

Navigating through the intricacies of export-oriented schemes

SEZ/ STPI/ EOU

September 2024



Special economic zones in India

Introduction

A special economic zone (SEZ) is a designated geographical region governed by the SEZ Act 2005.

SEZs are established as duty-free enclaves that operate as territories outside the customs territory of India.

This unique status allows businesses within SEZs to undertake authorised operations with certain exemptions and benefits.

SEZ at a glance

280
operational SEZs

INR 6,929
billion+
investment

INR 13,552
billion+
exports in
FY 23-24

5711
units in operation

3.07 million+
employees

*As on 30 April 2024. Source - <http://sezindia.nic.in/>

Who can develop SEZ in India?



Established jointly or severally by the central government, state government or any person for the manufacture of goods or for rendering of services or for both.



Person includes proprietorship, partnership firm, co-operative society, company, including foreign company, who is further considered as a developer/co-developer on obtaining approval.



The developer/co-developer must hold at least 26% equity in an entity developing facilities in SEZ through a separate entity or special purpose vehicle registered under the Companies Act.

Types of SEZ in India



Multi-product SEZ



Services SEZ



Sector specific SEZ or port SEZ/Airport SEZ



Free trading and warehousing zone (FTWZ)

Salient features

Land area requirement

General SEZ or FTWZ:

- Minimum 50 hectares of contiguous land
- Minimum 25 hectares in Assam, Meghalaya, Nagaland, Arunachal Pradesh, Mizoram, Manipur, Tripura, Himachal Pradesh, Uttarakhand, Sikkim, Goa, or union territories

Additional requirements:

- Minimum processing area must be at least 50% of the total SEZ area

SEZ for IT/ITES, biotech, or health services (excluding hospitals):

- No minimum land area
- Must meet minimum built-up area based on city category:
 - a) **Category 'A' cities:** 50,000 sq. mts.
 - b) **Category 'B' cities:** 25,000 sq. mts.
 - c) **Category 'C' cities:** 15,000 sq. mts

State support for SEZ

Electricity benefits:

- Exemption from electricity duty or taxes on self-generated or purchased power for use in a SEZ processing area.
- Permission for power generation, transmission, and distribution within SEZ.

Essential services:

- Provision of water, electricity, and other necessary services to the developer.

Administrative powers:

- Delegation of powers to the Development Commissioner under the Industrial Disputes Act for SEZ units and workers.
- Declaration of SEZ as a public utility service.

Streamlined approvals:

- Implementation of a single point clearance system for the developer and units under state laws and rules

Key benefits for SEZ

GST benefit on DTA procurements of goods/services for authorised operations

Duty-free import of goods for authorised operations

Single window clearance and approval mechanism

Duty-free procurement of goods for infrastructure development

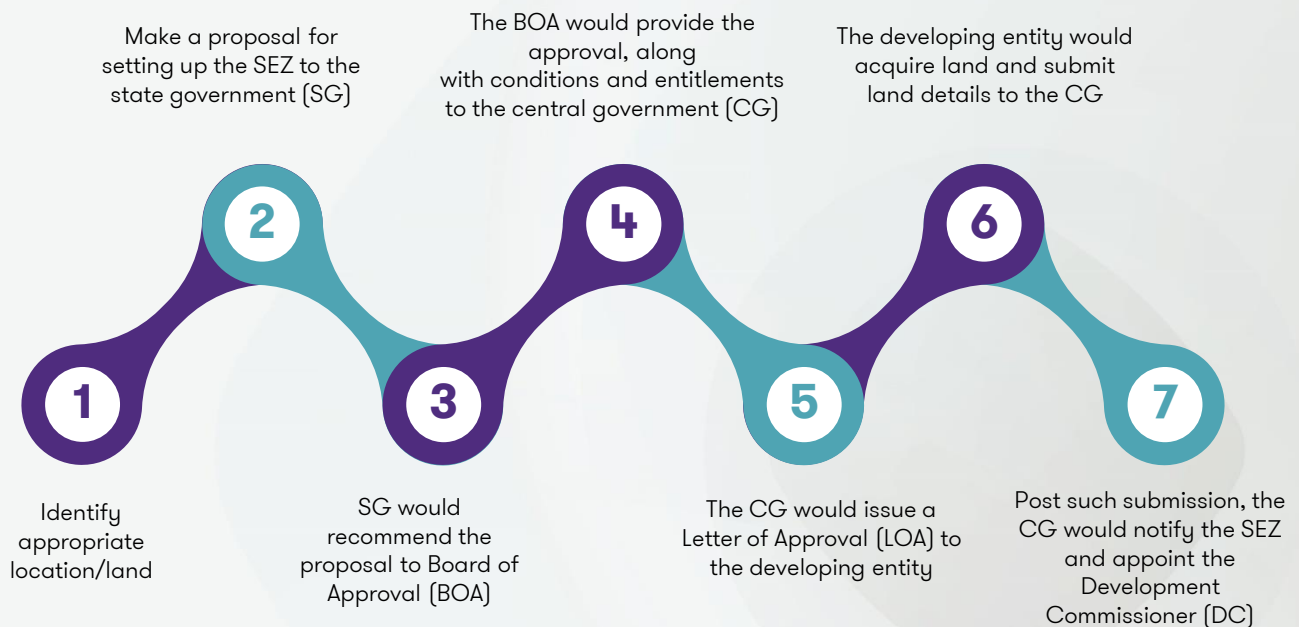
Exemption from payment of stamp duty

Electricity Duty exemption available on a lifetime basis

Refund of IGST on export of goods/services

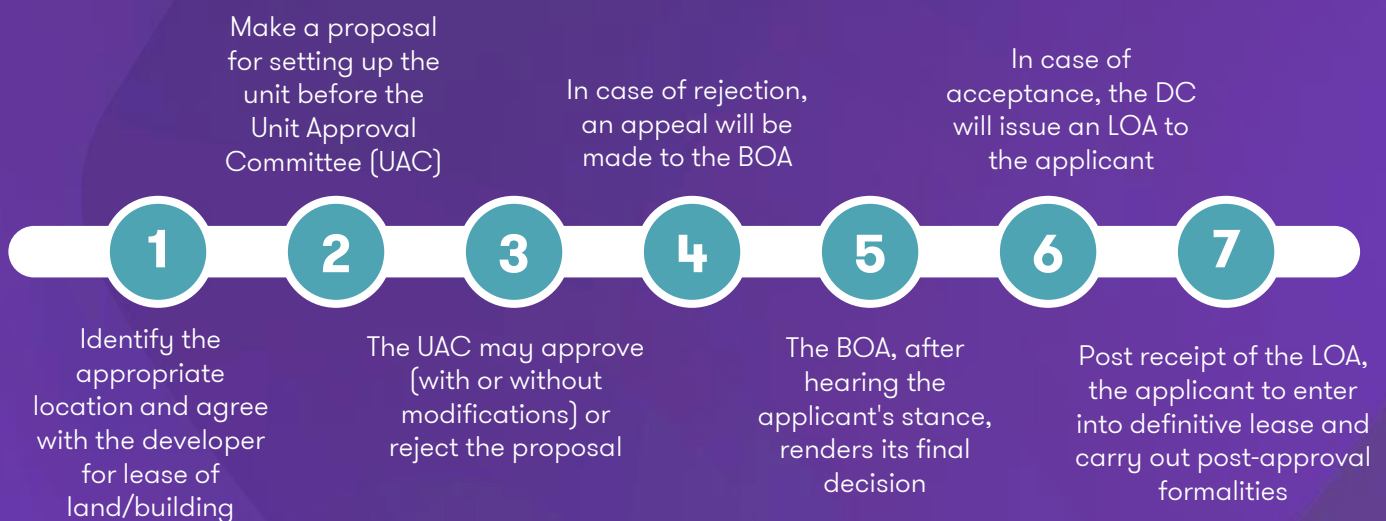
Sub-contracting by SEZ allowed, subject to conditions

Process for establishment of SEZ

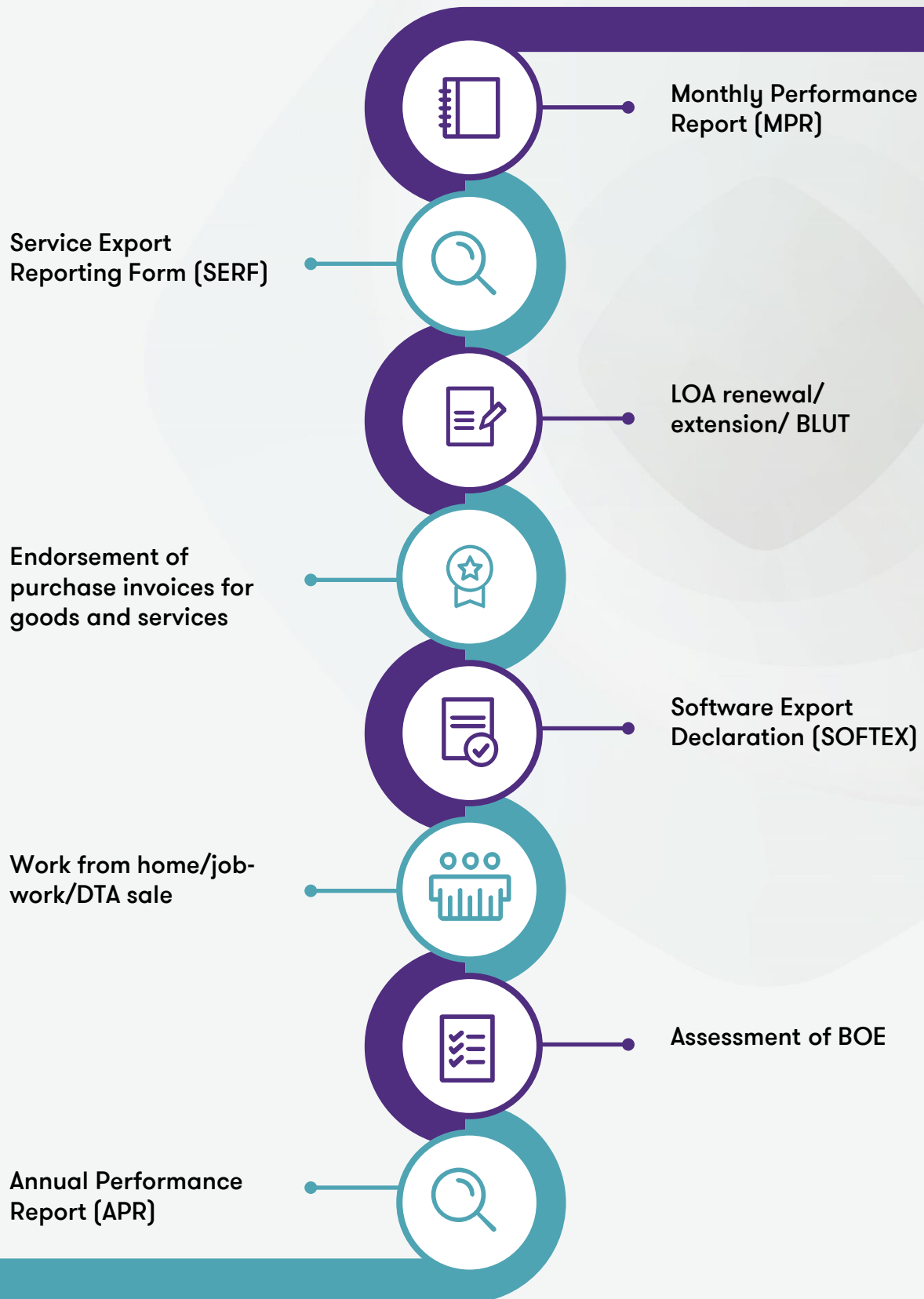


Process for setting up a unit in SEZ

The developer or co-developer must construct the minimum required built-up area for the SEZ within 10 years, subject to the completion of at least 50% area within the first five years. These units will be leased to entrepreneurs to generate revenue. The process of setting up a unit in SEZ is enumerated below:Q



Key compliance requirements - SEZ



Software Technology Parks of India (STPI) scheme



STPI at a glance

Governed by Chapter 6 of the Foreign Trade Policy of India, the STPI scheme is a 100% export-oriented scheme for the development and export of computer software, including the export of professional services using communication links or physical media.

Scheme highlights

5700+ Units registered with STPI

INR 22,130 Cr Increase in exports done by STPI registered IT/ITES units from FY 2019-20 to FY 2020-21

62 Centres/sub-centres operational across India

Scheme benefits

1

No import duty on hardware/software

2

100% depreciation on capital goods over a period of 5 years.

3

Simplified minimum export performance norms

4

Global competitiveness along with international exposure

5

State-of-the-art infrastructure facilities

6

Simplified and single-window clearance mechanism

Key compliance requirements for STPI units

Monthly Performance Report (MPR)

Software Export Declaration (SOFTEX)

Quarterly Performance Report (QPR)

Service Export Reporting Form (SERF)

Annual Performance Report (APR)

DTA sale or procurements

LOA renewal/extension/BLUT

Monthly return under Import of Goods at Concessional Rate (IGCR)

Export Oriented Units (EOU) scheme



EOU scheme at a glance

Introduced in 1981, the EOU scheme aims to increase exports from India, to thereby increase foreign exchange earnings and generate employment.

The legal provisions outlined in Chapter 6 of the Foreign Trade Policy and its procedures are applicable to the EOU, as well as to the Electronics Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) and Bio-Technology Parks (BTPs). In common parlance, EOU/STP/EHTP/BTP are together called the EOU scheme.

Any entity engaged in specified activities can obtain the status of an EOU. However, trading units are not covered under the EOU scheme.

Benefits of the scheme:

1

Infrastructural support

2

No license required for imports

3

100% Foreign Direct Investment permissible

4

Duty-free import of goods

5

Depreciation up to 100% permissible on capital goods

6

Fast track clearance facility

Key compliance requirements under EOU scheme

Monthly Performance Report (MPR)

Service Export Reporting Form (SERF)

Quarterly Performance Report (QPR)

Software Export Declaration (SOFTEX)

Annual Performance Report (APR)

Monthly return under Import of Goods at Concessional Rate (IGCR)

How can Grant Thornton Bharat help?

Service offerings for SEZ developers



Comprehensive feasibility study

- Preliminary assessment to understand the entity's business model, objectives, and potential benefits of setting up a SEZ.
- Detailed review including market analysis, site selection, infrastructure requirements, and financial viability, along with a detailed progress report.



Application and approval process

- Assist in the preparation of application and submission to the state government and the BOA.
- Liaise with the state government and the BOA to facilitate the approval process and track progress of the application.
- Assistance in demarcating NPA under Rule 11B.



Regulatory compliance and legal support

- Ensure compliance with SEZ laws and other relevant regulations.
- Assist in obtaining necessary regulatory approvals and clearances from various authorities.



Operational setup and support

- Assist in setting up systems for compliance with customs.
- Advise on placing the model SEZ template related to customs procedures, duty exemptions and other tax benefits.



Advisory services and litigation support

- Offer ongoing advisory services on SEZ-related matters, including changes in regulations and operational improvements.
- Specialized SEZ litigation and assist in representational support services.



How can Grant Thornton Bharat help?

Service offerings for SEZ units

Setting up of SEZ unit

Phase 01

High-level study on setting up of SEZ unit

- Assistance in making an informed decision on setting up a new unit or transitioning to an SEZ unit from other schemes such as STPI, etc.

Phase 02

Setting up SEZ unit

- Assistance in preparation and finalisation of proposal (Form-F), along with projected financials.
- Assist in representation before the SEZ authorities and obtaining LOA.

Phase 03

Execution of Bond-cum-Legal Undertaking (BLUT)

- Assistance in the preparation of the application for BLUT with appropriate supporting documents.
- Assist in representation before the SEZ authorities.

Phase 04

Transitional support

- Phase-wise shifting to the SEZ unit.
- Mapping tax implications and compliance proposed/planned transactions to be undertaken by the SEZ unit.

SEZ advisory services



Compliances and advisory

- Preparation and filing of periodic returns, such as MPR, SERF, SOFTEX, and APR.
- Advisory services covering SEZ, Customs, GST and FEMA laws.
- On-call advisory
- Obtaining regulatory approvals (SEZ, IFSCA, etc.) from regulatory authorities.

SEZ diagnostic review

- Identifying risk areas and possible mitigation strategies by undertaking diagnostic reviews from an SEZ perspective.
- Review of key documentation and tax positions adopted.
- Review to ascertain and mitigate issues, if any, prone to litigation.

Litigation support






- Support during audit, investigation, search, and seizure, including assisting in representation and response to initial queries.
- Draft replies to the demand notices, appeals, and cross-objections for filing before various appellate authorities.

Assist in Representational support

- Assist in specialised SEZ representational support services to SEZ developers/ units with the objective of minimising future legal and financial risks.
- Drafting detailed representation and assist in representational support before the UAC/ BOA or the ministerial committee.

How can Grant Thornton Bharat help?

Service offerings for STPI units

-  Assistance in setting up a new STPI unit and renewal of existing units.
-  Review and filing of periodic returns, such as MPR, SOFTEX, SERF, APR and returns under the IGCR, including on-call advisory on day-to-day business queries.
-  Assistance in drafting a response to queries/deficiencies and clarification raised by the STPI authorities.
-  Identifying risk areas and possible mitigation strategies through diagnostic reviews from an STPI perspective.
-  Support in handling tax/STPI issues pending at various levels.

Service offerings for EOU units

Assistance in setting up a new EOU unit.



Review of monthly return under the Import of Goods at Concessional Rate (IGCR).



Assistance in conversion of existing DTA unit into an EOU.



Assistance in drafting response to queries raised by authorities.



Review and filing of periodic returns, such as QPR and APR, including on-call advisory.



Identifying risk areas and possible mitigation strategies through diagnostic reviews.





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@GrantThorntonBharatLLP



GTBharat@in.gt.com

Our experts



Praveen Kashyap

praveen.kashyap@in.gt.com



Sridhar R

sridhar.r@in.gt.com



PS Krishnan

ps.krishnan@in.gt.com



Krishan Arora

krishan.arora@in.gt.com

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