Three-tier TP documentation

In accordance with its commitment to OECD's BEPS Action Plan, the government introduced the concept of three tier TP documentation in 2016. These regulations require an Indian entity, which is part of a 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):

- Local file
- Master file
- CBC report

Local file compliance is currently considered to be the same as preparation of annual TP documentation (TP study) by the taxpayer. The TP study is a detailed documentation maintained by the taxpayer to justify the arm's length pricing of its international transactions and/or SDTs.

Contents of TP documentation are in line with OECD TP guidelines. This documentation is to be maintained and updated on an annual basis, if the aggregate value of the international transaction(s) entered into by the enterprise with its AEs exceed INR 10 million. TP documentation is required to be contemporaneous and it is to be submitted to the income tax department upon request.

Master file is required to be filed where the value of international transactions of the enterprise with its AEs exceeds INR 500 million during the relevant accounting year (INR 100 million in case of intangible related transactions) and consolidated global turnover of the MNE group exceeds INR 5,000 million. Due date for filing is 30 November 2020 for FY 2019-20. The due date may be extended by the CBDT in case COVID-19 rated disruptions continue.

CBC report is required to be electronically filed by the UPE of an MNE group with annual consolidated group revenue in the immediately preceding accounting year of more than INR 55,000 million. The due date for filing is 12 months from the end of reporting accounting year of ultimate parent entity. The UPE can designate another group entity as alternative reporting entity for the purposes of filing CBC report. In case the UPE is resident in India, the due date for electronic filing of CBC report is the same as due date for filing corporate tax return (30 November 2020 for FY 2019-20). The report filing requirement is also triggered in India if:

- The UPE is a resident of a country with whom India does not have an agreement for exchange of the CBC report
- The UPE is not obligated to file the CBC report in its jurisdiction
- There has been a systematic failure on part of UPEs jurisdiction to share information and such failure has been intimated to Indian entity

Certification – Accountant's report

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 of such transactions. This document is to be certified by a chartered accountant or a firm of chartered accountants. The due date for electronic filing of the accountant's report in the prescribed form is 31 October 2020 for FY 2019-20. The statutory due dates may be revised by the CBDT in case COVID-19 related disruptions continue.

Secondary adjustment

The concept of secondary adjustment was introduced in India in 2017 and is applicable from FY 2016-17 onwards if the amount of primary adjustment exceeds INR 10 million. The primary TP adjustment can be made voluntarily by the taxpayer, made by tax officer and reaches finality, determined as a result of an APA or safe harbour rules, resulted from a MAP resolution.

- 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 AE is consistent with the ALP.
- Where there is a primary TP adjustment as a result of which there is excess money lying with the AE, the regulations require a taxpayer to repatriate such excess within prescribed time limit. Failure to repatriate triggers levy of interest on the amount not repatriated. The Finance Act 2019 provided an option to the taxpayer to pay 18% additional tax on secondary adjustment in case the taxpayer is not able to repatriate the excess money to India.

Limitation of interest deduction

In line with recommendations under Action 4 of OECD's BEPS Action plan, India introduced interest limitation rules 2018 in the IT Act. Accordingly, the interest expense of the borrower being an Indian company or a permanent establishment of a foreign company in India is deductible to the extent of 30% of EBITDA.

Balance interest is allowed to be carried forward for a period of eight subsequent financial years. Interest limitation rule is not applicable where the amount of interest is INR 10 million or less.

Borrowers who are in the business of banking or insurance company and borrowings from a permanent establishment of a foreign bank in India are exempted from applicability of interest limitation rules.

Penalty provisions

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

Transfer pricing audit

In India, the AO has to refer the TP part of revenue audit to a designated TPO. Earlier such reference was based on revenue's internal guidance on monetary threshold for value of international transactions. In March 2016, the CBDT issued a guidance to AOs on factors (risk criteria) to be considered to make references to the TPO. Risk factors include cases where taxpayers have failed to disclose international transactions, the accountant's report has not been filed, past TP additions of INR.100 million or more, nature of transactions, etc. Changes are expected in the TP audit process once the faceless assessment scheme gets fully operational.

The statutory time limit for completion of revenue audits where reference is made to the TPO is 45, 42 and 36 months from the end of FY 2016-17, 2017-18 and 2018-19 respectively.

In case of a TP adjustment made by revenue authorities, the taxpayer has an option to further appeal before appellate authorities/dispute resolution panel. Post exhausting all appellate levels the taxpayer can approach High Court and the Supreme Court on matters involving question of law.

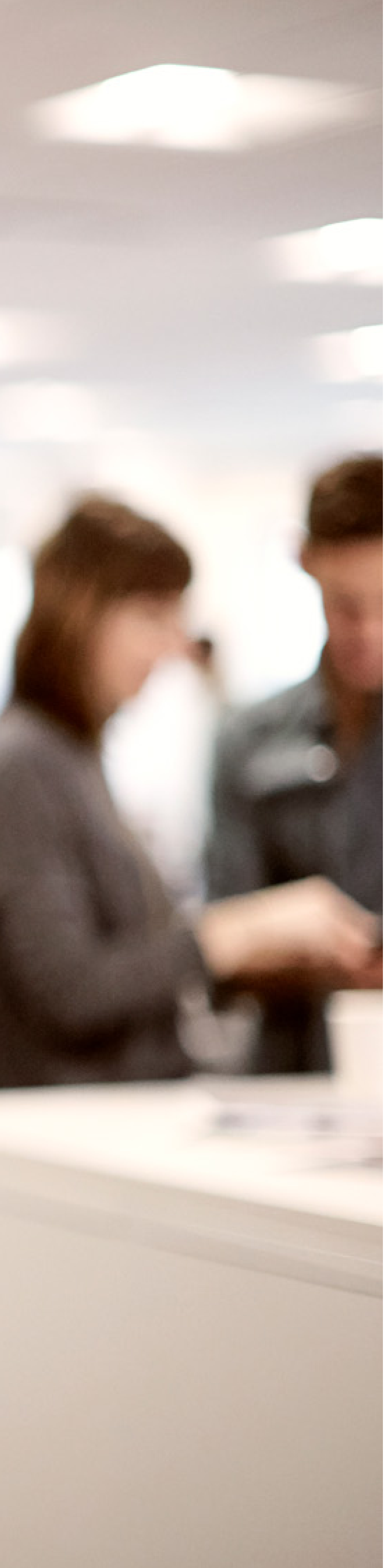
Safe harbour rules

Safe harbour is defined as the circumstances in which the income tax authorities shall accept the transfer price that is declared by the taxpayer. Safe harbour rules came into effect in India from FY 2012-13 and are available for a prescribed block of assessment years. At present, the safe harbour rules have been prescribed for the following international 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

Advance pricing agreement

- The APA programme was introduced in India in FY 2012 and its utility as a TP dispute prevention mechanism has been continuously increasing. According to CBDT's annual report on Indian APAs, India received the most number of APA applications globally after the USA in FY 2018-19. Until 30 September 2019, 300 APAs were signed in India.
- The Indian APA programme seeks to provide certainty for five prospective years and has roll back option for four previous years. Thus, APA gives a certainty for total nine years with roll back and five years without roll back. Taxpayer can opt for a unilateral, bilateral or a multilateral APA.



Key differences between safe harbour and APA options

S. No.	Particulars	Safe harbour option	APA option
1	Years covered	The CBDT has extended the applicability of the safe harbour rules to FY20 without any change in the safe harbour thresholds	Five prospective years and four retrospective years
2	Eligibility	Eligible taxpayer, eligible transactions and transaction limits are defined	Any taxpayer entering into international transaction with AEs can opt for APA
3	Time limit to conclude	Six to seven months (includes audit time limit)	Average one to two years
4	TP determination	Safe harbours for the transfer prices are predetermined	TPs determined after ALP analysis and negotiation process
5	Bilateral or multilateral arrangements	Not available	Available
6	Double tax relief	Not available	Available

Mutual agreement procedure

Taxpayers can also opt for the MAP route to seek remedy from TP disputes. MAP provides remedy from both economic and juridical double taxation. While APAs can be filed for pending disputes before tribunals (in case of roll back), MAP can be filed for concluded disputes too. The taxpayer of the country who is bearing the brunt of double taxation may apply for MAP resolution to the competent authorities in its jurisdiction. MAP negotiations take place at competent authority level and taxpayer/applicant supports the negotiations by providing required information and submissions.

There is no time limit prescribed for completion of MAP proceedings under Indian regulations. Based on experience, MAP resolutions can take anywhere between two to four years from the date of filing to conclude.

The Indian TP regulations, and more specifically documentation requirement, is largely aligned with OECD TP guidelines. Indian authorities have kept their commitment to the BEPS Inclusive Framework and adopted several measures from BEPS action points including the three-tier TP reporting structure, interest limitation rules, ratification of multilateral instrument etc.

Indirect tax

India embarked on the GST journey on 1 July 2017, and it has been both challenging and exciting. The 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 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

Goods and services tax

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

Scope

GST is levied on supply of all goods and services except the supply of alcoholic liquor 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.

Dual structure levy

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

- CGST to be levied by the centre and SGST/UTGST to be levied by respective states/union territories on all supplies within a state/union territory
- 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 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 trigger point for levy of GST is 'supply' of goods or services or both. Provisions for determining the time of supply have been laid down for 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, such as food grains attract a zero rate, demerit and luxury goods attract the highest rate and may also attract cess.

Annual GST compliances

Every taxpayer (except specifically excluded) is required to file an annual return by 31 December of the next financial year.

Audit

The taxpayers whose turnover during the year on pan-India basis exceeds INR 20 million are also required to get his accounts audited from a chartered accountant/cost accountant.

In addition to the above audit, GST laws have empowered tax authorities also to conduct audit of the taxpayers.

Anti-profiteering

To safeguard 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 additional input tax credits. Suppliers not complying with the anti- profiteering provisions are liable for penal consequences and cancellation of registration under GST.

With a view to plug unfair profiteering by the suppliers, NAA has been constituted. Initially, NAA was constituted for a period of two years. However, pursuant to the 35th GST Council meeting, the tenure of NAA has been extended by two more years.

GST Council

It has been formed to provide 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

Advance rulings under GST regime

According to the provisions of the 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 and taxability. An application for advance ruling needs to be filed with the State Authority for Advance Ruling. The AAR comprises one member from the centre and one from the state appointed by the central and state governments, respectively. Any person aggrieved by the order of AAR has the right to appeal to the 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.

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.

Approval for formation of GSTAT

The government in January 2019 approved the formation of National Bench of the 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 CGST and SGST 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.

To address the issues faced by the taxpayers and ease their burden, an outcome of COVID-19, the CBIC has taken various important initiatives in the past few months. The CBIC has extended various due dates for return filing and has also provided the complete/partial waiver or interest and late fee to ease the compliance and financial burden of taxpayers.

To provide immediate relief to business entities, especially MSMEs, and address their cash flow concerns, the government had introduced a Special Refund and Drawback Disposal Drive to process and dispose of all pending refund and drawback claims on priority.

Further, the CBIC announced measures to facilitate and expedite customs clearance process by making it contactless, i.e. automated and paperless. The first phase of all India roll-out of faceless assessment was recently done under the umbrella of Turant Customs Programme and the second phase of the programme was rolled out from 3 August 2020. Considering the increase in demand for face masks and related personal protection goods due to COVID-19, the government has also amended the export policy related to PPE kits and masks.

To ensure social distancing and reduce physical presence, the Supreme Court has issued SOP for e-filing and hearing of matters through video conference/teleconference.

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 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 (standard rate of 10%)	Social Welfare Surcharge (levied at 10% on BCD)	IGST at applicable rates (leviable on total value of Basic customs duty plus Social Welfare Surcharge)

The effective standard rate of customs duty currently applicable on the import of goods is approximately 31% with input tax credit of IGST (assuming standard GST rate to be 18%), 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.

Glossary

AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Rulings
AD Bank	Authorised Dealer Bank
AE	Associated Enterprise
AGM	Annual General Meeting
AI	Artificial Intelligence
AIFs	Alternative Investment Funds
AJP	Artificial Juridical Person
ALP	Arm's Length Price
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Persons
APA	Advance Pricing Agreement
API	Active Pharmaceutical Ingredient
APMC	Agricultural Produce Market Committee
ARC	Asset Reconstruction Company
ATMs	Automated Teller Machines
AUM	Asset Under Management
B2B	Business-to-business
BEPS	Base Erosion and Profit Shifting
BJP	Bharatiya Janata Party
BO	Branch Office
BOI	Body of Individuals
BPM	Business Process Management
BPO	Business Process Outsourcing
CA 2013	Companies Act 2013
CAGR	Compound Annual Growth Rate
CBC	Country by Country
CBDT	Central Board of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CGST	Central Goods and Services Tax
COVID-19	Coronavirus Disease-19
CSO	Central Statistical Organisation
CTT	Commodities Transaction Tax
DDT	Dividend Distribution Tax
Discoms	Distribution Companies
DPIIT	Department for Promotion of Industry and Internal Trade
DTAA	Double Taxation Avoidance Agreements
EBITDA	Earnings Before Interest, Taxes, Depreciation, and Amortization
ECB	External Commercial Borrowings
ECO	E-Commerce Operator
EMI	Equated Monthly Installment
E-NAM	National Agriculture Market
EPFO Act	Employees Provident Fund and Miscellaneous Provisions Act, 1952
EPFO	Employees' Provident Fund Organisation
ESI Act	Employees' State Insurance Act, 1948
EVs	Electric Vehicles
FATF	Financial Action Task Force
FBIL	Financial Benchmarking In India
FCCB	Foreign Currency Convertible Bonds
FCEB	Foreign Currency Exchangeable Bonds
FCRA	Foreign Contribution (Regulation) Act, 2010
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act, 1999
FII	Foreign Institutional Investor
FIPB	Foreign Investment Promotion Board
FIFP	Foreign Investment Facilitation Portal
FMCG	Fast-Moving Consumer Goods
FPI Regulations	SEBI (FPI) Regulations, 2019
FPIs	Foreign Portfolio Investors
FPO	Farmers Producer Organisation
FRRO	Foreigners Regional Registration Officer
FTS	Fee for Technical Services
FY	Financial Year
GAAP	Generally Accepted Accounting Principles
GAAR	General Anti-avoidance Rules
GDP	Gross Domestic Product
GIFT City	Gujrat International Finance Tec-City
GoM	Group of Ministers

GST	Goods and Services Tax
GSTAT	Goods and Services Tax Appellate Tribunal
GVA	Gross Value Added
GW	Gigawatt
HFCs	Housing Finance Companies
HNI	High Net Worth Individuals
HSN	Harmonised System of Nomenclature
HUF	Hindu Undivided Family
IAA	Impermissible Avoidance Arrangement
IAASB	International Auditing and Assurance Standards Board
ICAI	Institute of Chartered Accountants of India
ICDS	Income Computation and Disclosure Standards
IFRS	International Financial Reporting Standards
IFSC	International Financial Services Centre
IGST	Integrated Goods and Services Tax
IIM	Indian Institute of Management
IIT	Indian Institute of Technology
IMF	International Monetary Fund
INC	Indian National Congress
Ind AS	Indian Accounting Standards
INR	Indian Rupee
InvIT	Infrastructure Investment Trust
IOSCO	International Organisation of Securities Commission
IP	Intellectual Property
IRDAI	Insurance Regulatory and Development Authority of India
IT	Information Technology
IT Act	Income-tax Act, 1961
ITAT	Income Tax Appellate Tribunals
JVs	Joint Ventures
KYC	Know Your Client/Customer
LLP	Limited Liability Partnership
LO	Liaison Office
LRS	Liberalised Remittance Scheme
M&A	Mergers and Acquisitions
MAP	Mutual Agreement Procedure
MAT	Minimum Alternate Tax
MCA	Ministry of Corporate Affairs
MNE	Multinational Enterprise

MSME	Micro, Small and Medium Enterprise
MW	Megawatt
NAA	National Anti-profiteering Authority
NABARD	National Bank for Agriculture & Rural Development
NAM	National Agriculture Market
Nasscom	National Association of Software and Service Companies
NBFCs	Non-banking Financial Companies
NCLT	National Company Law Tribunal
NCR	National Capital Region
NDI Rules, 2019	Non-debt Instrument Rules 2019
NeAC	National E-assessment Centre
NFRA	National Financial Reporting Authority
NHB	National Housing Bank
NIMZ	National Investment and Manufacturing Zones
NIP	National Infrastructure Pipeline
NPAs	Non-performing Assets
NPE	National Policy on Electronics
NR	Non-resident
NRIs	Non-resident Indians
NWR	Negotiable Warehousing Receipts
OCIs	Overseas Citizens of India
ODIs	Overseas Direct Investments
OECD	Organisation For Economic Co-operation and Development
OEMs	Original Equipment Manufacturers
P2P	Peer-to-peer
PAN	Permanent Account Number
PE	Private Equity
PFRD Act 2013	Pension Fund Regulatory and Development Authority Act 2013
PO	Project Office
PoEM	Place of Effective Management
PPE	Personal Protective Equipment
PPP	Public Private Partnership
PSU	Public Sector Undertaking
QFI	Qualified Foreign Investor
R&D	Research and Development
RBI	Reserve Bank of India
RDB	Rupee Denominated Bonds
ReAC	Regional E-assessment Centre
ReIT	Real Estate Investment Trusts

RERA	Real Estate (Regulation and Development) Act, 2016
RNOR	Resident and Not Ordinarily Resident
RoC	Registrar of Companies
ROR	Resident and Ordinarily Resident
RPA	Robotic Process Automation
SDTs	Specified Domestic Transactions
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
SFB	Small Finance Banks
SGST	State Goods and Services Tax
SOP	Standard Operating Procedure
SPV	Special Purpose Vehicle
SSAs	Social Security Agreements
STT	Securities Transaction Tax
TADF	Technology Acquisition and Development Fund
TAN	Tax Deduction and Collection Account Number
TCS	Tax Collection at Source
TDS	Tax Deduction at Source
TP	Transfer Pricing
TPO	Transfer Pricing Officer
UPE	Ultimate Parent Entity
UPI	Unified Payment Interface
USD	US Dollar
UT	Union Territory
UTGST	Union Territory Goods and Services Tax
VC	Venture Capital
WOS	Wholly Owned Subsidiaries
XBRL	Extensible Business Reporting Language
ZCBs	Zero-coupon Bonds

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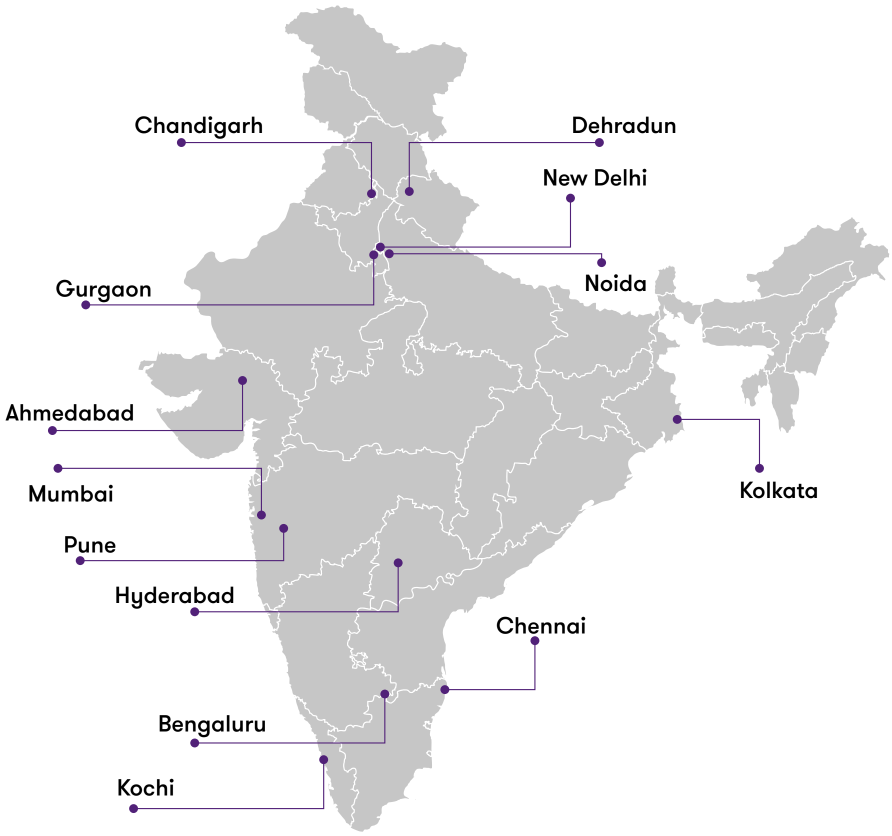

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