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Doing Business in India



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Foreword

As India progresses through the mid-point of this decisive decade, the vision of Viksit Bharat @2047 has transitioned from a long-term aspiration into a tangible, policy-driven roadmap. With the economy consistently outpacing global peers, India is no longer just an "emerging" market, it is a primary engine of global growth, characterized by a rapidly maturing industrial base.

The landscape for 2025-26 reflects a significant shift toward high-value manufacturing and deep-tech integration. The expansion of Production Linked Incentive (PLI) schemes has moved beyond foundational sectors into specialized domains like semiconductors, advanced chemistry cell batteries, and green hydrogen. These initiatives, coupled with the rapid development of multi-modal logistics under the PM Gati Shakti framework, have significantly reduced operational friction, making India a seamless node in the global value chain.

Innovation continues to be spearheaded by the evolution of Global Capability Centers (GCCs). No longer restricted to back-office functions, the newest wave of GCCs in India, now numbering over 1,600, are "Centers of Excellence" driving global IP creation, generative AI integration, and complex R&D. This tech-led growth is supported by India's Digital Public Infrastructure (DPI), which continues to set world standards for financial inclusion and digital commerce through the maturing ONDC and UPI ecosystems.

Furthermore, India's commitment to a Net Zero future is creating a new industrial frontier. The focus on ESG (Environmental, Social, and Governance) initiatives is no longer peripheral but central to the investment thesis. From being a leader in solar capacity to becoming a global hub for green ammonia and sustainable aviation fuel, India offers a unique proposition where sustainability meets massive scale.

At Nexdigm, we recognize that navigating this multifaceted market requires more than just capital, it requires local insight and strategic agility. This edition of Doing Business in India provides an updated lens on the regulatory reforms, fiscal incentives, and operational nuances of 2025-26. We remain dedicated to being your partner in translating India's macroeconomic momentum into your organization's commercial success.



Manoj Gidwani
Senior Vice President
Global Marketing



01

Introducing India

- At a Glance
- Geography and Climate
- Political System
- Legal System
- Population
- Language
- Currency
- Business Hours
- Public Vacation Days
- Economy

At a Glance

Location: North of the Equator
(Latitude: 8° 4’ to 37° 6’ North;
Longitude: 68° 7’ to 97° 25’ East)
Capital: New Delhi
Population: 1.38 billion (2020 estimate)
Area: 3.3 million sq km
Indian Standard Time: GMT + 5:30
Telephone Country Code: +91
Official Language: Hindi is one of the 22 official languages (English is used for official communication)

Geography and Climate[1]

Covering an area of 3.3 million sq km, India is the seventh-largest country in the world, occupying a major portion of the South Asian subcontinent. Extending from the Himalayas in the north, it stretches southwards to the Tropic of Cancer and tapers off into the Indian Ocean between the Bay of Bengal on the east and the Arabian Sea on the west.

India's climate varies significantly from the permanently snow-capped Himalayas in the north to the tropical south. In spite of much of the north of India lying beyond the tropical zone, the entire country has a tropical climate marked by relatively high temperatures and dry winters. There are four seasons in India: winter (December-February), summer (March-June), south-west monsoons (June-September), and the post-monsoon season (October-November).

Political System[2]

India is a sovereign, socialist, secular, and democratic republic with a parliamentary system of government. It is governed by the Constitution of India, which came into force on 26 January 1950. It has a federal government with 28 states and eight union territories and is the largest democracy in the world. The Central/Union Government is further divided at the state and local levels. The government is divided into three structural segments: the executive, the legislature, and the judiciary.

Executive: The executive branch comprises the President as the head of state, the Vice President, and the Council of Ministers. The Council, headed by the Prime Minister, aids and advises the President.

Thus, the real executive power is vested in the Council of Ministers and the Prime Minister (head of the government). Ms. Droupadi Murmu is the current President of India, and Mr. Narendra Modi is the Prime Minister.

Legislature: The Parliament is the supreme legislative body of India. It consists of the President and the two Houses — Rajya Sabha (Council of States) and Lok Sabha (House of the People). Elections to the Lok Sabha are held every five years, after which the Prime Minister is appointed by the President.

Judiciary: The Supreme Court is the apex body of the Indian legal system, followed by the High Courts and subordinate courts. The judiciary is independent of the executive and legislative branches of the government.

The current ruling coalition is the National Democratic Alliance (NDA), which is an alliance of over 30 parties led by the Bharatiya Janata Party (BJP). The former ruling alliance, the United Progressive Alliance was led by the Indian National Congress. Other major political parties in India include the Nationalist Congress Party, Bahujan Samaj Party, Aam Aadmi Party, Communist Party of India, and the Communist Party of India (Marxist).

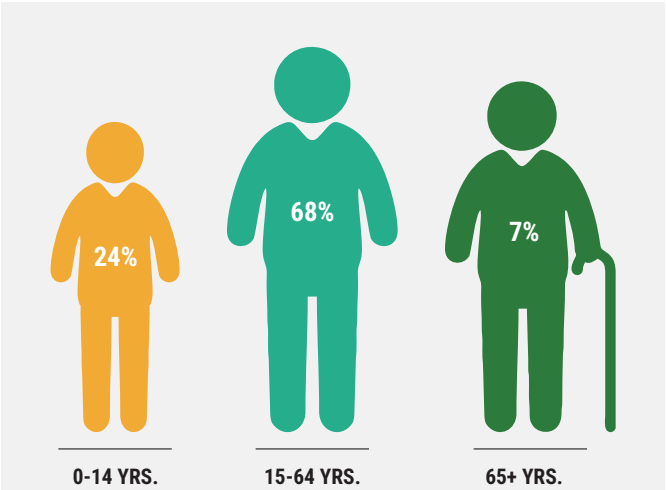
1. India at a Glance, National Portal of India, https://knowindia.india.gov.in/profile/india-at-a-glance.php
2. Constitution of India, National Portal of India, https://www.india.gov.in/my-government/constitution-india

Legal System[3]

India has one of the oldest legal systems in the world. The Constitution of India is the supreme law of the country; it gives due recognition to statutes, case laws, and customary laws consistent with its dispensations. There is also a vast body of laws known as subordinate legislation in the form of rules, regulations, and bylaws made by the Central and State Governments and local authorities.

The Constitution has generally provided for a single integrated system of courts to administer both union and state laws. As mentioned previously, the judiciary is divided into various levels, with the courts forming a strict hierarchy of importance: the Supreme Court of India, High Courts (of respective states/groups of states), District Courts, followed by other subordinate courts.

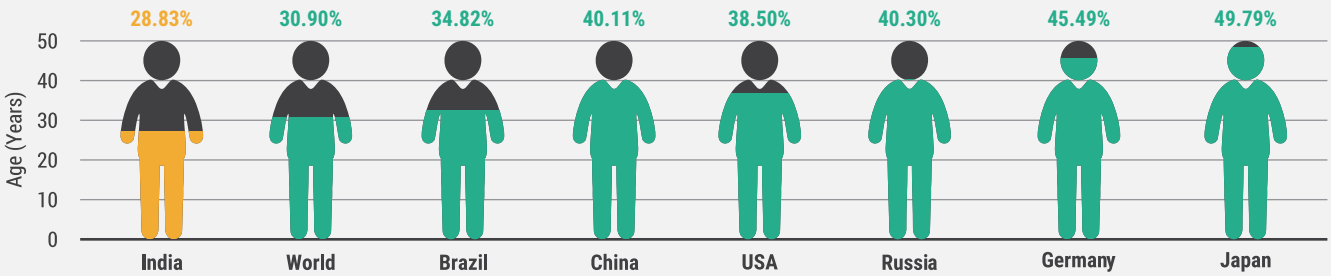
Population Distribution by Age Group: 2025



Population

India is currently the second-most populous country in the world, with an estimated 1.46 billion people in 2025. With 68% of the population in the age range of 15–64 years, India has a favorable demographic dividend[4]. It will soon have the largest and youngest workforce in the world.

Median Age of the Total Population: 2025[5]



Source: United Nations, Department of Economic and Social Affairs/Population Division, World Population Prospects: The 2019 Revision, Key Findings and Advance Tables

According to the 2011 census, the religions practiced in India include Hinduism, Islam, Christianity, Sikhism, Buddhism, Jainism, and Zoroastrianism

3. Constitution, Supreme Court of India, https://main.sci.gov.in/constitution
4. UN Population Fund's (UNFPA), United Nations, Department of Economic and Social Affairs, Population Division (2025), https://www.unfpa.org/data/world-population/IN#
5. Maternal, newborn, child and adolescent health and ageing, World Health Organization, https://platform.who.int/data/maternal-newborn-child-adolescent-ageing/indicator-explorer-new/MCA/median-age-(years)

Language

The Constitution of India recognizes 22 different local languages, of which Hindi is used for official communication along with English at a national level.

Other Indian languages recognized by the Constitution are Assamese, Bengali, Bodo, Dogri, Gujarati, Hindi, Kannada, Kashmiri, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Odia, Punjabi, Sanskrit, Santali, Sindhi, Tamil, Telugu, and Urdu.

However, according to the 2011 census, approximately 32 languages are spoken by more than a million native speakers, and 122 are spoken by more than 10,000 speakers. According to the 2011 census, literacy rates stand at 74.04% (82.14% for males and 65.46% for females).

Currency

The currency of India is the Rupee (ISO code: INR; symbol: ₹). The Reserve Bank of India, which is the central bank of the country, has the sole authority to issue banknotes and coins.

Business Hours

Typically, a workday is 8 hours long extending, from 9 am to 5 pm IST (GMT + 05:30), and working days vary between 5 to 6 days a week. Business hours vary from 8 to 10 hours a day, depending on the type of organization, i.e., government, private company, multinational corporation, etc.

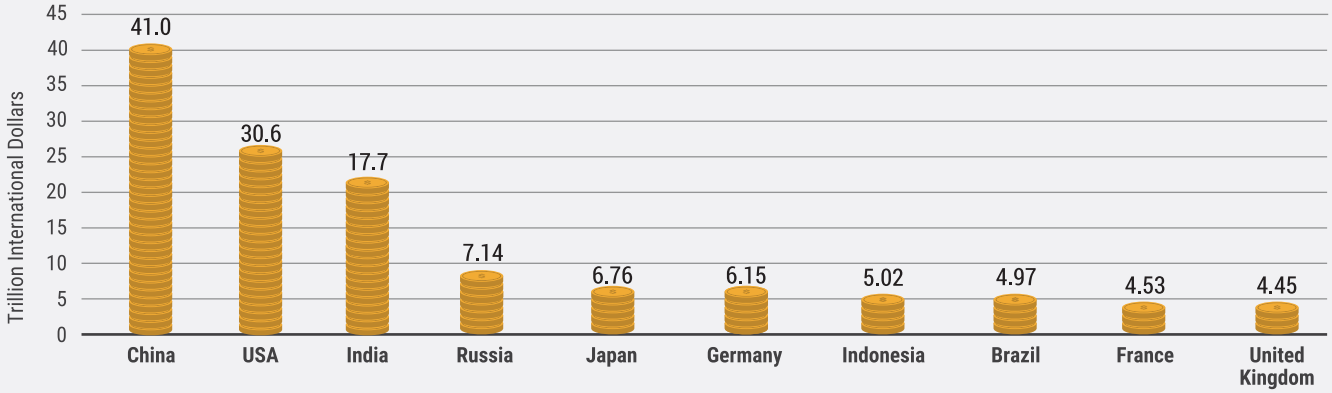
Public Vacation Days[6]

India has three Federal vacation days:

- **Republic Day - 26 January**
- **Independence Day - 15 August**
- **Mahatma Gandhi's Birthday - 2 October**

In addition, there are 14 gazetted vacation days and 31 restricted holidays in the official calendar.

The World's Largest Economies by GDP (PPP): 2025



Source: GDP based on PPP, World Economic Outlook (October 2025), International Monetary

6. Profile, National Portal of India, https://knowindia.india.gov.in/profile/

Economy

India continues to be one of the fastest growing major economies in the world. The Provisional Estimates released by the Ministry of Statistics and Program Implementation place Real GDP growth for FY 2025 to 26 at 7.7 %, up from 7.1 % in FY 2024 to 25, with Real GDP at constant prices reaching approximately USD 3,384.5 billion. Nominal GDP reached approximately USD 3,627.9 billion in FY 2025 to 26, registering growth of 8.9 % over the previous year.[7]

Note: USD values are calculated using an exchange rate of USD 1 = INR 95.5.[8]

The service sector continues to be the largest contributor to India's economy, accounting for 56.5% of Gross Value Added (GVA), followed by the industry sector with a 27.6% share, and agriculture accounting for 15.9% in FY 2025 to 26.[9] However, agriculture remains the largest employer, engaging 46.1% of the total workforce, followed by the service sector.[10]

The Indian economy has held firm amid a more turbulent global environment, shaped by trade tensions and the outbreak of conflict in West Asia in early 2026, with steady private consumption, robust investment, and buoyant services and industrial activity underpinning growth, even as global expansion remained a modest 3.4% in 2025. Both fiscal and monetary policy continued to support this stability, with the central government advancing fiscal consolidation while prioritizing capital expenditure, and headline inflation easing further driven by a sharp contraction in food prices. Amid this backdrop of heightened global uncertainty, India retained its position as the world's fastest-growing large economy, underpinned by robust macroeconomic fundamentals and proactive policy support.[11]

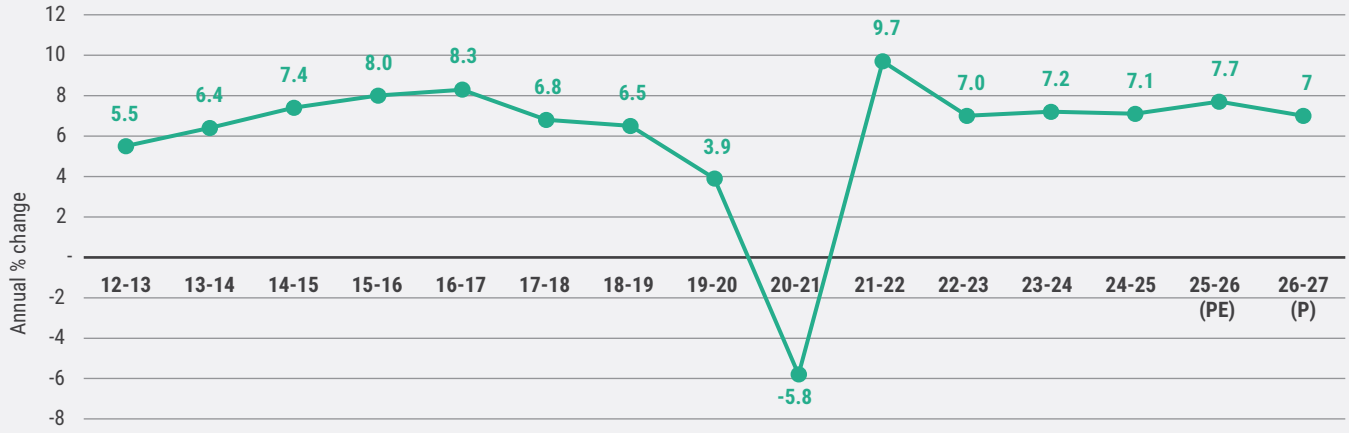
In line with India's vision of becoming 'Atmanirbhar,' Production Linked Incentive (PLI) Schemes have been introduced for 14 key sectors with a total outlay of approximately USD 20.0 billion. As of 31 December 2025, 836 applications have been approved across these sectors, attracting cumulative investment exceeding USD 22.6 billion, generating cumulative production and sales exceeding USD 213.7 billion, driving exports exceeding USD 86.9 billion, and creating over 1.439 million direct and indirect jobs. Incentive disbursement under the scheme has crossed USD 3.0 billion as of the same date.[12]

India has continued to strengthen its innovation credentials through sustained reform, reflected clearly in the Global Innovation Index 2025. India climbed one place to rank 38th globally among 139 economies, retaining its position as the top ranked country in Central and Southern Asia and as the leading lower-middle-income economy worldwide. This marks the 15th consecutive year that India has performed as an innovation over performer relative to its income level, a streak shared with only one other country, Vietnam. India's standout strengths lie in ICT services exports, where it ranks 1st globally, alongside strong positions in late-stage venture capital deals (4th), intangible asset intensity (8th), and unicorn valuation (11th), underscoring an increasingly knowledge and technology-driven economy.[13]

On the startup front, India crossed the milestone of over INR 0.2 million DPIIT-recognized startups as of December 2025, marking a decade since the Startup India initiative launched in 2016 and cementing India's position among the world's largest startup ecosystems. Nearly half of these recognized startups now originate from Tier II and Tier III cities, indicating that entrepreneurship is spreading well beyond India's traditional metro hubs. This growth has been supported by a full lifecycle ecosystem spanning funding, mentorship and scale up, including the Atal Innovation Mission's second phase (AIM 2.0), which focuses on closing ecosystem gaps and scaling proven models in partnership with government, industry, academia and local communities, alongside grassroots and rural entrepreneurship programs such as SVEP, ASPIRE and PMEGP that support micro enterprises, women led ventures and local job creation.[14]

7. Ministry of Statistics & Program Implementation, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2269286&reg=48&lang=2
8. Trading Economics, https://tradingeconomics.com/india/currency
9. GDP of India 2026: Growth Rate, Sector-wise Data & UPSC Guide, https://anantamias.com/gdp-of-india/
10. Economic survey, https://www.indiabudget.gov.in/economicsurvey/doc/eschapter/echap06.pdf
11. RBI, https://www.rbi.org.in/scripts/AnnualReportPublications.aspx?Id=1462#F
12. PLI Scheme: Strengthening India's Manufacturing Ecosystem and Deepening Localization, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2230621&reg=3&lang=1
13. Global Innovation Index, https://www.wipo.int/web-publications/global-innovation-index-2025/en/gii-2025-results.html
14. A Decade of Startup India, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2214872&reg=3&lang=2, Provisional Estimates for the Financial Year 2025-26 shows Real GDP Growth Rate of 7.7%, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2269286&reg=48&lang=2

Real GDP Growth in India: FY 2012-13 to FY 2026-27 P



Source: https://www.pib.gov.in/PressReleasePage.aspx?PRID=2269286&reg=48&lang=1

Foreign Trade

Despite persistent global challenges, total exports (services and goods) in FY 2025-26 exceeded the previous year's record, reaching an estimated USD 860.09 billion, up from USD 825.26 billion in FY 2024-25 (4.22% growth). Imports for FY 2025-26 are estimated at USD 979.40 billion, up by ~6.47% from USD 919.92 billion in FY 2024-25.

India's service sector saw a strong 7.94% increase in exports, rising from USD 387.55 billion in FY 2024-25 to USD 418.31 billion in FY 2025-26. Imports in this sector also grew by of 2.86%, from USD 198.72 billion in FY 2024-25 to USD 204.42 billion in FY 2025-26, resulting in a trade surplus of USD 213.89 billion for FY 2025-26, up from USD 188.84 billion the previous year.

In the goods sector, exports in FY 2025-26 remained broadly in line with the previous year, growing modestly to USD 441.78 billion compared to USD 437.70 billion in FY 2024-25 (0.93% growth). Imports, however, grew by 7.46%, rising to USD 774.98 billion in FY 2025-26 from USD 721.20 billion in FY 2024-25, widening the merchandise trade deficit to USD 333.19 billion from USD 283.50 billion.[15]

Key drivers of merchandise export growth in FY 2025–26 included electronic goods, engineering goods, and pharmaceuticals, which continued to benefit from strong global demand and improved manufacturing competitiveness.

FDI

India has emerged as a prime destination for Foreign Direct Investment (FDI) in recent years, driven by various factors that have significantly enhanced its appeal. The UNCTAD World Investment Report 2025 shows India climbing to the 16th most preferred FDI destination with inflows of USD 28 billion. Moreover, India ranks fourth globally for greenfield investment project announcements, with 1,080 projects recorded in 2024, behind only the United States, the United Arab Emirates, and the United Kingdom, and stands fifth globally for international project finance deals, with 97 deals recorded during the year.[16]

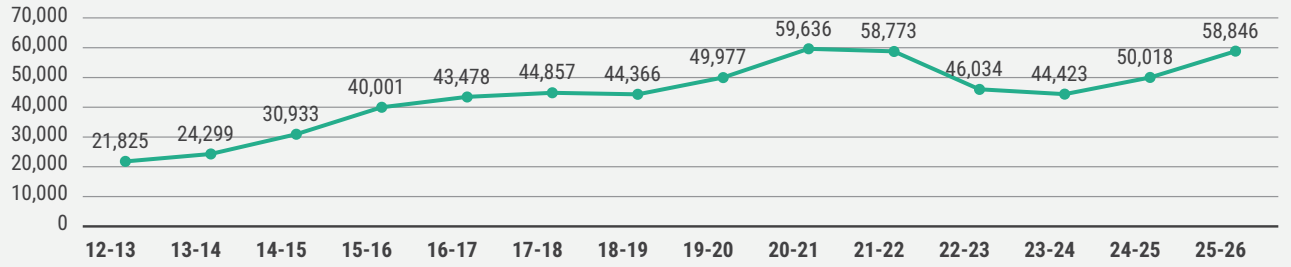
15. The cumulative exports (merchandise & services) during FY 2025-26 (April-March) is estimated at US$ 860.09 Billion, as compared to US$ 825.26 Billion in FY 2024-25 (April-March), an estimated growth of 4.22%, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2252272&lang=1&reg=3

16. 2025 World Investment Report by United Nations, https://unctad.org/system/files/official-document/wir2025_en.pdf?subject=https://unctad.org/system/files/official-document/wir2025_en.pdf

FDI Inflow:

From April 2000 to March 2026, cumulative FDI inflows into India stood at USD 1,166.4 billion, of which cumulative FDI equity inflows amounted to USD 790.6 billion. During FY 2025 to 26, India received USD 94.5 billion in total FDI inflows, including USD 58.8 billion in FDI equity inflows, reflecting sustained investor confidence. Maharashtra, Karnataka, and Gujarat remained the leading FDI destinations.[17]

Annual FDI Equity Inflows into India: FY 2012-13 to FY 2025-26



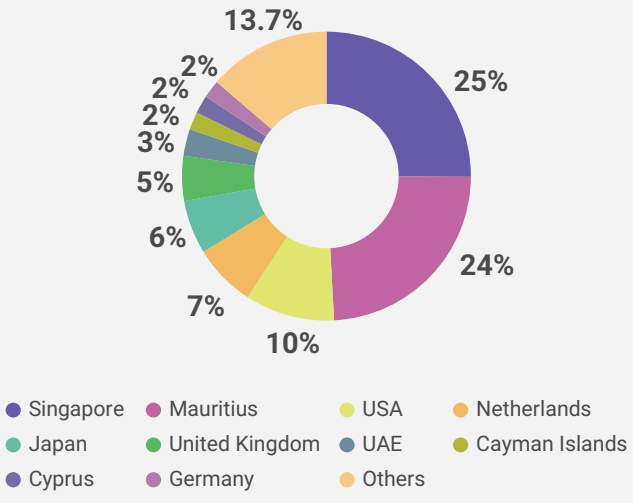
Source: https://www.dpiit.gov.in/static/uploads/2026/06/41192ca92c1de34eb064800fbffa0379.pdf

Country-Wise FDI Equity Inflows

From April 2000 to March 2026, cumulative FDI equity inflows from Singapore totaled at USD 194.69 billion, making Singapore the largest source of FDI into India. Singapore, Mauritius, and the USA together contributed approximately 59% of India's cumulative FDI equity inflows during the period.

During FY 2025–26 (April–March), Singapore remained the largest source of FDI equity inflows into India with USD 19.80 billion, followed by the United States (USD 11.17 billion), Mauritius (USD 6.58 billion), and Japan (USD 3.75 billion). It is pertinent to note that some of the key countries mentioned here are favorable jurisdictions for investing in India.

Country-Wise FDI Equity Inflows: 2000 - 2026



Source: https://www.dpiit.gov.in/static/uploads/2026/06/41192ca92c1de34eb064800fbffa0379.pdf

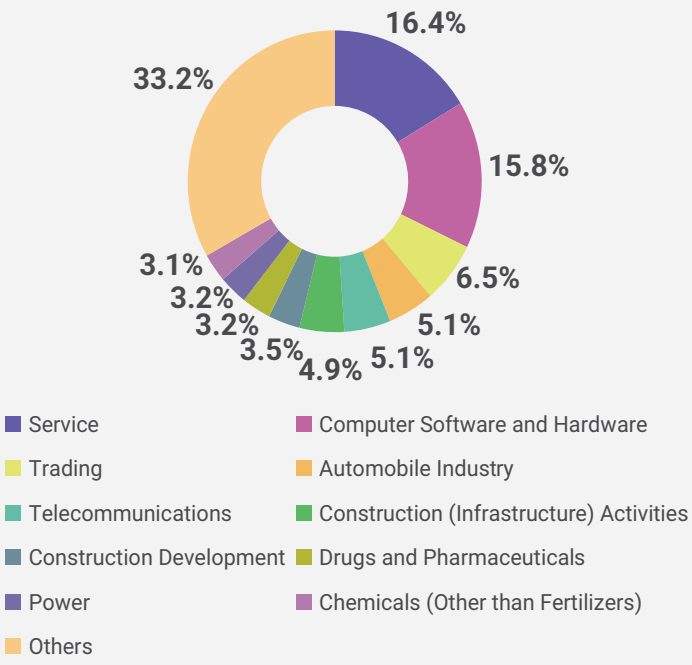
17. RBI's FDI inflow data as per international practices, https://www.dpiit.gov.in/static/uploads/2026/06/58b5bb60fa2d0b268d9017d393e7eb0e.pdf.

Sector-Wise FDI Equity Inflows

From April 2000 to March 2026, the Services Sector attracted the highest cumulative FDI equity inflows into India at USD 128.87 billion, followed closely by Computer Software and Hardware with USD 124.67 billion. Trading ranked third, attracting USD 51.61 billion in cumulative FDI equity inflows.

During FY 2025 to 26, Computer Software and Hardware emerged as the largest recipient of FDI equity inflows, attracting USD 13.95 billion and accounting for 24% of total FDI equity inflows. It was followed by the Services Sector (USD 10.01 billion, 17%), Trading (USD 4.01 billion, 7%), Non-Conventional Energy (USD 3.02 billion, 5%), and Food Processing Industries (USD 3.01 billion, 5%).[18]

Sector-Wise FDI Equity Inflows 2000 - 2026



Source: https://www.dpiit.gov.in/static/uploads/2026/06/41192ca92c1de34eb064800fbffa0379.pdf

18. Quarterly fact sheet fact sheet on Foreign Direct Investment (FDI) inflow from April, 2000 to March, 2026, https://www.dpiit.gov.in/static/uploads/2026/06/41192ca92c1de34eb064800fbffa0379.pdf



02

Government Policies and Business Regulatory Environment

- Business Regulations
- Recent changes in the FDI Policy
- Government Agencies Supporting Business Growth
- The 'Make in India' Program
- Trade Policy and Import and Export Controls
- Bank Accounts
- Intellectual Property
- Environmental Laws in India
- Consumer Protection
- Cross-Border Transactions
- Competition Act
- Conformity with Quality Control Orders
- Closure of Business in India

Business Regulations

Companies Act

The Ministry of Corporate Affairs (MCA) regulates corporate affairs in India through the Companies Act, 2013 and other allied Acts, Rules, and Regulations.

The Companies Act consolidates and amends the law relating to companies. This Act regulates a wide range of activities, including incorporation, operationalization, governance, liquidation, and winding up of companies.

The MCA has a three-tier organizational structure with its headquarters in New Delhi; 10 Regional Directorates located at New Delhi, Chandigarh, Ahmedabad, Mumbai, Navi Mumbai, Chennai, Bengaluru, Kolkata, Guwahati, and Hyderabad; 30 Offices of Registrars of Companies (RoCs); and Official Liquidator offices across various States and Union Territories. The MCA exercises administrative control over these offices through the Regional Directorates. Other attached/subordinate offices/organizations of the MCA include:

- **Serious Fraud Investigation Office (SFIO):** A multidisciplinary agency under the Ministry of Corporate Affairs responsible for investigating serious and complex cases of corporate fraud under the Companies Act, 2013.
- **Competition Commission of India (CCI):** The statutory authority established under the Competition Act, 2002 to promote and sustain market competition, protect consumer interests, and regulate combinations (mergers and acquisitions) above prescribed thresholds.
- **Insolvency and Bankruptcy Board of India (IBBI):** The regulator established under the Insolvency and Bankruptcy Code, 2016, responsible for overseeing insolvency professionals, insolvency professional agencies, information utilities, and insolvency processes.
- **National Company Law Tribunal (NCLT):** A quasi-judicial authority that adjudicates corporate matters under the Companies Act, 2013 and insolvency and liquidation proceedings under the Insolvency and Bankruptcy Code, 2016, including mergers, amalgamations, capital reduction, and winding-up matters.
- **National Company Law Appellate Tribunal (NCLAT):** The appellate authority that hears appeals against orders of the NCLT, IBBI, and CCI under the applicable laws.
- Companies in India may be incorporated as **private companies, public companies, or One Person Companies (OPCs)** under the Companies Act, 2013. Public companies may be listed or unlisted. Listed companies are additionally required to comply with the regulations issued by the Securities and Exchange Board of India (SEBI) and applicable stock exchange listing requirements.

Foreign Direct Investment

A foreign company may establish a presence in India by incorporating a company under the Companies Act, 2013 as a **wholly owned subsidiary** or **joint venture.** Foreign entities may also establish a **Liaison Office, Branch Office, or Project Office** in accordance with applicable RBI regulations.

A foreign company may also invest in a Limited Liability Partnership (LLP) under the Limited Liability Partnership Act, 2008 - a relatively new but popular concept in India. Please see Chapter 4: Business Entities to know more about LLPs in India.

FDI in India is governed by the Foreign Exchange Management Act, 1999, and is undertaken in accordance with the FDI Policy and Foreign Exchange Management (Non-Debt Instruments) Rules 2019 formulated and announced and amended from time to time.

The Department for Promotion of Industry and Internal Trade (DPIIT), formerly known as the Department of Industrial Policy & Promotion (DIPP), is a part of the Ministry of Commerce and Industry and functions under the Government of India. DFDI policy is currently governed by the Consolidated FDI Policy, 2020 read with subsequent DPIIT Press Notes, FEMA NDI Rules, and related amendments. FDI policy continues to be governed through the 2020 Consolidated FDI Policy read with subsequent DPIIT Press Notes, FEMA NDI Rules and later notifications/amendments[1]

An Indian company may receive FDI either under the automatic route or the government (approval) route, subject to the conditions laid down for this route. FDI is allowed under the automatic route without prior approval of the government or of the Reserve Bank of India (RBI) in certain activities/sectors as specified in the 'Consolidated FDI Policy Circular' and amended via Circulars and Press Notes released from time to time. FDI in activities not covered under the automatic route requires prior government approval.

The Foreign Investment Facilitation Portal (FIFP) is the government's new online single point created to facilitate FDI for investors. DPIIT administeres this portal. This portal will continue to facilitate single-window clearance of applications made through the government route.

Upon receipt of the FDI application, the concerned Administrative Ministry/Department shall process the application as per the Standard Operating Procedure (SOP). If the online filing of the application contains a digital signature by an authorized signatory, the physical submission of the copy is not required. For applications without a digital signature, once the e-filing of the application is completed, the applicant is required to file/courier only a single signed copy of the printed version of the online application, along with the duly authenticated copy of the documents attached with the application, to the Nodal Officers of the concerned Administrative Ministry/Department as per the SOP.

FDI is prohibited in certain sectors, including lottery businesses, gambling and betting, chit funds, Nidhi companies, trading in Transferable Development Rights (TDRs), real estate business (subject to specified exceptions), and manufacturing of tobacco products. Certain sectors, such as atomic energy and railway transport operations, remain restricted.

Depending on the nature of the business, an entity may also be required to obtain registrations and licenses such as PAN, TAN, GST registration, Shops and Establishments registration, and Factory licences, as applicable.

Sector-wise FDI Limits

Sector	Automatic route	Government route
Railway infrastructure	100%	-
Construction development: Such as townships, construction of residential/ commercial premises, roads or bridges, hotels, resorts, hospitals, educational institutions, recreational facilities, as well as city and regional level infrastructure	100%	-
Telecom Services (including Telecom Infrastructure Providers Category-I)	100%^	-
Agriculture and Animal husbandry	100%	-
Manufacturing of medical devices	100%	-
Mining and Exploration of Coal and Lignite for captive consumption	100%	-
Mining and Exploration of Titanium bearing minerals	-	100%
White label ATM projects	100%	
Automobiles	100%	
Auto Components	100%	
E-commerce: marketplace model	100%	
Plantations: tea, coffee, rubber, cardamom, palm oil tree and olive oil tree plantations	100%	
Duty-free shops located and operated in Customs bonded areas	100%	
Limited liability partnerships (LLP) operating in sectors/activities where 100% FDI is allowed	100%	
Credit information companies	100%	
Broadcasting Carriage Services (Teleports (setting up of up-linking HUBs/Teleports), Direct to Home (DTH), Cable Networks, Mobile TV, Headend-in-the Sky Broadcasting Service (HITS) and Cable Networks)	100%	
Broadcasting content services		
1. Up-linking of 'Non-news & Current Affairs' TV Channels/Down-linking of TV Channels	100%	
2. Terrestrial Broadcasting FM (FM radio)		Up to 49%
3. Up-linking of 'News & Current Affairs' TV Channels.		Up to 49%
Civil aviation		
4. Greenfield and Existing Projects	100%	-
5. Scheduled air transport service/ domestic scheduled passenger airline and regional air transport service	49% (Up to 100% for NRIs)	100%
6. Non-scheduled air transport service	100%	-
7. Helicopter services/seaplane services requiring DGCA approval	100%	-

^subject to sectoral security and licensing conditions

Sector	Automatic route	Government route
Private security agencies	Up to 49%	Up to 74%
Pharmaceuticals (greenfield)	Up to 100%	
Pharmaceuticals (brownfield)	Up to 74%	Up to 100%
Defense	Up to 74%	Up to 100%
Insurance companies	100%	
Insurance Brokers / Third-party administrators / Surveyors & Loss assessors and Other Insurance Intermediaries	100%	
Trading of food products manufactured or produced in India, including through e-commerce		100%
Print Media (Publishing of newspaper and periodicals or Indian editions of foreign magazines dealing with news and current affairs)		26%
Publication of facsimile edition of foreign newspapers		100%
Single Brand Retail Trading	100%	
Multi Brand Retail Trading		51%
Satellites: Establishment and operation		100%
Banking (Private sector)	49%	Up to 74%
Banking (Public sector)		20%

Recent changes in the FDI Policy

The Consolidated FDI Policy 2020 introduced several important changes compared to the earlier Consolidated FDI Policy 2017. Below is a concise summary of the key amendments:

Financial Institutions (NBFCs and CICs)

- 100% foreign investment is permitted under the automatic route in investing companies registered as NBFCs and regulated by the RBI.
- Foreign investment in Core Investment Companies (CICs) and other investment companies is allowed under the government approval route, subject to RBI regulations.

Real Estate Broking Services

The Union Cabinet has clarified that 'Real estate broking services' does not amount to 'Real estate businesses,' hence, the FDI policy has been amended to allow 100% foreign investment through automatic routing for companies functioning under the ambit of 'Real estate broking services'.

Mining Activities

The new FDI Policy allows 100% FDI via the automatic route for 'Coal and lignite mining' for captive consumption, setting up of coal processing plants, and the sale of coal and coal mining activities, including associated processing infrastructure as permitted under and subject to the provisions of Coal Mines (Special Provisions) Act, 2015 and the Mines and Minerals (Development and Regulation) Act, 1957.

Contract Manufacturing

100% FDI is permitted under the automatic route for manufacturing by both the investee entity and contract manufacturing entity in India through a legally tenable contract, whether on a Principal-to-Principal or Principal-to-Agent basis.

Insurance

100% FDI is allowed through the automatic route for insurance intermediaries, including insurance brokers, reinsurance brokers, insurance consultants, corporate agents, third party administrators, surveyors and loss assessors, as notified by the Insurance Regulatory and Development Authority of India (IRDAI). Earlier, the FDI limit was capped at 49% under the automatic route.

Civil Aviation

As per the present FDI Policy and conditions within, 100% FDI is permitted in scheduled Air Transport Services/Domestic Scheduled Passenger Airlines (up to 49% through the automatic route while investments beyond 49% would go through the government route). For NRIs, 100% FDI is permitted under the automatic route in Scheduled Air Transport Services/Domestic Scheduled Passenger Airlines subject to a few exceptions.

Digital Media

26% of FDI is allowed through the government route for uploading or streaming activities of news and current affairs through digital media.

Addressing opportunistic takeovers during the COVID-19 pandemic

Special measures were put in place through a recent amendment to curb opportunistic takeovers of Indian entities resulting from the economic turmoil during the COVID-19 pandemic. Currently, any entity of a country that shares a land border with India can invest in India only under the government route. This will also be applicable for any transfer of ownership of any existing or future FDI in an entity in India.

Single Brand Product Retail

100% FDI through the automatic route is allowed in e-commerce activities working via a marketplace model between buyers and sellers (with less than 25% of the inventory held by the marketplace entity of the e-commerce company). A 30% local sourcing norms applies to foreign investments beyond 51%.

To meet the 30% local sourcing norm, all procurements made from India by a Single Brand Retail Trading (SBRT) entity for it's single brand will now be counted towards local sourcing, whether the goods are sold in India or exported. SBRT entities are also permitted to set off sourcing of goods from India for global operations against the mandatory of 30% sourcing requirement.

The new amendment also states that an SBRT entity operating through brick-and-mortar stores can undertake retail trading through e-commerce, even prior to the opening of brick-and-mortar stores, provided the entity opens brick and mortar stores within two years of the online retail start date.

Government Agencies supporting Business Growth

To provide ease of access to business providers and clear paths for setting up businesses in India, the Government of India has restructured several departments and established new bodies to support business growth. The Department for Promotion of Industry and Internal Trade (DPIIT) plays a key role in promoting the country's industrial development by encouraging investments in new technologies, formulating the Central Government's industrial policy and fostering balanced growth within the industrial ecosystem.

Startup Ecosystem - The DPIIT has been at the forefront of transforming the startup ecosystem through strategic initiatives that foster innovation and empower entrepreneurs to drive growth. The Government of India has launched several initiatives to strengthen the startup ecosystem, including the

Startup India Action Plan, Credit Guarantee Scheme for Startups (CGSS), income tax incentives, and the National Startup Awards (NSA). As of December 2025, India had over INR 0.207 million DPIIT-recognized startups, generating employment for more than INR 2.19 million people and reinforcing its position as the world's third-largest startup ecosystem. Around 50% of DPIIT recognized startups originate from Tier-II and Tier-III cities, reflecting the growing democratization of entrepreneurship beyond major metropolitan regions. The Government has further expanded ecosystem support through AIM 2.0, which focuses on piloting innovative interventions and scaling successful models in partnership with governments, industry, academia, and local communities. Complementary programs such as SVEP, ASPIRE, and PMEGP continue to promote rural entrepreneurship, women-led enterprises, and employment generation at the grassroots level[1].

Green Logistics Industry - The Government of India has undertaken several initiatives to promote a sustainable, efficient, and digitally integrated logistics ecosystem. The PM Gati Shakti National Master Plan continues to strengthen multimodal connectivity by integrating highways, railways, ports, airports, logistics parks, and inland waterways on a unified geospatial platform. As of 2026, the platform covers 57 ministries and departments and incorporates more than 1,700 GIS data layers, enabling coordinated infrastructure planning, reducing project delays, and improving logistics efficiency. Complementing this, the National Logistics Policy (2022) promotes end-to-end digitalization, process standardization, and technology adoption across the logistics value chain. Digital initiatives such as the Unified Logistics Interface Platform (ULIP), Logistics Data Bank (LDB), Gati Shakti Cargo Terminals (GCTs), and the Freight Greenhouse Gas Calculator are enabling real-time data exchange, improved cargo visibility, and emissions monitoring. ULIP now integrates 44 systems across 11 ministries spanning more than 2,000 data fields, significantly improving interoperability among ports, airports, customs, railways, and road transport[2].

Invest India is the country's official Investment Promotion and Facilitation Agency, serving as the primary point of reference for potential investors and providing sector and state-specific hand-holding support across the entire investment cycle, from location identification and regulatory approvals to aftercare services. In FY 2025-26, the agency facilitated 60 investment projects worth over USD 6.1 billion across 14 states, nearly three times the FY 2024-25 levels, generating an estimated 31,000 jobs, with Europe as the leading investment source at 42% of total value.[3]

IndiaAI Mission is the Government's flagship initiative to position India as a global leader in Artificial Intelligence. Approved in March 2024 with a budget outlay of approximately USD 1.09 billion over five years, the mission aims to strengthen India's AI ecosystem through investments in computing infrastructure, indigenous foundation models, datasets, talent development, startup support, and responsible AI governance. India has expanded its AI computing capacity from an initial target of 10,000 GPUs to 38,000 GPUs, providing affordable access to high-performance computing for startups, researchers, and enterprises. The country hosts over 1,800 Global Capability Centers, including more than 500 AI-focused centers, while around INR 0.18 million startups are driving innovation, with nearly 89% of new startups launched in the previous year incorporating AI into their products or services. The highest levels of AI adoption are observed across the industrial and automotive, consumer goods and retail, banking, financial services and insurance, and healthcare sectors, which together contribute around 60% of AI's total economic value. Under the IndiaAI Foundation Models pillar, Sarvam AI, Soket AI, Gnani AI, and Gan AI have been selected to develop sovereign Large Language Models tailored to Indian languages and use cases[4].

1. A Decade of Startup India - Scaling Innovation, Shaping India's Growth Story, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2214872&lang=2&reg=3,
   Startup India Recognises 2.07 Lakh Ventures, Creates 21.9 Lakh Jobs; Govt Expands Funding Push Through Flagship Schemes, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2227597&lang=1&reg=3
2. Green logistics Industry, https://www.drishtiias.com/current-affairs-news-analysis-editorials/news-editorials/11-02-2026
3. Invest India, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2256929&reg=1&lang=1
4. India AI Mission https://indiaai.gov.in/, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2209737&lang=1&reg=3

Ministry of Micro, Small & Medium Enterprises (MSME)

The MSME sector remains a cornerstone of India's economy, contributing 31.1% of GDP, 35.4% of manufacturing output, and 48.58% of the country's exports, while employing more than INR 389 million people, making it the second largest source of employment after agriculture. The Government has introduced several initiatives to strengthen the sector's competitiveness, formalization, and access to finance. As of June 2026, registrations under the Udyam Registration Portal and Udyam Assist Platform have crossed INR 87 million, expanding access to institutional credit, government schemes, and market opportunities. To further improve financing, the Government has increased the Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE) guarantee ceiling from USD 0.52 million to USD 1.05 million, while initiatives such as the MSME Champions Scheme, Zero Defect Zero Effect (ZED) Certification Scheme, and the Micro and Small Enterprises Cluster Development Programme (MSE CDP) continue to promote quality enhancement, digital transformation, sustainability, innovation, and export readiness.[5]

In addition to Central Government initiatives, state governments facilitate investments through dedicated investor facilitation agencies and industrial development corporations that assist businesses with land acquisition, regulatory approvals, and project implementation. States also offer sector-specific incentives based on investment size, location, and employment generation, including Investment Promotion Subsidies (IPS), stamp duty and electricity duty exemptions, GST reimbursement, and other fiscal benefits.

In recent times, states such as Maharashtra, Andhra Pradesh, Gujarat, Haryana, Karnataka, Uttar Pradesh, Orissa and Rajasthan have introduced policies to augment the growth of Global Capability Centres in India, offering fiscal and non-fiscal incentives basis the location of set-up in the State.

The 'Make in India' Program

Launched in September 2014, the Make in India initiative continues to serve as the Government of India's flagship program to strengthen domestic manufacturing, attract investments, and position India as a global manufacturing hub. The initiative focuses on improving the ease of doing business through regulatory reforms, infrastructure development, greater liberalization of foreign investment, and streamlined approval mechanisms. Over the past decade, it has enhanced India's manufacturing competitiveness across sectors such as electronics, automobiles, pharmaceuticals, defense, and renewable energy, supported by complementary initiatives including the Production Linked Incentive (PLI) Schemes, PM GatiShakti, and the National Logistics Policy.

Complementing this vision, the Atmanirbhar Bharat Abhiyaan, launched in 2020, aims to strengthen India's self-reliance by promoting domestic manufacturing, resilient supply chains, innovation, and local value addition across strategic sectors. Built on five pillars comprising economy, infrastructure, system, vibrant demography, and demand, the initiative seeks to enhance India's long-term industrial competitiveness while reducing import dependence.

Together, Make in India and Atmanirbhar Bharat have contributed to increased private investment, higher domestic production, and stronger integration of Indian manufacturers into global value chains.

Key achievements of the Make in India program over the past decade include:

- **Production Linked Incentive (PLI) Schemes:** The Government continues to strengthen domestic manufacturing through the PLI Scheme across 14 strategic sectors, with a total outlay of USD 20.0 billion. As of 31 December 2025, the scheme had approved 836 applications, attracted over USD 22.6 billion in investments, generated production and sales exceeding USD 213.7 billion, exports of over USD 86.9 billion, and created more than INR 1.439 million direct and indirect jobs, significantly strengthening domestic manufacturing, exports, and India's integration into global value chains[6].

5. Ministry of MSME, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2228306&lang=2&reg=48

6. PLI scheme, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2230621&lang=1&reg=6

- **India Semiconductor Mission 2.0:** Announced under the Union Budget 2026 to 27, India Semiconductor Mission 2.0 received an allocation of USD 104.7 million for FY 2026 to 27 to strengthen semiconductor manufacturing, equipment, materials, and indigenous technology development. As of December 2025, 10 semiconductor projects worth USD 16.8 billion had been approved across six states, supporting the development of a domestic semiconductor ecosystem. India's semiconductor market is projected to reach USD 100-110 billion by 2030.[7]
- **Bharatmala Pariyojana:** The Government continues to advance Bharatmala Pariyojana to improve freight efficiency and strengthen logistics. As of March 2026, projects covering 26,425 km had been awarded, while 22,590 km had been constructed, significantly improving connectivity, reducing logistics costs, and enhancing access to key manufacturing and economic centers[8].
- **Redefining MSME Champions:** MSMEs, which form the backbone of Make in India, continue to benefit from redefined classifications, digital registration, and grievance redressal systems through the CHAMPIONS portal, enabling faster scaling and improved formalization.
- **Defense Manufacturing Hubs:** India continues to strengthen its defense manufacturing ecosystem through the Defense Industrial Corridors in Uttar Pradesh and Tamil Nadu. In FY 2025 to 26, defense production reached a record USD 18.6 billion, while defense exports reached an all-time high of USD 4.0 billion, reinforcing India's emergence as a global hub for defense manufacturing and export hub.[9]
- **National Broadband Mission 2.0:** The Government continues to expand digital infrastructure through National Broadband Mission 2.0 and BharatNet. As of December 2025, India had deployed over INR 0.518 million 5G Base Transceiver Stations and connected more than INR 0.214 million Gram Panchayats under BharatNet, strengthening digital connectivity to support Industry 4.0, smart manufacturing, and digital enterprises.[10]
- **Industrial Corridors:** The Government continues to expand the National Industrial Corridor Development Program (NICDP) to develop industrial smart cities with plug-and-play infrastructure and multimodal logistics connectivity. As of February 2026, 11 industrial corridors are under implementation, with 4 operational, 4 nearing completion, and the East Coast Industrial Corridor announced in the Union Budget 2026-27.[11]

Trade Policy and Import and Export Controls

In India, exports and imports are regulated by the Foreign Trade (Development and Regulation) Act, 1992, and the Foreign Trade Policy (FTP). The Department of Commerce, Ministry of Commerce and Industry, formulates, implements, and monitors the policy. The Directorate General of Foreign Trade (DGFT) runs various schemes for trade promotion and facilitation. The current policy, which is in effect from 1 April 2023, provides a framework for foreign trade in goods and services as well as employment generation and increasing value addition. It aims to link the rules, procedures, and incentives for exports and imports with other initiatives such as Make in India and Digital India to create an 'Export Promotion Mission', which will provide an institutional framework to work with State Governments to boost India's exports. The focus of the policy is to support both the manufacturing and services sectors with a special emphasis on improving the ease of doing business in India, especially for MSMEs, first time exporters and labour-intensive sectors.

Foreign Trade Policy (FTP) 2023[12]:

The government announced FTP 2023 with a vision to increase India's exports to USD 2 trillion by 2030. The policy places special emphasis on process re-engineering and automation for facilitating ease of doing business for exporters. The policy is built upon four critical pillars:

7. Semiconductor Mission 2.0, https://www.pib.gov.in/PressNoteDetails.aspx?ModuleId=3&NoteId=157237&reg=48&lang=2
8. Bharatmala Pariyojana, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2272639&lang=1&reg=48
9. Defence Manufacturing, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2273824&lang=1&reg=3
10. National broadband mission 2.0, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2223774&reg=48&lang=2
11. Industrial corridor, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2232996&reg=48&lang=2
12. Foreign Trade Policy 2023, Directorate General of Foreign Trade, https://www.dgft.gov.in/CP/?opt=ft-policy

- Incentive to remission
- Export promotion through collaboration - exporters, states, districts, Indian missions
- Ease of doing business, reduction in transaction cost, and e-initiative
- Emerging Areas – e-commerce developing districts as export hubs and streamlining SCOMET (Special Chemicals, Organisms, Materials, Equipment and Technologies) policy

As a whole, FTP 2023 aims to strengthen India's position in exports by manifesting automation in approvals, collaboration with multiple authorities, creating a welcoming environment for MSMEs and other businesses, and establishing India as a global leader in the export industry.

Free Trade & Preferential Trade Agreements:

Free Trade Agreements (FTAs) are an important element of India's trade strategy. The Indian Trade Portal, www.indiantradeportal.in, provides the most-favored nation and preferential tariff rates, rules of origin, sanitary and phytosanitary (SPS) standards, and Technical Barriers to Trade (TBT) under the various FTAs signed by India. It also captures the trade flows from major trading partners, among other resources. A comprehensive list of India's FTAs can be viewed on the Department of Commerce's website, www.commerce.gov.in. Such FTAs and Preferential Trade Agreements (PTAs) provide customs duty exemption benefits to importers subject to compliance with the Rules of Origin.

In a move to curb the practice of abuse of the benefits, Indian customs officers have the power to deny the customs duty exemption benefit if they are satisfied that the criteria laid down in the relevant FTAs and PTAs have not been met in relation to any import shipment.

India has recently signed a Comprehensive Economic and Trade Agreement (CETA) with United Kingdom and Northern Ireland. Also, India and Brazil have announced a joint declaration to expand the existing India–MERCOSUR Preferential Trade Agreement (PTA), strengthening India's trade ties with Latin America, especially within the Mercosur bloc of Brazil, Argentina, Uruguay, and Paraguay. Additionally, the India USA trade pact is also expected to be finalized in the coming months.

Export incentives:

Special Economic Zones (SEZs) and Export Oriented Units (EOUs): The SEZ Act, 2005, aims at attracting larger foreign investments into India by providing quality infrastructure complemented by an attractive fiscal package at the center and the state level, with minimal regulations. This Act, along with the SEZ Rules, drastically simplified procedures and provided single-window clearance on matters related to the Central and State Governments[13]. Incentives provided to units in an SEZ differ from state to state but may include duty-free imports of specified goods, exemptions from income tax (if an existing SEZ unit set up prior to April 2020 is acquired), zero-rating of GST, etc.

Units that export their entire production of goods and services may be set up under the EOU scheme, Electronics Hardware Technology Park (EHTP) scheme, Software Technology Park (STP) scheme, or Bio-Technology Park (BTP) scheme for the manufacture of goods, including repair, re-making, reconditioning, re-engineering, rendering of services, agriculture, etc. For such units, 100% FDI is permitted through the automatic route, similar to SEZ units.

With the intention to encourage manufacturing and exports under the 100% EOU/EHTP/STPI/BTP schemes, these units have been provided with a fast-track clearance facility. These units are also allowed to share infrastructure, transfer goods and services between units, set up warehouses near the port of export, and use duty-free equipment for training.

Duty deferment scheme:

To promote India as a global manufacturing hub and showcase its commitment towards ease of doing business, the government is allowing import of raw

13. About us, Introduction, Special Economic Zones in India, https://sezindia.gov.in/introduction

materials and capital goods without payment of customs duty for manufacturing and other operations in a bonded manufacturing facility.

Under this scheme, viz., MOOWR, the customs duty payable on raw materials is deferred until the finished goods are cleared into the domestic market. Similarly, import duty on capital goods is to be paid only upon their clearance into the domestic market. Where the imported inputs are utilized for exports and/or the capital goods are re-exported after usage, the deferred duty is exempted.

Separately, an Authorized Economic Operator (AEO) program has been extended for businesses involved in international trade to facilitate the global supply chain through expedited cargo processing and clearances, deferred duty payments (for specified tiers), etc. that align with international best practices.

Additionally, from April 2026, the government has introduced a deferred customs duty payment facility for Eligible Manufacturer Importers (EMIs). Instead of paying duties upfront to clear the cargo, EMIs can settle payments on a consolidated monthly basis, thereby improving their working capital and supply chain efficiency. The facility can be availed by GST registered manufacturers having aggregate annual turnover of INR 50 million and a transaction history of minimum 25 Bills of Entry or Shipping Bills in the preceding financial year (relaxed to 10 transactions for MSMEs). The said scheme shall remain in force until 31 March 2028.

Duty exemption & remission schemes:

The duty exemption schemes enable duty-free import of inputs for export production. These include Advance Authorization (AA) and Duty-Free Import Authorization (DFIA).

Similarly, the Export Promotion Capital Goods (EPCG) scheme allows import of capital goods for pre-production, production and post-production at zero customs duty, including exemption from IGST.

The imports under both the schemes, viz. AA and DFIA as well as EPCG, are subject to an Export Obligation.

On the other hand, the duty remission schemes enable post-export replenishment / remission of duty on inputs used in export products. These include Duty Drawback (DBK) Scheme which allows refund of customs duty paid upon re-export of imported goods or export of manufactured goods.

Additionally, schemes such as RoSCTL (Rebate of State and Central Levies and Taxes) for made-up articles and garments and RoDTEP (Remission of Duties and Taxes on Export Products) for other articles are in place to refund the embedded local duties borne by the exporters not credited under other schemes.

EDF Compliance:

As per the new export regulations issued by RBI vide Notification No. FEMA 23(R)/2026-RB dated 13 January 2026, which are set to come into effect from 1 October 2026, all service exporters are required to declare the value of exports in an Export Declaration Form (EDF), to specified authorities as below:

- Software service exporters will be required to obtain EDF authentication either from STPI or through their AD bank.
- Other service exporters would file the EDFs through their AD banks.
- Service exporters in SEZ units would continue to be administered by the Development Commissioner, SEZ.

While EDF compliance for export of goods would be governed by extant provisions, the service exporters would be required to comply with the same on monthly basis. Accordingly, EDF should be filed by service exporters within 30 days of the invoicing month.

Customs regulations:

The Customs Act, 1962 provides for the levy and collection of customs duty on imports and exports, import/export procedures, prohibitions on the trade of certain goods, penalties, offenses, etc. The Central Government levies customs duty on the import and export of goods at the rates and on the basis of the classification under the Customs Tariff Act, 1975.

Tax Administration – Central Board of Indirect Taxes and Customs:

Central Board of Indirect Taxes and Customs (erstwhile Central Board of Excise & Customs) is a part of the Department of Revenue under the Ministry of Finance, Government of India. It deals with the tasks of formulation of policy concerning levy and collection of Customs, Central Excise duties, Central Goods & Services Tax, and IGST, prevention of smuggling and administration of matters relating to Customs, Central Excise, Central Goods & Services Tax, IGST and Narcotics to the extent under CBIC's purview[14]. The customs/import tariff for various goods can be viewed on the CBIC website, www.cbic.gov.in.

Bank Accounts

India has a well-developed banking system regulated by the Reserve Bank of India (RBI), the Central Bank of India. Public and private sector banks are subject to the control and supervision of the RBI. The Reserve Bank of India Act, 1934 and the Banking Regulation Act, 1949 are the core legislations pertaining to the banking sector in India.

A foreign company setting up in India typically opens a current (checking) account with an Authorized Dealer (AD) bank. An AD bank functions under the direction and supervision of the RBI and handles both current and capital account transactions. Current account transactions, such as payments in the course of foreign trade and banking and credit facilities in the ordinary course of business, are usually freely permitted. Capital account transactions, such as transfer or issue of any foreign security by an Indian resident, transfer or issue of a security by a non-resident, any borrowing or lending, acquisition of immovable property by a non-resident, and giving of a guarantee in respect of a debt or liability are regulated by the RBI. The ease with which banking account transactions can be carried out is also dependent on whether an entity is operating under the automatic route or government route.

Intellectual Property

The Intellectual Property Rights (IPR) framework in India is stable and well established in the legal, judicial, and administrative aspects. India is a member of the World Trade Organization and is fully compliant with the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). India is also a member of the World Intellectual Property Organization (WIPO), a body responsible for the promotion of the protection of intellectual property rights throughout the world. India is also a signatory to several important WIPO-administered international treaties and conventions related to intellectual property.[15]

The Acts covering IPR in India include the Patents Act, 1970 (as amended in 2005); Copyright Act, 1957 (as amended); Trademarks Act, 1999 (as amended in 2010); Designs Act, 2000; and Geographical Indications of Goods (Registration & Protection) Act, 1999.

Intellectual property needs to be registered with the Controller General of Patents, Designs and Trademarks, or Copyright Office whichever is relevant.

On 12 May 2016, the government released the National Intellectual Property Rights Policy that seeks to promote a holistic and conducive ecosystem to catalyze the full potential of intellectual property for India's economic growth and socio-cultural development, while protecting the public interest. Its objectives include creating public awareness, stimulating the generation of IPRs, having strong and effective IPR laws, and strengthening the enforcement and adjudicatory mechanisms for combating IPR infringements.[16]

14. About Us, Central Board of Indirect Taxes & Customs, https://www.cbic.gov.in/entities/who-we-are
15. Intellectual Property Facts, https://www.makeinindia.com/policy/intellectual-property-facts
16. National Intellectual Property Rights Policy, Department for Promotion of Industry and Internal Trade, https://dpiit.gov.in/policies-rules-and-acts/policies/national-ipr-policy

The Minister of Commerce and Industry launched the Intellectual Property (IP) mascot – IP Nani – at the conference on National Intellectual Property Rights Policy in New Delhi on 16 May 2018 to create awareness amongst children. The Cell for IPR Promotion and Management (CIPAM), a professional body under the Department for Promotion of Industry and Internal Trade (DPIIT), collaborated with the European Union Intellectual Property Office (EU-IPO) to produce a series of animated videos on IPRs for children with IP Nani as their central character. CIPAM has been conducting IPR awareness workshops for school students since April 2017. Additionally, CIPAM also engaged with the National Council of Educational Research & Training (NCERT) to curate content on IPRs. As a result, for the first time, IPRs have been exclusively included in the NCERT textbook for the Class 12 school syllabus. These efforts are aimed at inspiring the next generation of creators and innovators to become proud IP owners.[17]

India has continued to modernize its Intellectual Property Rights (IPR) framework through 2025 and 2026, with a focus on faster digital processing, simplified compliance, stronger enforcement, and improved access for startups, MSMEs, creators, and producer communities. Key developments include the operational impact of the Patents (Amendment) Rules, 2024, implementation of decriminalization-oriented changes flowing from the Jan Vishwas reforms, wider use of online filing and tracking systems, specialized Intellectual Property Divisions/benches in High Courts, and reforms to make geographical indication protection more affordable and accessible.

Patents

A patent is granted for an invention that is a new product or a process involving an inventive step and capable of industrial application. 'New invention' means the subject matter has not fallen in the public domain or that it does not form part of state-of-the-art technology.

One of the inventive steps taken are the feature(s) of the invention that involves technical advancement as compared to existing knowledge, and that makes the invention not obvious to a person skilled in the art. Industrial use means that the invention is capable of being made or used in industry.[18]

Patents are governed by the Patents Act, 1970, as amended by the Patents (Amendment) Act, 2005 and the Patents Rules, 2003, as amended by the Patent (Amendment) Rules, 2016. Normally, a patent obtained in India is not enforceable in another country, as patent protection is a territorial right. However, as India is a signatory to the Patent Cooperation Treaty (PCT), applicants can file a single international patent application under the PCT and simultaneously seek protection for an invention in more than 157 contracting states.[19]

India is also a signatory to the Paris Convention for the Protection of Industrial Property. The convention provides for the right of priority, due to which, based on a regular first application filed in one of the contracting states, the applicant may, within a certain period of time (12 months for patents and utility models; 6 months for industrial designs and marks), apply for protection in any of the other contracting states.

These subsequent applications will be regarded as if they had been filed on the same day as the first application, i.e., they will have priority over applications filed by others during that period.[20]

India follows a first-to-file patent system. A patent application can be filed either by the true and first inventor or his/her assignee, either alone or jointly with any other person, or the legal representative of a deceased person. An applicant can file a patent application if they have a place of residence, business, or domicile in India. A patent application can be filed with the Patent Office at any of its four locations (Kolkata, Delhi, Chennai, or Mumbai) depending on territorial jurisdiction, or online through its official website, www.ipindia.nic.in.[21] Foreign applicants who do not have a place of business or domicile in India can file their applications through an Indian patent agent.

All the records are digitized and freely available through the website. The entire processing of patent applications is electronic, and information relating to

17. IP Nani, Department for Promotion of Industry and Internal Trade, https://dpiit.gov.in/ip-nani
18. Delhi High Court Intellectual Property Rights Division Rules, 2022, High Court of Delhi, https://delhihighcourt.nic.in/web/node/1826
19. World Intellectual Property Organization, http://www.wipo.int/pct/en/
20. Summary of the Paris Convention for the Protection of Industrial Property (1883), WIPO, http://www.wipo.int/treaties/en/ip/paris/summary_paris.html
21. Patent FAQs, IP India, https://ipindia.gov.in/index.htm

processing is made available on the website in real-time, thereby providing valuable information to the applicants. A patent is granted for a uniform period of 20 years from the filing date of the patent application, for inventions in all fields of technology, and it is a territorial right.[22]

The Patents Act, 1970, provides for the enforcement of patents by way of suits on infringement. The patentee may file an action for patent infringement in either a District Court or a High Court. The relief that a court may grant includes an injunction and, at the option of the patentee, either damages, or an account of profits. The court may also order that the infringing goods be seized, forfeited, or destroyed without payment of any compensation.

The improvement in IP administration during the last few years, along with amendments of Patents and Trademarks Rules, digital reforms, and re-engineering of IP procedures has resulted in improved performance, decreased pendency, and higher rates of dispensing of IP applications.

The Patents (Amendment) Rules, 2024 have materially changed patent practice in India and remain central to patent strategy in 2026. The timeline for filing a request for examination for applications filed on or after 15 March 2024 has been reduced from 48 months to 31 months; Form 3 requirements for corresponding foreign applications have been simplified; Form 27 working statements are now required once every three years instead of annually; and the rules provide clearer mechanisms for divisional applications, extensions of time, condonation of delay, and inventor certificates. These changes are intended to reduce procedural burden, improve certainty, and accelerate patent prosecution.

From an enforcement perspective, India's IP litigation landscape in 2026 is increasingly shaped by specialized IP divisions and benches in High Courts, expedited interim relief in commercial IP disputes, and a growing body of case law on online infringement, software and computer-related inventions, standard-essential patents, pharmaceutical patent enforcement, and AI-assisted misuse. Rights holders should preserve digital evidence early, monitor online marketplaces and domain registrations, and consider both civil litigation and alternative dispute resolution depending on the nature of the IP right and contractual arrangements.

Copyright

The Copyright Act, 1957, protects original literary, dramatic, musical, and artistic works and cinematograph films and sound recordings from unauthorized use. Unlike patents, copyright protects the expression and not ideas. There is no copyright protection for ideas, procedures, methods of operation, or mathematical concepts as such. It is not necessary to register a work to claim copyright in India. Acquisition of copyright is automatic – it comes into existence as soon as a work is created and requires no formalities. However, a certificate of registration of copyright and the entries made therein serve as prima facie evidence in a court of law with reference to disputes on ownership of copyright.[24] The Copyright Office has been set up to provide registration facilities for all types of works and is headed by a Registrar of Copyrights. The Copyright (Amendment) Act, 2012 extends copyright protection in the digital environment, ensuring the right to receive royalties for authors and music composers, exclusive economic and moral rights to performers, equal membership rights in copyright societies for authors and other right owners, and exception of copyrights for the physically disabled to access any works.

In the digital environment, copyright enforcement in India has become increasingly focused on online piracy, illegal streaming, unauthorized use of sound recordings, platform-based takedowns, and evidence preservation. Courts have continued to grant urgent interim and dynamic relief against rogue websites, mobile applications and online intermediaries where a prima facie case of infringement is established. Businesses using digital content, music, films, software, advertising material, AI-generated assets, or third-party creative works should ensure that license terms, attribution obligations, royalty arrangements, and platform-use permissions are clearly documented.

22. Intellectual Property Facts, Make in India, http://www.makeinindia.com/policy/intellectual-property-facts

23. 108: Reliefs in suit for infringement, Patents Act, 1970, https://ipindia.gov.in/ writereaddata/Portal/IPOAct/1_31_1_patent-act-1970-11march2015.pdf

24. A Hand-Book of Copyright Law, Ministry of Human Resource Development, http://copyright.gov.in/documents/handbook.html

In order to ensure smooth and flawless compliance of the Copyright Act in the light of technological advancement in the digital era and to bring them in parity with other relevant legislations, the Department for Promotion of Industry and Internal Trade, Government of India proposed to introduce the Copyright Amendment Rules, 2019. The proposed amendment is seen as a clarification by the government that the statutory licensing scheme under Section 31D applies to all types of broadcasting, including internet broadcasting, and is not restricted to only radio and internet broadcasting.

Cinematography[25]

Cinematography law governs the certification of films for public exhibition, regulates cinema exhibition and provides for related matters. The Cinematograph Act, 1952 was amended by the Cinematograph (Amendment) Act, 2023, which strengthens penalties against piracy, updates film certification norms, and modernizes licensing procedures to reflect technological changes in media production and distribution. Under the new regime, unauthorized recording and exhibition of films attract heavier fines and imprisonment, and film certificates can have perpetual validity with updated age-based classification systems. At the state level, several governments are rolling out single-window clearance systems and new film policies (e.g., Telangana, Delhi, and Jammu & Kashmir) to simplify shooting permits, attract national and international productions, and position regions as film hubs. Additionally, the central government has reaffirmed that OTT content remains outside CBFC jurisdiction, maintaining self-regulation for digital platforms, while states like Maharashtra plan to amend local cinema laws to improve ease of doing business. These changes reflect a broader push to balance creative freedom, environmental and social safeguards, and industry-friendly processes for cinematography businesses.

Trademarks[26]

Under the Trademarks Act, 1999, a person who is the proprietor of the trademark can apply to the Registrar of Trademarks for the registration of its mark for goods and services. A trademark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one undertaking from those of another undertaking. A trademark can be a device, brand, heading, label, ticket name, packaging, sign, word, letter, number, drawing, picture, emblem, color or combination of colors, the shape of goods, signature, or a combination thereof.

Though the registration of a trademark is not compulsory, registration is prima facie proof of title and gives the registered proprietor the exclusive right to use the trademark and take legal action in case of infringement. If a trademark is not registered and if someone not having a right in the trademark uses that trademark, the proprietor of the trademark can take the common law action of passing off.

The initial registration is valid for a period of 10 years, which is renewable for an indefinite period of time. India also acceded to the Madrid Protocol, which allows applicants to file an application for international registration in other countries that are members of the protocol through a simple form and by payment in one foreign currency. Applicants can also file indicating India as the designated country in forms. This enables the time-bound processing of trademark applications.

With several new initiatives, the first examination of trademark applications, which previously took 13 months, has been brought down to just one month.

Trademark practice in 2026 continues to be driven by digital filing, online examination, improved public search tools, electronic status tracking, and faster registry communication. Brand owners should maintain active watch services for similar marks, domain names, marketplace listings, social-media handles, and counterfeit activity, as courts continue to grant swift relief where deceptive similarity, passing off, or digital impersonation is established.

25. The Cinematograph Act 1952 [incorporating latest amendments through the Cinematograph (Amendment) Act, 2023 and the Jan Vishwas (Amendment of Provisions) Act 2023] | Ministry of Information and Broadcasting – https://mib.gov.in/actspolicyguidelines/cinematograph-act-1952-incorporating-latest-amendments-through-cinematograph

26. Intellectual Property Facts, Make in India, http://www.makeinindia.com/policy/intellectual-property-facts

Design

The essential purpose of design law is to promote and protect the design element of industrial production. It is also intended to promote innovative activity in industries. The existing legislation on industrial designs in India is contained in the Designs Act, 2000.

The essential requirements for the registration of a 'design' under the Designs Act, 2000 are as follows:

- The design should be new or original, not previously published or used in any country before the date of application for registration.
- The design should relate to features of shape, configuration, pattern, or ornamentation applied or applicable to an article. The design should be applied to any article by any industrial process.
- The features of the design in the finished article should appeal to and be judged solely by the eye.
- Any mode or principle of construction or operation or anything which is, in substance, a mere mechanical device cannot be registered as a design.
- The design should not include any trademark or property mark or artistic works as defined under the Copyright Act, 1957.

The registration of a design confers upon the registered proprietor a 'copyright' on the design for the period of registration. It gives the proprietor the exclusive right to apply it to any article in the registered class. A registered proprietor of the design is entitled to better protection of his intellectual property. He can sue for infringement (recoverable amount cannot exceed INR 200,000), and license or sell his design as legal property for a consideration or royalty.

Any person (including a firm, partnership, or body corporate) claiming to be the proprietor of the design can apply for its registration. The application can be filed by the applicant directly or through an agent.

The duration of the registration of a design is initially 10 years from the date of registration, which may be extended by five years through the relevant application.

The Design Law Treaty (DLT)[27], adopted under the auspices of WIPO, seeks to harmonize and simplify formalities for industrial design protection globally. India's support for the treaty framework reflects its broader policy direction of reducing procedural barriers, encouraging electronic systems, and supporting design protection for startups, MSMEs and individual designers. Businesses should monitor domestic implementation measures because future procedural alignment may make it easier to file multiple designs, regularize missed deadlines, and record assignments or changes in ownership.

Geographical Indications[28]

Geographical Indications (GI) are covered as an element of intellectual property under the Paris Convention as well as the TRIPS agreement. A geographical indication identifies agricultural/natural/manufactured goods as originating or manufactured in the territory of a country/region/locality in that territory, where a given quality, reputation, or other characteristics of such goods is essentially attributable to its geographical origin. In cases where such goods are manufactured goods, one of the activities of either the production or processing or preparation of the goods concerned must take place in such territory, region, or locality as the case may be.

The Geographical Indications of Goods (Registration and Protection) (Amendment) Rules, 2025 revised the fee structure for GI filings and related proceedings, substantially reducing several official fees and rationalizing fees for authorized users. These changes are expected to widen access for producer groups, cooperatives, artisans, agricultural communities, and small businesses seeking GI protection. For businesses, the reforms create greater opportunities to safeguard product identity, improve market positioning, support export branding, and participate in GI-led value chains.

27. India signs the Final Act of the Riyadh Design Law Treaty, Press Information Bureau, Ministry of Commerce & Industry, 26 November 2024, https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2077272Press Release:Press Information Bureau - https://www.pib.gov.in/PressReleasePage.aspx?PRID=2077272&reg=3&lang=2

28. Geographical Indications of Goods (Registration and Protection) (Amendment) Rules, 2025; https://www.globaljurix.com/law-news/government-notifies-revised-geographical-indications-rules-2025-updates-fee-structure.php

The government has set an ambitious national target to register 10,000 GI products by 2030, up from just over 600 on 22 January 2025, supported by a dedicated oversight committee and expanded workforce.

Environmental Laws in India

India's environmental law framework is primarily governed by the Environment (Protection) Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Forest (Conservation) Act, 1980 as amended, the Biological Diversity Act, 2002, and sector-specific waste-management rules. Regulatory oversight is exercised by the Ministry of Environment, Forest and Climate Change, the Central Pollution Control Board, State Pollution Control Boards, Pollution Control Committees, and specialized adjudicatory forums such as the National Green Tribunal.

As of 2026, environmental compliance in India is increasingly shaped by digital approvals and monitoring, extended producer responsibility obligations, climate-related market mechanisms, circular-economy regulations, contaminated-site remediation, and stricter accountability for non-compliance. Businesses should assess environmental permissions at the project-planning stage, including environmental clearance, consent to establish, consent to operate, hazardous waste authorization, EPR registration, forest and wildlife approvals, groundwater permission, and state-specific industrial siting conditions.

Environmental approvals and project compliance

Industrial, infrastructure, mining, real-estate, energy, chemical, pharmaceutical, logistics and manufacturing projects may require prior environmental clearance under the environmental impact assessment framework, in addition to consents from pollution control authorities. The approval process has become more technology-enabled through online portals for environmental, forest, wildlife and coastal regulation zone permissions, while regulators continue to focus on compliance monitoring, environmental management plans, public-hearing obligations, emission and effluent standards, and post-clearance reporting.

Waste management and EPR

India has expanded extended producer responsibility across key waste streams such as plastic packaging, e-waste, batteries, waste tires, used oil, and hazardous and other wastes. The Plastic Waste Management (Amendment) Rules, 2025 require producers, importers and brand owners to provide specified product information through bar-code or QR code systems from 1 July 2025, while the Battery Waste Management Amendment Rules, 2025 strengthen traceability by requiring EPR registration numbers through bar-code or QR code labeling, subject to filings on the CPCB portal.

The Plastic Waste Management (Amendment) Rules, 2026 further refine recycling, end-of-life disposal, and plastic waste processor obligations, reflecting India's shift from disposal-based compliance to traceable circular-economy obligations. Businesses placing covered products or packaging in the Indian market should maintain EPR registrations, category-wise data, procurement and recycling certificates, agreements with recyclers or processors, and periodic returns through the relevant CPCB portals.

Carbon markets, green credits and climate-linked regulation

India is operationalizing market-based climate instruments alongside traditional environmental regulation. The Carbon Credit Trading Scheme, 2023 established the framework for the Indian Carbon Market and was amended to introduce an offset mechanism for voluntary climate mitigation projects. In 2025, detailed procedures and methodologies were approved for sectors including renewable energy, green hydrogen, industrial energy efficiency, landfill methane recovery, and mangrove afforestation and reforestation. The Green Credit Rules, 2023 also provide a framework to incentivise voluntary environmental actions, with plantation and eco-restoration modalities revised in 2025 and continuing to operate through a dedicated digital portal.

Contaminated sites and remediation

A significant 2025 development is the notification of rules for management of contaminated sites, creating a structured framework for identification, assessment, declaration, remediation planning, implementation and oversight of polluted land and water sites. State pollution control authorities are expected to identify and assess suspected contaminated areas, while responsible persons may be required to prepare and implement remediation plans. Where responsibility cannot be attributed, public authorities may be required to coordinate remediation funding and implementation.

Business implications

Companies operating in India should treat environmental compliance as an ongoing board-level and operational risk area. Practical measures include maintaining a compliance calendar, mapping all permits and renewals, reviewing waste-stream obligations, validating EPR certificates, monitoring emissions and effluents, preparing site-level environmental management plans, conducting environmental due diligence for acquisitions and leases, and documenting corrective action. Non-compliance can result in closure directions, environmental compensation, penalties , prosecution, reputational harm, and project delays.

Consumer Protection

India's consumer protection framework is governed principally by the Consumer Protection Act, 2019, supported by the Consumer Protection (E-Commerce) Rules, 2020, the Consumer Protection (Direct Selling) Rules, 2021, and sector-specific guidelines issued by the Central Consumer Protection Authority. The framework has moved beyond traditional product and service complaints to cover misleading advertisements, endorsements, e-commerce disclosures, online reviews, dark patterns, greenwashing, product safety, unfair contract terms, and platform accountability.

A key recent development is the regulatory focus on deceptive online design. The Guidelines for Prevention and Regulation of Dark Patterns, 2023 prohibit platforms, sellers and advertisers from using interface designs that mislead or manipulate consumer choice, including false urgency, basket sneaking, confirm shaming, forced action, subscription traps, interface interference, bait-and-switch, drip pricing, disguised advertisements, nagging, trick questions, SaaS billing and rogue malware. In 2025, the CCPA advised e-commerce platforms to conduct self-audits to identify and eliminate dark patterns, reinforcing that consent should be explicit, informed and affirmative rather than obtained through pre-ticked boxes or default selections. The CCPA has also issued Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024. These guidelines apply to environmental claims made by manufacturers, service providers, traders, advertisers, advertising agencies and endorsers, and require claims such as "green," "eco-friendly," "sustainable," "carbon neutral," "organic," "natural," or similar expressions to be accurate, capable of substantiation, and accompanied by adequate and accessible disclosures. Aspirational environmental statements should be supported by clear plans rather than vague or unsupported representations.

For e-commerce businesses, compliance now requires clear product information, seller identity and grievance details, transparent pricing, refund and return policies, ranking disclosures where relevant, and timely response to consumer complaints. Marketplace entities should ensure that information supplied by sellers is displayed accurately, while inventory-led platforms must ensure that product descriptions, warranties, safety information and delivery commitments are not misleading. The voluntary standard on online consumer reviews also encourages platforms to strengthen authenticity, moderation, transparency and traceability of reviews. Advertising and endorsement risk has also increased.

The Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 require advertisements to be truthful, not exaggerate product benefits, disclose material connections with endorsers, and avoid misleading bait or "free" claims. Subsequent CCPA guidance has focused on high-risk areas such as coaching-sector advertisements, unsafe or illegal product listings on online marketplaces, and misleading environmental claims, making legal review of marketing copy, influencer arrangements and platform listings increasingly important.

Direct selling remains a separate compliance focus under the Consumer Protection (Direct Selling) Rules, 2021 as amended in 2023. Direct selling entities must maintain transparent contracts, grievance redressal mechanisms, product and price disclosures, refund and return processes, and must not promote pyramid schemes or money circulation schemes. Several states have also moved toward state-level monitoring mechanisms, requiring businesses operating in multiple states to track both central and local implementation requirements.

Businesses should treat consumer protection as a board-level compliance and reputation issue. Practical controls include consumer-facing claim review, documented substantiation for advertisements, periodic e-commerce interface audits, complaint-resolution tracking, product-safety escalation protocols, influencer and endorsement due diligence, seller onboarding checks, and preservation of digital evidence where online consumer harm or misleading practice allegations arise.

Cross-border Transactions

India has witnessed an increasing interest in cross-border transactions over the last few years due to growing confidence in the economy and the various government initiatives designed to build a conducive ecosystem for doing business in India

Cross-border transactions in India are commonly driven by technological collaborations, research and development initiatives, contract manufacturing, export opportunities, distribution expansion, and market access strategies.

Some of the major regulations to be considered while undertaking an M&A transaction in India are as follows:

Companies Act, 2013

- The Companies Act, 2013 governs mergers and schemes of arrangement, including the procedures for obtaining approval from the National Company Law Tribunal (NCLT) and various stakeholders, such as shareholders and creditors.
- It also permits an Indian company to merge with a foreign company, subject to certain regulatory conditions and compliance with the relevant rules. Cross-border mergers involving foreign companies from notified jurisdictions are explicitly allowed under the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.
- Acquisitions must adhere to the procedures outlined in the company's Articles of Association for the transfer of shares and must also comply with provisions relating to shareholders' approval.
- The sale of an undertaking or a significant part thereof requires the approval of at least 75% of the shareholders of the company.

For foreign investments, the Companies Act also interfaces with the Foreign Exchange Management Act (FEMA), particularly in matters concerning capital account transactions, Foreign Overseas Investment (ODI) and Foreign Direct Investment (FDI).

Securities Law (governed by SEBI)

- Takeover Code: Regulates the acquisition of shares and control in listed companies to ensure transparency and fairness in the process.
- Listing regulations: Prescribes certain mandatory conditions and procedures that listed companies must follow to remain compliant with the regulatory framework.
- Issue of capital and disclosure requirements: Governs the provisions of preferential allotment and the issuance of new shares, ensuring adequate disclosure to protect investor interests.
- Insider trading regulations: Controls the dissemination and use of Unpublished Price-Sensitive Information (UPSI) to prevent unfair trading practices.

Taxes and duties applicable on the basis of the mode of the transaction (acquisition, slump sale and asset sale)

- Direct tax provisions: To consider taxes on account of transfer of capital assets and business undertakings, utilization of carried forward losses, and unabsorbed depreciation of the amalgamating company.
- Stamp duty: Payable on certain instruments/ documents, such as National Company Law Tribunal (NCLT) orders for mergers and demergers, share transfer forms, shareholders' agreement/joint venture agreement, share purchase agreements, and conveyance deeds for the transfer of assets.
- FEMA: The Foreign Exchange Management (Cross-Border Merger) Regulations, 2018 (FEMA Regulations) address various issues that may arise concerning cross-border mergers from an exchange control perspective.
- Goods and Services Tax provisions: For transactions under the asset sale mode, supply or acquisition of assets will be liable for taxation under GST, while the transfer of business on a going concern basis will not be taxable. The GST implications depend on the transaction structure. While a transfer of business as a going concern is generally not taxable, asset transfers may attract GST.

Competition Act

Competition Law and Introduction

a. India's competition law framework is governed by the Competition Act, 2002 which regulates combinations (including acquisitions, acquiring of control, mergers, and amalgamations) that cause or are likely to cause an appreciable adverse effect on competition within India. The Act prescribes certain financial thresholds based on the turnover and assets of the combined entity to determine the applicability of competition law provisions. If these thresholds are met, it becomes necessary to obtain prior approval from the Competition Commission of India (CCI) before proceeding with the merger or acquisition, unless expressly exempted under the 'de minimis' exemption.

Institutional Framework

The institutional framework under the Competition Act comprises the following key bodies:

a. Competition Commission of India (CCI)
The CCI is the primary enforcement and adjudicatory authority established under the Act. It is empowered to:
a) Inquire into anti-competitive agreements and abuse of dominance
b) Review and approve (or prohibit) combinations
c) Impose penalties and issue remedial directions

b. Director General (DG)
The DG acts as the investigative arm of the CCI. Upon direction from the CCI, the DG conducts detailed investigations into alleged contraventions and submits findings to the Commission.

c. National Company Law Appellate Tribunal (NCLAT)
Appeals against orders of the CCI lie before the NCLAT.

d. Supreme Court of India
Further appeals from NCLAT orders may be filed before the Supreme Court of India on questions of law

Scope of Competition Act

The Competition Act prohibits anti-competitive practices, which cause or are likely to cause an appreciable adverse effect on competition (AAEC) in India. For foreign companies entering India—whether through acquisitions, joint ventures, mergers, or strategic investments—the Competition Act is of critical importance. The Act regulates:

a. Anti-competitive agreements (under Section 3)

b. Abuse of dominance (under Section 4); and

c. Combinations (under Sections 5 and 6).

India follows a mandatory and suspensory merger control regime, requiring prior approval from the Competition Commission of India (CCI) for qualifying transactions before consummation, unless specifically exempted.

Recent amendments, particularly through the Competition (Amendment) Act, 2023, have significantly modernized India's competition framework, especially to address digital markets, data-driven businesses, and high-value transactions involving low-revenue targets.

a. What are Anti- Competitive Agreements?

Anti-competitive agreements under the Competition Act, 2002, prohibit enterprises, associations, or persons from entering pacts that cause or are likely to cause an appreciable adverse effect on competition (AAEC) within India. Such agreements are void under Section 3(2). The Competition Commission of India (CCI) evaluates AAEC based on factors like barriers to entry, foreclosure of competition, and consumer benefits.

Types of Agreements - Horizontal agreements occur between competitors at the same level, such as cartels, and are presumed anti-competitive if they fix prices, limit supply, allocate markets, or involve bid-rigging. Vertical agreements, between entities at different supply chain stages (e.g., producer and distributor), are assessed case-by-case for AAEC rather than presumed harmful

b. What is Abuse of Dominance?

Abuse of dominance under Section 4 of India's Competition Act, 2002, occurs when an enterprise or group in a dominant position exploits that strength to impose unfair conditions, distort competition, or harm consumers in the relevant market. Dominance itself is not prohibited; only its abuse, such as predatory pricing or denying market access, triggers action by the Competition Commission of India (CCI)

c. Merger Control Regime/Combinations

India's merger control regime, governed by Section 5 and 6 of the Competition Act, 2002, requires prior approval from the Competition Commission of India (CCI) for "combinations" like mergers, acquisitions, or amalgamations that exceed specified asset or turnover thresholds and could harm competition. The regime is mandatory and suspensory, meaning deals cannot close until CCI clearance or 150 working days pass.

Transactions that require notification to the CCI

a. It qualifies as a "combination" under Section 5; and

b. The applicable asset, turnover, or deal value thresholds are exceeded; and

c. No exemption (e.g., de minimis or Schedule I exemptions) applies

Jurisdictional thresholds under the Competition Act

a. Traditional Asset and Turnover Thresholds (Section 5)
Section 5 of the Competition Act, 2002 defines the transactions that qualify as a "combination" for Indian merger control purposes.

Section 5 applies to the transaction that constitutes a combination if it involves following type and crosses the prescribed asset or turnover thresholds

- Acquisition of control, shares, voting rights or assets of one or more enterprises
- Acquisition of control where the acquirer already exercises direct or indirect control over another enterprise engaged in similar, identical or substitutable goods or services
- Merger or amalgamation of enterprises

If a transaction qualifies as a combination, it may require prior approval from the Competition Commission of India (CCI) under Section 6, unless an exemption applies.

Jurisdictional Thresholds

A transaction falling under any of the above categories constitutes a combination if any one of the following thresholds is exceeded:

I. Entity-Level/ Parties Thresholds

India

- Combined assets exceed INR 25 billion, or
- Combined turnover exceeds INR 75 billion

Global (with India nexus)

- Combined assets exceed USD 1.25 billion, including at least INR 12,500 million in India, or
- Combined turnover exceeds USD 3.75 billion, including at least INR 37,500 million in India

II. Group-Level Thresholds (Post-Transaction)

India

- Group assets exceed INR 100 billion, or
- Group turnover exceeds INR 300 billion

Global (with India nexus)

- Group assets exceed USD 5 billion, including at least INR 12.5 billion in India, or
- Group turnover exceeds USD 15 billion, including at least INR 37.5 billion in India

(Thresholds are prescribed in INR and USD terms for India-based and global transactions; practitioners typically refer to the latest MCA notifications when assessing applicability.)

b. De Minimis (Target Exemption)
Acquisitions are exempt from notification if the target enterprise has:

- Assets in India not exceeding INR 4.5 billion, or
- Turnover in India not exceeding INR 12.5 billion

c. Deal Value Threshold (Introduced by the Competition (Amendment) Act, 2023)
To address acquisitions of high-value, low-turnover targets (especially in the digital and technology sectors), the 2023 Amendment introduced a Deal Value Threshold (DVT):
A transaction is notifiable if:

- The value of the transaction exceeds INR 20 billion, and
- The target enterprise has "substantial business operations in India" (as defined under CCI regulations)

Penalties for contravention of the antitrust provisions of the Competition Act

a. Anti-Competitive Agreements & Abuse of Dominance (Section 27)

- Penalty of up to 10% of the average turnover for the last three preceding financial years
- In cartel cases, penalty up to three times the profit or 10% of turnover, whichever is higher for each cartel participant and each year of continuance of the cartel
- Power to pass cease-and-desist orders and structural or behavioral remedies

b. Failure to Notify a Combination (Section 43A)

- Penalty of up to 1% of the total turnover or assets, whichever is higher

c. Other Penalties

- Penalties for furnishing false information
- Daily penalties for non-compliance with CCI orders
- Leniency provisions available for cartel participants making full and true disclosures

Recent Cases that triggered the Amendments:

a. Google was fined USD 21 million by the CCI in 2018 for abusing its dominant position in online technology and digital services sectors, a decision that was upheld by the Competition Appellate Tribunal in 2020. Data being considered more vital than the turnover of the entity, tech giants such as Google enjoy the opportunity to acquire significant firms in the data processing realm lacking turnover generation. Introducing a 'deal value threshold' under the proposed amendment would bring these instances under the purview of CCI. Furthermore,

b. Amazon was accused of engaging in predatory pricing and providing preferential treatment for certain sellers on its platform, which led to an investigation by the CCI and a finding that Amazon had violated Competition Act. The Facebook-WhatsApp acquisition also raised concerns about data privacy and competition in the messaging app market, and the CCI found that the acquisition had reduced competitive constraints in the market. However, due to threshold constraints, the CCI could not investigate the issue even though around 130 million users were affected. Acquisitions of such sorts are, per se, beyond the scope of the CCI as the target company is small enough to escape the Competition Act thresholds. Considering transactional value under the proposed amendment became crucial for expanding the investigative scope of the CCI.

Conformity with Quality Control Orders

Quality Control Orders (QCO) are government mandates in India which require specific products to comply with Indian Standards. QCOs are primarily utilized by Indian ministries to protect consumer health, environment, and national security, while also acting as non-tariff barriers to reduce the dumping of substandard imports.

The Bureau of Indian Standards Act, 2016 requires compliance with the applicable BIS conformity assessment scheme (including licensing or registration, as the case may be) as a pre-condition for import, manufacture, storage, sale, or distribution of notified goods in India. These provisions apply to both domestic manufacturers and foreign producers who must obtain certification under the Foreign Manufacturers Certification Scheme (FMCS).

Failure to comply with the applicable BIS framework may result in restrictions on import clearance, prohibition on manufacture or sale, seizure or recall of non-conforming goods, penal consequences, including imprisonment.

Closure of Business in India

Investors may exit or close their business operations in India through various mechanisms, including transfer of shares and voluntary liquidation, subject to applicable regulatory requirements. These include:

Transfer of shares

Here, the investor can transfer their shares to another person or body corporate, resident, or non-resident, by complying with various provisions under the Companies Act, 2013, FEMA and others as may be applicable.

Subject to sector-specific restrictions and applicable FEMA regulations, transfer of shares between residents and non-residents is generally permitted under the automatic route, reducing the need for prior regulatory approvals in most sectors.

Voluntary Liquidation under IBC Code

Voluntary liquidation under the Insolvency and Bankruptcy Code, 2016 (IBC) is available for solvent corporate entities that wish to wind up their affairs and exit the market in an orderly manner. The basic requirement for this process is that either the company has no debts or will be able to pay off its debt from the proceeds of assets to be sold in the voluntary liquidation. These criteria have been put in place to ensure the company is not being liquidated to defraud any creditor.

The government has assigned additional responsibilities to the 'Corporate Person' to preserve the records of the company after its dissolution and ensure that sufficient provision are made to meet the obligations arising on account of pending matters (if any). Simultaneously, the liquidator is also obligated to maintain records pertaining to the liquidation process for a duration of eight years. These measures aim to enhance the accountability of the directors as well as the liquidator by ensuring the accuracy of the processes adopted for the liquidation and facilitating access to records for statutory authorities in the future. In recent years, the voluntary liquidation framework has been streamlined through tighter timelines and enhanced compliance requirements, helping improve the efficiency of the overall exit process.

Remittance of assets/liquidation proceeds to foreign shareholders by Companies under liquidation

Authorized Dealer (AD) banks allow remittances of surplus funds available with the Indian companies on directions issued by the liquidator in case of liquidation on submission of the following documents:

- Auditor's certificate confirming that all liabilities in India have been either fully paid or adequately provided for
- Auditor's certificate to the effect that the winding up is in accordance with the provisions of the Companies Act, 2013 (this may be inferred as the 'Insolvency and Bankruptcy Code, 2016')
- In case of winding up other than by a Tribunal, an auditor's certificate stating that there are no legal proceedings pending in any Tribunal in India against the applicant or the company under liquidation, and there is no legal impediment in permitting the remittance.

Removal of name from the records of the Registrar

The Companies Act, 2013 and the Limited Liability Partnership (LLP) Act, 2008 provide an option to exit the business by removing the name of the company/LLP from the Registrar of Companies subject to conditions mentioned in the respective Acts. It is an easy route for companies/LLPs that have not commenced any business operations since incorporation or are non-operational for a period of one year (in the case of LLPs) or two preceding financial years (in the case of companies).

The Ministry of Corporate Affairs (MCA) has established a Centre for Processing Accelerated Corporate Exit (also called C-Pace) that would process the application for removal of name of companies from the records of the Registrar with an aim to facilitate and speed up the dissolution process considerably. It is important to note that tax implications need to be evaluated for each of the exit options mentioned above.

Privacy Regulation in India: A Guide for Businesses

India's data protection framework has undergone a major transformation with the enactment of the **Digital Personal Data Protection Act, 2023 (DPDP Act)** and the progressive notification of accompanying rules. As India's digital economy expands rapidly, compliance with privacy and data protection requirements has become both a legal obligation and a strategic business imperative—particularly for organizations intending to operate, offer digital services, or process personal data of individuals located in India.

This provides a clear and practical overview of India's data protection regime under the DPDP Act, highlights key obligations for businesses, and outlines steps organizations should take to prepare for compliance.

Legal Framework: Digital Personal Data Protection Act, 2023:

The **Digital Personal Data Protection Act, 2023** is India's primary legislation governing the processing of digital personal data. It applies to:

- Processing of digital personal data within India
- Processing of personal data in non-digital form and getting it digitized subsequently
- Processing of personal data outside India where such processing is connected with offering goods or services to individuals in India.

The Act is not applicable when:

- Personal data is processed by an individual for any personal or domestic purpose
- Personal data that is made or caused to be made publicly available

The Act adopts a principle-based approach, focusing on lawful processing, accountability, and protection of individual rights.

Key Definitions

- Personal Data: Any data about an individual who is identifiable directly or indirectly. This includes names, contact details, financial data, online identifiers, and similar information.
- Data Principal: The individual to whom the personal data relates.
- Data Fiduciary: Any person or organization that determines the purpose and means of processing personal data.
- Data Processor: An entity that processes personal data on behalf of a Data Fiduciary.
- Significant Data Fiduciary (SDF): Certain Data Fiduciaries may be notified as "Significant" based on factors such as volume and sensitivity of data processed, risk to individuals, and impact on national interests. SDFs are subject to enhanced compliance obligations.

Lawful Basis for Processing Personal Data

Consent-Based Processing

Under the DPDP Act, personal data must generally be processed based on free, specific, informed, unconditional, and unambiguous consent of the Data Principal. Consent must be:

- Provided through a clear affirmative action;
- Accompanied by a notice explaining the purpose of processing;
- Capable of being withdrawn at any time, with withdrawal being as easy as giving consent.

Legitimate Uses (Without Consent)

The Act permits processing without consent for certain legitimate uses, including:

- Compliance with legal obligations
- Performance of state functions
- Employment-related purposes (subject to conditions)
- Emergencies involving threat to life or health

Core Obligations of Businesses

Organizations processing personal data must adhere to the following key obligations:

Purpose Limitation

Personal data must be collected and processed only for lawful and specified purposes clearly communicated to the Data Principal.

Data Minimization

Businesses should collect only such personal data as is necessary for achieving the stated purpose.

Accuracy and Retention Limitation

Reasonable steps must be taken to ensure data accuracy. Personal data should not be retained once the purpose for which it was collected is no longer served, unless retention is required by law.

Transparency and Accountability

Data Fiduciaries must implement appropriate technical and organizational measures to demonstrate compliance with the DPDP Act.

Grievance Redressal Mechanism

Every Data Fiduciary must establish an accessible grievance redressal mechanism. Significant Data Fiduciaries are required to appoint a Data Protection Officer (DPO) who serves as the primary point of contact for grievance handling and regulatory communication.

Rights of Data Principals

The DPDP Act grants individuals several enforceable rights:

- Right to Access Information: To obtain confirmation and a summary of personal data being processed, including details of data sharing.
- Right to Correction and Erasure: To request correction, completion, updating, or deletion of personal data that is inaccurate or no longer required.
- Right to Grievance Redressal: To lodge complaints with the Data Fiduciary and, if unresolved, escalate them to the Data Protection Board of India.
- Right to Nominate: To nominate another individual to exercise rights on their behalf in the event of death or incapacity.

Data Security and Breach Management

The DPDP Act mandates implementation of reasonable security safeguards to prevent personal data breaches. These include:

- Encryption and access controls
- Periodic security assessments and audits
- Employee awareness and training programs
- A documented incident response and breach management framework.

Data Breach Notification

In the event of a personal data breach, Data Fiduciaries must notify:

- The Data Protection Board of India; and
- Affected Data Principals, where the breach is likely to cause harm.

Cross-Border Data Transfers and Data Localization

The DPDP Act adopts a “blacklist” approach to cross-border data transfers. Personal data may be transferred outside India unless the Central Government specifically restricts transfers to certain countries or jurisdictions.

While the Act does not mandate blanket data localization, the government retains the power to:

- Impose transfer restrictions on specific jurisdictions;
- Prescribe additional conditions for certain categories of Data Fiduciaries (such as SDFs);
- Introduce sector-specific localization requirements through future rules or other applicable laws.

Businesses with global data architecture should closely monitor regulatory developments in this area.

Penalties and Enforcement

Non-compliance with the DPDP Act may result in significant penalties, depending on the nature and severity of the violation.

- Monetary Penalties: Fines can extend up to INR 2.5 billion for serious breaches.
- Regulatory Action: Repeated or material non-compliance may lead to restrictions on processing activities and reputational damage.

Enforcement is overseen by the Data Protection Board of India, which has powers to inquire into breaches and impose penalties.

Sector-Specific Privacy Regulations

In addition to the DPDP Act, certain sectors are subject to supplementary data protection requirements, including:

- Banking and Financial Services: Governed by the Reserve Bank of India (RBI) guidelines on data security, outsourcing, and customer data protection.
- Telecommunications: Regulated by the Telecom Regulatory Authority of India (TRAI), imposing confidentiality and data protection obligations on service providers.
- Healthcare: Digital health initiatives and policies prescribe standards for handling sensitive health data.

Organizations must ensure alignment between the DPDP Act and applicable sectoral regulations.

Impact on Foreign Businesses

Foreign entities processing personal data of individuals in India are subject to the DPDP Act, irrespective of physical presence. Key implications include:

- Appointment of a local grievance contact or DPO (where applicable)
- Compliance with consent, security, and breach notification requirements
- Potential need for localized data processing depending on future government notifications.

Conclusion

The Digital Personal Data Protection Act, 2023 marks a significant milestone in India's privacy landscape. For organizations seeking to do business in India, early and effective compliance is essential to mitigate regulatory risk, build consumer trust, and ensure long-term operational stability.

As rules continue to evolve and enforcement mechanisms mature, businesses should adopt a proactive and adaptive approach to data protection, embedding privacy principles into their governance and operational frameworks.



03

Banking and Finance

- The Banking System
- Existing Banking Structure
- Legal Framework
- Foreign Banks in India
- Capital Requirements
- Currency Exchange Control
- Foreign Portfolio Investment

The Banking System

The banking and financial sector in India functions under the superintendence and control of the central bank, the Reserve Bank of India (RBI). It was established in 1935 with the main aim of maintaining monetary and financial stability.

The RBI performs the following functions[1]:

Monetary Authority

- Formulates, implements, and monitors the monetary policy.
- Objective: Maintaining price stability and ensuring the adequate flow of credit to productive sectors.

Regulator and Supervisor of the Financial System

- Prescribes a broad operational framework for the country's banking and financial system.
- Objective: Maintaining public confidence in the system, protecting depositors' interests, and providing cost-effective banking services.

Manager of Foreign Exchange

- Manages the Foreign Exchange Management Act, 1999.
- Objective: Facilitating external trade and payment and promoting the orderly development and maintenance of the foreign exchange market in India.

Issuer of Currency

- Issues and exchanges/destroys currency and coins that are not fit for circulation.

Other Functions

- Banker and debt manager to the government: Performs a merchant banking function for the Central and State Governments and acts as their banker.
- Banker to banks: Maintains banking accounts of all scheduled banks.

Existing Banking Structure

Different departments of the RBI oversee the various entities that comprise India's financial infrastructure, such as commercial banks, financial institutions, cooperative banks, and non-banking financial companies.

Types of banks[2]	Number of banks
Public sector banks	12
Private sector banks	21
Foreign banks	44
Small Finance Banks	12
Payments Banks	4
Regional rural banks	28

Legal Framework[3]

The primary Acts governing this sector are the Reserve Bank of India Act, 1934 and the Banking Regulation Act, 1949 [also the Banking Laws (Amendment) Act, 2012]. Several other Acts govern specific functions (e.g., the Foreign Exchange Management Act, 1999), banking operations, and individual institutions.

Foreign Banks in India[4]

With increasing globalization, the presence of foreign banks must expand, mainly because they specialize in providing sophisticated financial products and facilitate the flow of foreign capital. Their increased presence would meet the requirements of the growing Indian economy.

1. About Us, RBI, https://www.rbi.org.in/Scripts/AboutusDisplay.aspx#MF
2. https://reference.org/facts/list_of_banks_in_india/4TlaJ5IT / List of Scheduled Commercial Banks, https://www.rbi.org.in/scripts/Bs_viewcontent.aspx?Id=3657
3. About Us, RBI, https://www.rbi.org.in/Scripts/AboutusDisplay.aspx#LF
4. Core Principles of Effective Banking Supervision, https://www.rbi.org.in/upload/publications/pdfs/10115.pdf

Currently, foreign banks can operate in India through branches, by setting up a Wholly-Owned Subsidiary (WOS), or a subsidiary with aggregate foreign investment up to 74% of the paid-up capital in a private bank (up to 49% under the automatic route). Also, at least 26% of the paid-up capital will have to be held by Indian residents at all times, except with respect to a WOS. A foreign bank can establish a WOS either through conversion of existing branches into a subsidiary or through a fresh banking license.

A subsidiary of a foreign bank will be subject to the licensing requirements and conditions broadly consistent with those for new private sector banks. Guidelines for setting up a WOS has been issued separately by the RBI.

In the case of NRIs, individual holding is restricted to 5% of the total paid-up capital, and the aggregate limit cannot exceed 10% of the total paid-up capital both on a repatriation and non-repatriation basis. This can be raised to 24% by a special resolution by its General Body.

In the case of Foreign Institutional Investors (FIIs)/ Foreign Portfolio Investors (FPIs), individual holding is restricted to less than 10% of the total paid-up capital. The aggregate limit for all FIIs/FPIs cannot exceed 24% of the total paid-up capital, which can be raised to 74% by the bank through a resolution by its Board of Directors, followed by a special resolution by its General Body. For public sector banks, Foreign Direct Investment (FDI) and portfolio investment is limited to 20%.

Capital Requirements

The RBI has instructed banks to maintain adequate capital on a continuous basis for credit, market, and operational risks, among others. Capital adequacy is measured in terms of the Capital to Risk-Weighted Assets Ratio (CRAR). Basel III Capital Regulations specifying minimum capital requirements have been implemented in India from 1 April 2013 in phases.

With respect to the Basel III liquidity standards, the RBI started phasing in implementation of the Liquidity Coverage Ratio (LCR) from January 2015 and planned to implement the Net Stable Funding Ratio (NSFR) from 1 January 2018 for banks in India. On 28 May 2015, the RBI released draft guidelines on NSFR for comments.

RBI issued circular no. RBI/2017-18/178 DBR.BP.BC. No.106/21.04.098/2017-18 dated 18 May 2018 on the Basel III Framework on Liquidity Standards – Net Stable Funding Ratio (NSFR) – Final Guidelines, thereby stipulating NSFR guidelines to ensure reduction in funding risk over a longer time horizon by requiring banks to fund their activities with sufficiently stable sources of funding in order to mitigate the risk of future funding stress. The implementation of NSFR guidelines was subsequently postponed. As per the related RBI circular no. RBI/2020-21/95 DOR.No.LRG. BC.40/21.04.098/2020-21 dated 5 February 2021 on the Basel III Framework on Liquidity Standards – Net Stable Funding Ratio (NSFR), the implementation of NSFR guidelines was further deferred and now stand effective from 1 October 2021.The RBI then issued circular no. RBI/2021-22/151 DOR.No.PRD.LRG.79/ 21.04.098/2021-22 dated 6 January 2022 on the Basel III Framework on Liquidity Standards – Liquidity Coverage Ratio (LCR), Liquidity Risk Monitoring Tools, and LCR Disclosure Standards and Net Stable Funding ratio – Small Business Customers, to align its guidelines with the Basel Committee on Banking Supervision (BCBS) standards and enable banks to manage liquidity risk more effectively, while increasing the threshold limit for deposits and other extensions of funds made by non-financial Small Business Customers from INR 50 million to INR 75 million for the purpose of maintenance of LCR.

This modification is also applicable to deposits and other extensions of funds received from Small Business Customers referred to in the RBI circular DBR.BP.BC. No.106/21.04.098/2017-18 dated 17 May 2018 on 'Basel III Framework on Liquidity Standards – Net Stable Funding Ratio (NSFR) – Final Guidelines.'

Currency Exchange Control[5]

The RBI supervises and regulates the foreign exchange market in India through the Foreign Exchange Management Act, 1999 (FEMA). It issues licenses to banks and other institutions to act as Authorized Dealers in the foreign exchange market. The RBI has undertaken substantial elimination of licensing, quantitative restrictions, and other regulatory and discretionary controls.

The foreign exchange market in India comprises of - Authorized Persons (banks, money changers, and other entities) in the foreign exchange business; foreign exchange brokers who act as intermediaries; and customers – individuals as well as companies – who need foreign exchange for their transactions.

The customer segment is dominated by major public sector entities, the Indian government, and large private sector companies. FIIs have emerged as an essential constituent in the equity market and, thus, contribute significantly to the foreign exchange market activity. The Indian foreign exchange market primarily comprises two segments – the spot market (the dominant segment) and the derivatives market. A unified, single, market-determined exchange rate system based on the demand and supply of foreign exchange has been effective from 1 March 1993. The RBI's exchange rate policy focuses on ensuring orderly conditions in the foreign exchange market; therefore, it closely monitors developments in financial markets in India and abroad. When necessary, it intervenes in the market by buying or selling foreign currencies. The RBI has gradually allowed the rupee to be used to settle foreign trades and is steadily allowing the rupee to depreciate against the US dollar. This was a significant step towards making the rupee move more freely in line with market forces. Market operations are undertaken either directly or through public sector banks.

Foreign Portfolio Investment

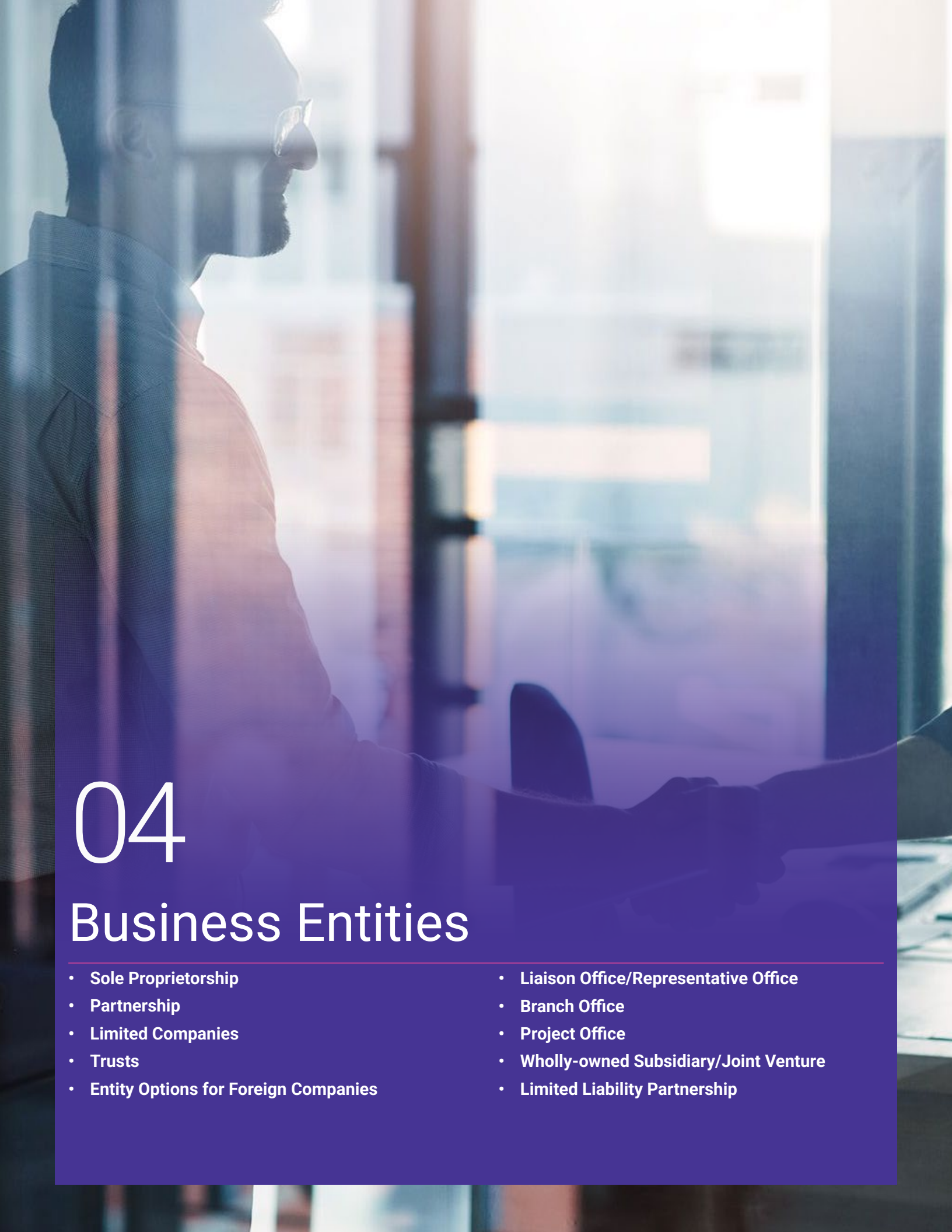
In addition to the FDI route, foreign investment in India is also permitted under the FPI Route. The FPI route is governed by the prescribed regulations (FPI Regulations) framed by the Securities and Exchange Board of India (SEBI), which is the regulatory body governing the Indian capital market. Under the FPI route, foreign investors are permitted to invest in securities which are listed/to be listed on recognized stock exchanges in India.

FPI regulations require any foreign investor to register with SEBI under one of the three categories provided, before initiating any investment activities in India. The selection of the category mainly depends on the business of the entity in its home country. SEBI's registration fee is different for each category. Furthermore, FPIs are also required to appoint a banker in India as their custodian bank.

Indian tax laws provide for a prescribed tax regime for FPIs in India to bring the maximum level of certainty with respect to FPI taxation. As per the Indian tax laws, FPIs are taxable as per the prescribed tax regime or the provisions of the tax treaty (if any) India has entered into with the home country of the foreign investors (Double Taxation Avoidance Agreement - DTAA), whichever is beneficial. To avail the beneficial provisions of the DTAA, the FPI would need to obtain a Tax Residency Certificate from its home country, and would also need to comply with other requirements of the DTAA, as applicable.

FPIs are also required to appoint a tax consultant in India. The tax consultant in India would issue the remittance certificates for the purpose of repatriation of funds back to the FPI's home country after determining Indian tax liabilities, if any, considering the investment activities carried out by the FPI in India. Furthermore, FPIs are also required to file their annual tax return in India for every financial year (i.e., from 1 April to 31 March every year).

5. Reserve Bank of India: Functions and Working, https://rbidocs.rbi.org.in/rdocs/Content/PDFs/FUNCWWE080910.pdf



04

Business Entities

- Sole Proprietorship
- Partnership
- Limited Companies
- Trusts
- Entity Options for Foreign Companies
- Liaison Office/Representative Office
- Branch Office
- Project Office
- Wholly-owned Subsidiary/Joint Venture
- Limited Liability Partnership

Sole Proprietorship

A sole proprietorship firm is a form of entity where a single individual owns, manages, and controls the business. There is no requirement to register the firm. The firm has no legal existence separate from its owner. However, the sole proprietor may be required to obtain a license for carrying out business from the local administration. The required capital is supplied wholly by the owner himself, who solely enjoys the profits of the business and bears all the losses. The liability of the proprietor is unlimited; i.e., it extends beyond the capital invested in the firm. This form of organization is suitable for businesses that involve moderate risk[1].

A Non-Resident Indian (NRI) or Person of Indian Origin (PIO) may invest in a sole proprietorship concern (except those engaged in agricultural/ plantation activities or real estate businesses or print media) on non-repatriation basis.

Partnership

A partnership is a bond between two people who have agreed to share the profits of a business carried on by all or any of them acting for all. The individuals who have entered partnership with one another are individually called 'partners' and collectively termed 'a firm,' and the name under which their business is carried on is the 'firm name.' A partnership is governed by the Indian Partnership Act, 1932.[2]

A partnership can be formed by an agreement, which may be either written or oral. If the written agreement is duly stamped and registered, it is known as a 'Partnership Deed.' If the firm is not registered, it will be deprived of certain legal benefits, such as when there are disputes between partners.

The Registrar of Firms is responsible for registering partnership firms. There must be a minimum of two partners, while the maximum number can be 10 in the case of banking business, and 20 for all other types of companies. The firm has no separate legal existence, i.e., the firm and the partners are the same in the eyes of the law. The liability of the partners is unlimited – they are jointly and severally liable for the liabilities of the firm. There are restrictions on the transfer of interest, i.e., none of the partners can transfer their interest in the firm to any person (except to the existing partners) without the unanimous consent of all other partners. The firm must be dissolved on the retirement, lunacy, bankruptcy, or death of any partner subject to the provisions of the Partnership Deed.[3]

NRIs/PIOs may invest in partnership firms (except those engaged in agricultural/plantation activities or real estate businesses or print media) on non-repatriation basis.

1. Types of Businesses, Startup India - https://www.startupindia.gov.in/content/sih/en/international/go-to-market-guide/types-of-businesses.html
2. Partnership Act, 1932, Ministry of Corporate Affairs - http://mca.gov.in/Ministry/actsbills/pdf/Partnership_Act_1932.pdf
3. Ibid.

Limited Companies

The Companies Act, 2013 broadly recognizes three types of companies:

- Public Limited Company
- Private Limited Company
- One Person Company

Private Limited Company[4]

A private company is one that restricts (by its Articles of Association):

- The rights of its shareholders to transfer shares
- The number of shareholders (excluding present- and past-employee shareholders) to 200
- The company from making an invitation to the public to subscribe to any shares or debentures of the company
- It requires a minimum of two shareholders to form a private limited company

The name of a private company carries the suffix 'Private Limited'

Public Limited Company

A public company is a company, which is not a private company[5]. The above-mentioned restrictions are applicable to private companies but do not apply to public companies. A minimum of seven shareholders is required to form a public company.

Also, a private company that is a subsidiary of a public company is defined as a public company. The name of a public company carries the suffix 'Limited' (Ltd).

Under the Companies Act, 2013, a private limited company enjoys certain privileges and exemptions from various provisions of the Act, unlike a public company, which is subject to greater scrutiny, transparency, and compliance regulations. Furthermore, a public company (which is listed on a stock exchange in India) is also regulated by the Securities and Exchange Board of India (SEBI).

One Person Company

A 'One Person Company' is a concept introduced by the Companies Act, 2013. As the name suggests, it is formed with just one person as its member. Since such companies have only one member, they enjoy certain privileges and exemptions. Such a company can be formed by a person who is a resident and citizen of India; a foreign national is not eligible to incorporate a One Person Company under the existing regulations.

A company incorporated under the provisions of the Companies Act, 2013, can undertake only those business activities that are specified in its 'Main Objects' under its Memorandum of Association. The proposed business activities to be carried out by an Indian entity owned by non-residents shall be subject to the FDI policy of the Indian government as amended from time to time.

You may also wish to refer to Chapter 5: Company formation and Administration, and Chapter 7: Company Taxation to know more about the rules and regulations pertaining to each type of company.

4. Section 2(68) of the Companies Act, 2013, - https://www.mca.gov.in/Ministry/pdf/ CompaniesAct2013.pdf
5. Section 2(71) of the Companies Act, 2013, - https://www.mca.gov.in/Ministry/pdf/ CompaniesAct2013.pdf

Trusts[6]

Trusts can be public or private. Public trusts are generally formed for charitable or religious purposes and not for commercial activities. A public charitable trust benefits the public at large, while income from a private trust is available only to specified beneficiaries.

Public and private trusts differ in the process of their creation. In creating a charitable or religious trust, a formal deed or any writing is not necessary, while private trusts are created and governed by the Indian Trusts Act, 1882. In the case of a private trust declared by a will, registration is not necessary, whether it involves movable or immovable property.

In all other cases, registration of a private trust is necessary under the Indian Trusts Act, 1882. For public trusts, registration is optional but desirable.

Trusts (public and private) are subject to taxation under the Income Tax Act, 1961. However, charitable and religious trusts enjoy several tax exemptions and benefits.

Entity Options for Foreign Companies

A foreign company planning to set up business operations in India can:

- Set up a liaison office/representative office, project office or branch office of the foreign company to undertake activities permitted under the Foreign Exchange Management (Establishment in India of Branch Office or Other Place of Business) Regulations, 2000;
- Incorporate a company under the Companies Act, 2013; or
- Invest in a Limited Liability Partnership (LLP) under the Limited Liability Partnership Act, 2008

Liaison Office/Representative Office[7]

A Liaison Office (LO) can undertake only liaison activities, i.e., it can act as a channel of communication between the Head Office abroad and parties in India. It is not allowed to undertake any business activity in India and cannot earn any income in India. Expenses of such offices are to be met entirely through inward remittances of foreign exchange from the Head Office outside India. The role of such offices is, therefore, limited to collecting information about possible market opportunities and providing information about the company and its products to prospective Indian customers.

The RBI allows LOs to undertake the following activities in India:

- Represent the parent company/group companies in India
- Promote export/import from/to India
- Promote technical/financial collaborations between parent/group companies and companies in India
- Act as a communication channel between the parent company and Indian companies

Permission to set up LOs is initially granted for a period of three years, and this may be extended from time to time by the Authorized Dealer in whose jurisdiction the LO is set up. No extension would be considered for LOs of entities that are Non-Banking Financial Companies (NBFCs) and those engaged in construction and development (excluding infrastructure development companies). Upon expiry of the validity period, these entities must either close or be converted into a company, in conformity with the current FDI policy. Foreign entities that want to set up an LO in India are required to submit their application (Form FNC) to the Foreign Investment Division of the RBI through an Authorized Dealer bank.

6. Indian Trusts Act, 1882, Income Tax Department, https://www.incometaxindia.gov.in/pages/acts/indian-trusts-act.aspx
7. Master Direction - Establishment of Liaison/Branch/Project Offices in India by Foreign Entities, RBI, https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10404

Branch Office[8]

Companies incorporated outside India and engaged in manufacturing or trading activities are allowed to set up Branch Offices (BO) in India with specific approval of the RBI. Such BOs are permitted to represent the parent/group companies and undertake the following activities in India:

- Export/import of goods
- Render professional or consultancy services
- Carry out research work in areas in which the parent company is engaged
- Promote technical or financial collaborations between Indian companies and the parent or overseas group companies
- Represent the parent company and act as a buying/selling agent in India
- Render services in information technology and development of software in India
- Render technical support to the products supplied by the parent/group companies
- Represent a foreign airline/shipping company

A BO in the Special Economic Zones (SEZs) has a general permission to undertake manufacturing and service activities subject to the conditions that:
Such BOs are functioning in sectors where 100% FDI is permitted, comply with Chapter XXII of the Companies Act, 2013; and function on a stand-alone basis.
Profits earned by BOs can be freely remitted from India, subject to the payment of applicable taxes.

Foreign entities that want to set up a BO in India are required to submit their application (Form FNC) to the Foreign Investment Division of the RBI through an Authorized Dealer bank. The applications will be considered by the RBI under two routes:

- Reserve Bank route: Where the principal business of the foreign entity falls under sectors where 100% FDI is permissible under the automatic route
- Government route: Where the principal business of the foreign entity falls under sectors where 100% FDI is not permissible under the automatic route. Applications from entities in this category, and those from non-government organizations/non-profit organizations/government bodies/departments are considered by the RBI in consultation with the Ministry of Finance.

The following additional criteria are also considered by the RBI while sanctioning an LO/BO of foreign entities:

Track record

- For LO: A profit-making track record during the immediately preceding three financial years in the home country.
- For BO: A profit-making track record during the immediately preceding five financial years in the home country.

Net worth

- For LO: Not less than USD 50,000 or its equivalent
- For BO: Not less than USD 100,000 or its equivalent.

Project Office[9]

The RBI has granted general permission to foreign companies to establish Project Offices (PO) in India if they have secured a contract from an Indian company to execute a project in India, if:

- The project is funded directly by inward remittance from abroad
- The project is funded by a bilateral or multilateral international financing agency
- The project has been cleared by an appropriate authority

8. Ibid.

9. Master Direction - Establishment of Liaison/Branch/Project Offices in India by Foreign Entities, RBI - https://www.rbi.org.in/scripts/BS_ViewMasDirections.aspx?id=1040

- The company or entity in India awarding the contract has been granted a term loan by a public financial institution or a bank in India for the project.

However, if the above criteria are not met, the foreign entity will be required to obtain RBI approval.

If the applicant is a citizen of or is registered/ incorporated in Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong, or Macau and the application is for opening a BO/LO/PO in Jammu and Kashmir, the North-East region, or Andaman and Nicobar Islands, the applications shall be processed in consultation with the Government of India.

Wholly-Owned Subsidiary (WOS)/Joint Venture

A foreign company may set up a WOS in sectors where 100% FDI is permitted under the FDI policy. Alternatively, it could enter into a joint venture with an Indian partner, which may entail the following advantages for a foreign investor:

- Established distribution/marketing set-up of the Indian partner
- Available financial resources of the Indian partner
- Established contacts of the Indian partner, which help smoothen the process of setting up operations

A WOS of a foreign company is treated at par with any domestic Indian company within the scope of approval and subject to all Indian laws and regulations as applicable to other domestic Indian companies.

Limited Liability Partnership

A Limited Liability Partnership (LLP) is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership. It is governed by the provisions of the Limited Liability Partnership Act, 2008, and not the Indian Partnership Act, 1932.

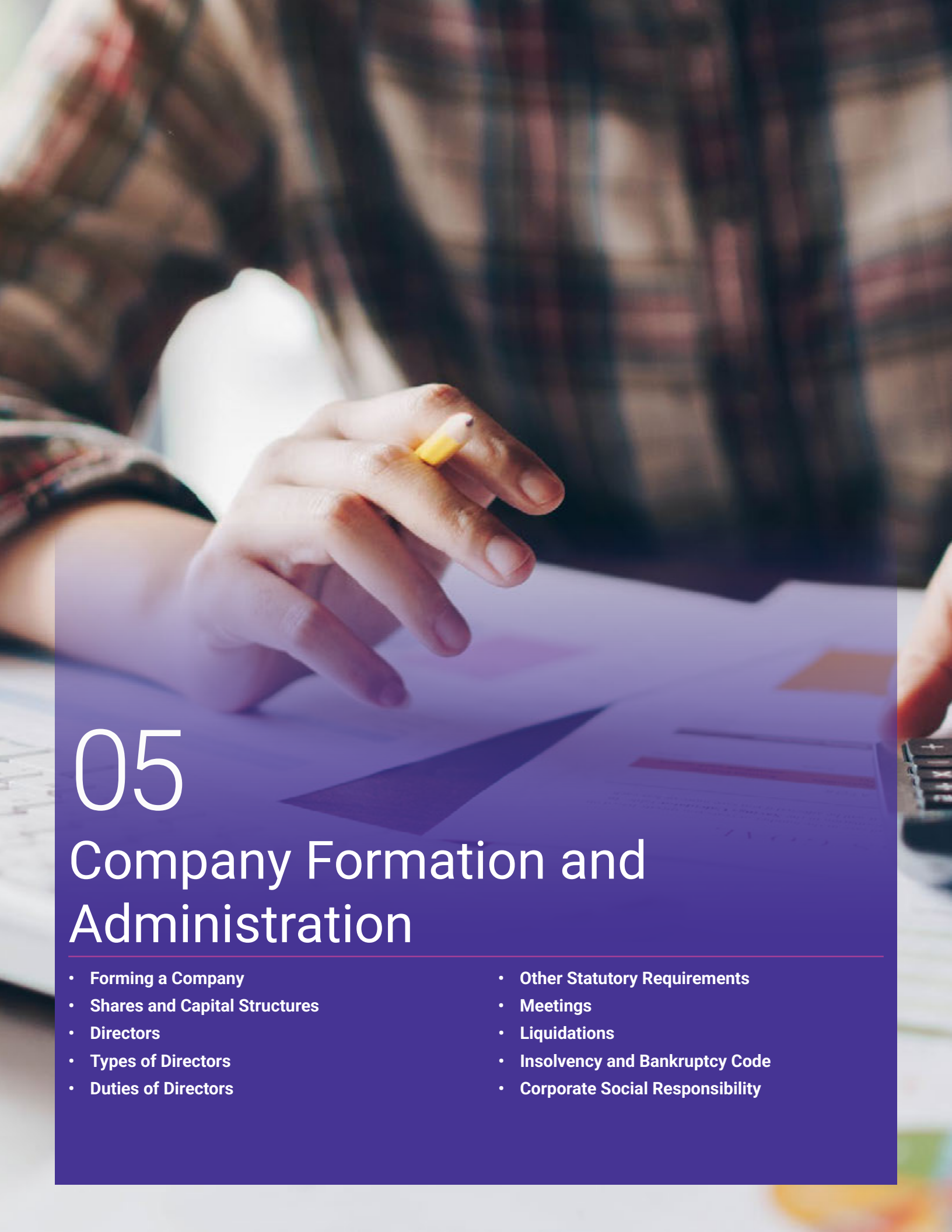
An LLP can continue its existence irrespective of changes in partners. It is capable of entering into contracts and holding property in its own name. It is a separate legal entity and is liable to the full extent of its assets, but the liability of the partners is limited to their agreed contribution in the LLP. Furthermore, no partner is responsible for the independent or unauthorized actions of other partners. Thus, individual partners are shielded from the joint liability created by another partner's wrongful business decisions or misconduct. Mutual rights and duties of the partners within an LLP are governed by an agreement between the partners or between the partners and the LLP, as the case may be.

An LLP, however, is not relieved of the liability for its other obligations as a separate entity. Also, an LLP will have more flexibility and lesser compliance requirements compared to a company.[10]

FDI is permitted under the automatic route in LLPs operating in sectors/activities where 100% FDI is allowed through the automatic route, and there are no FDI-linked performance conditions. An Indian company or an LLP having foreign investments is also permitted to make downstream investments in another company or LLP in sectors in which 100% FDI is allowed under the automatic route, and there are no FDI-linked performance conditions. FDI in LLPs is subject to the compliance of the conditions of the LLP Act, 2008.[11]

10. FAQs on Nature of LLPs, Ministry of Corporate Affairs, - https://www.mca.gov.in/MinistryV2/natureoflimitedliabilityparterneshipllp.html

11. Consolidated FDI Policy 2020, Department for Promotion of Industry and Internal Trade - https://dpiit.gov.in/sites/default/files/FDI-PolicyCircular-2020-29October2020_0.pdf



05

Company Formation and Administration

- Forming a Company
- Shares and Capital Structures
- Directors
- Types of Directors
- Duties of Directors
- Other Statutory Requirements
- Meetings
- Liquidations
- Insolvency and Bankruptcy Code
- Corporate Social Responsibility

Forming a Company

The process of incorporating a company in India can broadly be divided into the following four steps[1]:

1. Digital Signature Certificate and Director Identification Number (DSC)

   The first step is to check whether the proposed Director's have a Director Identification Number which is active. In case DIN is available but is deactivated, same needs to be reactivated before proceeding for incorporation.

   The next step is to obtain a DSC for all proposed directors of the company.

2. Application for name availability

   Select suitable names, up to a maximum of two names, indicative of the main objectives of the company. The proposed name should not resemble the name of any other company or LLP already registered and should not violate the provisions of the Name Availability Guidelines issued by the Ministry of Corporate Affairs (MCA). The application for reservation of name must be submitted online with the Registrar of Companies (ROC) for their approval. Approved name will be valid for 20 days, however, the same can be extended till 60days in aggregate by paying nominal fee. Filing a name application in advance is optional and can be clubbed with the incorporation application form.

3. Drafting the Memorandum and Articles of Association

   The Memorandum of Association and Articles of Association (the governing charter) of the proposed company must be drafted in accordance with the applicable provisions of the Companies Act, 2013 and are subject to the Foreign Direct Investment (FDI) policy of the Indian government, as amended from time to time.

4. Application for company incorporation

   The fourth step is to apply for the registration of the company. After the name is approved, a request for allotment of director identification number (up to three directors), reservation of title, incorporation of company and appointment of Directors shall be filed in the SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus) form. This must be submitted online along with the prescribed filing fees, stamp duty, Memorandum and Articles of Association and other supporting documents duly signed, apostilled, notarized and certified. The Central Registration Centre (CRC) , after scrutiny of documents submitted online, approves the company incorporation application and issues the digitally signed Certificate of Incorporation, along with the Permanent Account Number (PAN) and Tax Deduction and Collection Account Number (TAN) as allotted by the Income Tax Authority. All companies in India are required to have a PAN and TAN for filing income tax and other tax returns with the regulatory authority.

AGILE-PRO (Application for Goods and Services Tax Identification Number, Employees State Insurance Corporation registration plus Employee Provident Fund Organization registration)[2]

The Ministry of Corporate Affairs introduced e-form AGILE-PRO-S vide notification dated 29 March 2019 where the incorporation application, (SPICe+) shall be accompanied by e-form AGILE-PRO-S containing an application for registration of the following numbers:

a. Goods and Services Tax Identification Number (GSTIN)

b. Employees Provident Fund Organisation (EPFO) registration

c. Employees' State Insurance Corporation (ESIC)

d. Profession Tax

e. Shop & Establishment (still under trial phase)

f. Bank Account (still under trial phase)

1. Steps to be taken to incorporate a new company, MCA - https://www.mca.gov.in/MinistryV2/SPICePlusFAQs.html
2. Ibid.

With the objective of improving the ease of doing business, the MCA, in January 2016, set up the CRC for processing the e-Forms for Name Availability and Incorporation.

This Government Process Reengineering (GPR) initiative is expected to result in speedier processing of incorporation-related applications, uniformity in the application of rules and will help eradicating discretion. It will also be supplemented by intensive monitoring aimed at processing these e-forms in one or two days.

Timeline: The entire process of incorporation can be completed in four to five weeks.

Formation cost: The cost of formation depends upon the authorized capital of the company. Also, the total statutory fees payable to the regulatory authority vary depending on the state in which the registered office will be situated.

Shares and Capital Structures

The requirement of minimum share capital has been withdrawn in the Companies (Amendment) Act, 2015. Hence, a company can carry on business activities with any amount of share capital from inception.

Classification of Share Capital[3]

The share capital of a company limited by shares can be classified into equity and preference. Preference share capital is that part of the issued share capital of a company limited by shares, which gives the concerned shareholder preference rights in respect of payment of dividend and repayment in case of winding up. Equity shares capital means all share capital that is not preference share capital. Preference share capital can be:

Redeemable or irredeemable

Redeemable preference shares can be redeemed on or after a period fixed for redemption, under the terms of issue or after giving proper notice of redemption to preference shareholders.

The Companies Act, 2013, however, imposes certain restrictions for the redemption of preference shares. Irredeemable preference shares are those shares, which cannot be redeemed during the lifetime of a company.

As per the provisions of the Companies Act, 2013, a company limited by shares cannot issue irredeemable preference shares. Furthermore, except in the case of infrastructure projects, only preference shares that are liable to be redeemed within a period not exceeding 20 years from the date of issue can be issued.

Convertible or non-convertible

Preference shares that are convertible into equity shares are convertible preference shares, and the ones that are not convertible into equity shares are non-convertible preference shares.

Shares or debentures or any other interest of any member in a company shall be movable property, transferable in a manner provided by the Articles of the company. A company may, if so, be authorized by its Articles, pay dividends in proportion to the amount paid upon each share.

Directors[4]

Every company must have a Board of Directors that is responsible for the conduct of its business. According to the Companies Act, 2013, the minimum number of directors required in the case of private companies is two; and in the case of public companies, it is three. The maximum number of directors a company can have is 15.

3. Section 43 of the Companies Act, 2013, Ministry of Corporate Affairs - , http://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf

4. The Companies Act, 2013, Ministry of Corporate Affairs - , http://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf

Every company (belonging to prescribed classes as listed in the Companies Act, 2013) shall have the following full-time key managerial personnel:

- Managing Director or Chief Executive Officer, or manager, and in their absence, a whole-time director
- Company Secretary
- Chief Financial Officer

Role of Directors

The Companies Act, 2013 empowers the Board to do activities in accordance with the company's Memorandum and Articles of Association, as the company is authorized to do, unless any law or the Memorandum requires any act to be done by the company by way of resolution of the shareholders in their general meeting.

As the directors are acting as agents of a company, all acts are done by them and contracts entered into by them are binding on the company unless such actions are outside the scope of authority of such directors.

Since directors occupy a fiduciary position and are persons responsible for the management of the affairs of the company, they are subject to duties and liabilities, including penal liabilities in case of default or misconduct on their part, in the circumstances mentioned under the Companies Act, 2013.

Appointment of Directors

- Unless the Articles provide, individuals who are subscribers to the Memorandum of Association shall be deemed to be the first directors of the company until the directors are duly appointed.
- Every proposed director shall have a Director Identification Number (DIN).

Disqualification for the appointment of Directors

A person shall not be eligible for appointment as a director of a company if he/she:

- Is of unsound mind and stands so declared by a competent court;
- Is undischarged insolvent;
- Has applied to be adjudicated as an insolvent and their application is pending;
- Has been convicted by a court of any offense, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment not less than six months and a period of five years has not elapsed from the date of expiry of the sentence;
- Has been convicted of any offense and sentenced in respect thereof to imprisonment for seven years or more;
- Has been disqualified as a director by an order passed by a court or tribunal and the order is in force;
- Has not paid any calls of any shares held by them, and six months have lapsed from the last day fixed for the payment;
- Has been convicted of related-party transactions during the last preceding five years; or
- Has not obtained a Director Identification Number (DIN).
- Has been or is the Director of a Company which has not filed financial statements or annual returns for any continuous period of three financial years;
- Has been or is the Director of a Company which has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more.
- A private company may by its articles provide for any disqualifications for appointment as a director in addition to those specified above.

Removal of Directors

- A company may remove a director before the expiry of the period of their office through an ordinary resolution;
- On receipt of notice of the resolution, the company shall send a copy of the notice to the director concerned, who shall be entitled to be heard on the resolution at the meeting.

- A vacancy shall be filled by the company in the meeting in which they are removed by the appointment of another director in their place but special notice is required. The director so appointed shall hold office until the date up to which their predecessor would have held office if they had not been removed;
- A director who is removed from office shall not be re-appointed as a director by the Board.

Resignation of Directors

- A director may resign from office by giving notice to the company, who shall intimate the ROC within 30 days of receiving the notice;
- The resignation shall be mentioned in the Board's report in the next general meeting of the company;
- The director may also forward their resignation along with specific reasons for the resignation to the ROC within 30 days of departure;
- The resignation shall take effect from the date on which the notice is received by the company or the date specified by the director in the notice, whichever is later;
- A director who has resigned shall be responsible for offenses that have occurred during their tenure even after their resignation.

Types of Directors

First Directors: The number of directors and the names of the first directors shall be determined in writing by the subscribers of the Memorandum or a majority of them. However, where no provision is made in the Articles of a company for the appointment of first directors, the subscribers to the Memorandum, who are individuals, shall be deemed to be the first directors of the company until the directors are duly appointed, in accordance with the provisions of the Companies Act, 2013.

Executive and Non-executive Directors: Directors who are in full-time employment or are entrusted with the day-to-day operations of the company are termed as executive directors. Non-executive directors do not take part in the everyday activities of the company.

Resident Director: As per the Companies Act, 2013, at least one of the directors of a company must be a person who has stayed in India for a total period of not less than 182 days during the financial year. In the case of a newly incorporated company, the requirement shall apply proportionately at the end of the financial year in which it is incorporated.

Independent Directors: Under the Companies Act, 2013, the appointment of an independent director is mandatory for certain classes of companies. Every listed public company shall have at least one-third of the total number of directors as independent directors. However, private limited companies need not appoint an independent director.

Woman Director: The Companies Act, 2013, requires certain classes of companies to appoint at least one-woman director on the Board of the company. This is not mandatory for private limited companies.

Director Elected by Small Shareholders: Under the Companies Act, 2013, only listed companies may appoint a small shareholders' director. Shareholders holding shares of nominal value of not more than INR 20,000 or such other prescribed sum may appoint one director from amongst them.

Additional Director: The Board may appoint an additional director at any time if the Articles of Association confer such powers, subject to certain conditions listed below:

- A person who fails to get appointed in a general meeting cannot be appointed as an additional director.
- An additional director shall hold office up to the date of the next Annual General Meeting (AGM) or the last date on which the AGM should be held, whichever is earlier.

Alternate Director: The Board may appoint an alternate director at any time if the Articles confer such powers.

- The person to be appointed as an alternate director shall not hold another alternate directorship in any other company;
- An alternate director can only be appointed in case a director leaves India for a period of at least three months;
- An alternate director to an independent director should also satisfy the criteria for an independent director;
- The office of the alternate director shall be vacated if and when the director in whose place he has been appointed returns to India;
- Provisions of automatic re-appointment of the retiring director shall apply to the original director and not to the alternate director.

Nominee Directors: Subject to the Articles, the Board may appoint any person as a director nominated by an institution as a nominee director, in pursuance of any law or agreement or by the Central or State Government, by virtue of its shareholding in a government company.

Duties of Directors

Fiduciary Duties[5]

The Companies Act, 2013 enlists specific fiduciary Duties of a director. A director of a company shall:

- Act in accordance with the Articles of the company;
- Act in good faith to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community, and for the protection of the environment;
- Exercise their duties with due and reasonable care, skill and diligence and shall exercise independent judgment;
- Not get involved in a situation in which they may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company;
- Not achieve or attempt to obtain any undue gain or advantage either to themselves or to their relatives, partners, or associates, and if found guilty of making any undue gain, they shall be liable to pay an amount equal to that gain to the company;
- Not assigning their office, and any assignment so made shall be void.

A director who contravenes the provisions of this section (Section 166) shall be punishable with a fine not less than INR 0.1 million, which may extend to INR 0.5 million.

5. Section 166 of the Companies Act, 2013, Ministry of Corporate Affairs - http://www.mca.gov.in/ Ministry/pdf/CompaniesAct2013.pdf

Compliances by Directors under the Companies Act, 2013

- Obtain a Director Identification Number (DIN);
- Give a declaration that they are not disqualified to become a director under the Act;
- Disclose their interest in any company or body corporate, firms, or other association of individuals at the first Board meeting in every financial year, or whenever there is any change in the disclosures already made, then at the first Board meeting held after such change;
- Mention their DIN while furnishing any return, information, or particulars, as required under the Act;
- The total number of companies in which a person can hold office as a director shall not exceed:
  - 10 in public companies
  - 20 in private companies
  - 20 in both public and private companies

Company Secretary

The functions of the Company Secretary include:

- To report to the Board about compliance with the provisions of the Companies Act, 2013, the rules made thereunder, and other applicable laws;
- To ensure that the company complies with the applicable secretarial standards;
- To discharge such other duties as may be prescribed.

Other Statutory Requirements

The Board of Directors of every listed public company and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.

The committee shall consist of a minimum of three directors with independent directors forming a majority, provided that a majority of members should be able to read and understand financial statements.

The Board of every listed public company and such other class or classes of companies, as may be prescribed, shall constitute a Nomination and Remuneration Committee consisting of three or more non-executive directors, of which not less than one-half shall be independent directors. This committee shall formulate the criteria for determining qualifications, positive attributes, and independence of a director, and recommend to the Board a policy relating to the remuneration for the directors, key managerial personnel, and other employees.

The Board of a company that has more than 1,000 shareholders, debenture-holders, deposit-holders, and any other security holders at any time during a financial year, shall constitute a Stakeholders' Relationship Committee consisting of a chairperson who shall be a non-executive director and such other members as may be decided by the Board. This committee shall consider and resolve the grievances of the security holders of the company.

Meetings

One of the statutory requirements under the Companies Act is to conduct meetings.

Meetings of Directors[6]

Board Meetings: Every company shall hold the first meeting of the Board of Directors within thirty days of the date of its incorporation and after that hold a minimum of four meetings of its Board of Directors every calendar year in such a manner that the gap between two consecutive Board meetings should not be more than 120 days. Directors may participate in person, through video conferencing or by other audio-visual means capable of recording and recognizing the participation of the directors, and recording and storing the proceedings along with the date and time.

Committee Meetings: The Board may delegate any of its powers to committees if authorized and in accordance with its Articles of Association, and such committees must conform to any regulations that may be imposed upon them by the Board.

Shareholders'/Members' Meetings

Annual General Meeting (AGM)[7]: The Companies Act, 2013 states that every company must hold one AGM in each calendar year and not more than fifteen months shall elapse between the date of one AGM of a company and that of the next.

In case of the first AGM, it shall be held within a period of nine months from the date of closing of the first financial year of the company and in any other case, within a period of six months, from the date of closing of the financial year. Furthermore, a One Person Company is not required to hold an AGM.

Extraordinary General Meeting[8]: Any general meeting held between two AGMs is called an Extraordinary General Meeting. Business arising between two AGMs is urgent and cannot be deferred until the next AGM is transacted at an Extraordinary General Meeting.

Class Meetings: These are meetings of shareholders holding a particular class of shares. Resolutions passed at such meetings bind only the members of the class concerned.

Liquidations

A company can be closed in the following ways:

- Strike off a company under Section 248 of the Companies Act, 2013: Any defunct company wanting to strike off its name from the Register of Companies can apply by filing Form STK-2. Similarly, the ROC also has the power to strike off any defunct company after being satisfied with the need to strike it off and having reasonable cause
- Winding up of a company is a process by which the business of the company is wound up, and the company ceases to exist. All the company assets are sold, and the proceeds are used to discharge liabilities in priority order. The winding-up of a company may be a compulsory winding up by the tribunal, a voluntary a winding up by its members or creditors, or subject to the supervision of the court.

6. Section 166 of the Companies Act, 2013, Ministry of Corporate Affairs, http://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf
7. Section 96 of the Companies Act, 2013
8. Section 100 of the Companies Act, 2013

The Insolvency and Bankruptcy Code, 2016

The Insolvency and Bankruptcy Code, 2016 (Code), came into force on 28 May 2016 and consolidated several laws relating to the insolvency and bankruptcy of individuals, corporates and partnership firms. The key feature of the Code is that it allows the creditors to assess the viability of the debtor's business and formulate a resolution plan.

In case the resolution plan fails, the debtor goes into liquidation. Apart from the insolvency provisions, the new Code also provides a closure option for solvent corporates through voluntary liquidation. The new Code has established an institutional framework of insolvency professionals, an adjudicating system, and information utilities, which will help in facilitating time-bound insolvency processes and liquidation.

Corporate Social Responsibility

Corporate Social Responsibility ("CSR") was formally introduced into Indian company law through Section 135 of the Companies Act, 2013, marking a shift from voluntary philanthropy to a regulated framework mandating social accountability for qualifying companies. The CSR regime seeks to ensure that companies contribute to sustainable development while balancing economic growth with social and environmental concerns.

Applicability of CSR provisions:

CSR provisions apply to a company if it satisfies any one of the following criteria during the immediately preceding financial year:

- Net worth of INR 5 billion or more;
- Turnover of INR 10 billion or more; or
- Net profit of INR 50 million or more.

Once a company meets any of the above thresholds in a financial year, must to comply with the CSR provisions for the following financial year.

For CSR applicability, the term "company" includes:

- an Indian company;
- its holding or subsidiary company; and
- a foreign company having a branch office or project office in India, provided it independently meets the prescribed thresholds.

Quantum of CSR Expenditure

A qualifying company is required to spend, in every applicable financial year, at least 2% of the average net profits made during the three immediately preceding financial years on CSR activities.

The computation of "net profit" for CSR purposes is carried out in accordance with Section 198 of the Companies Act, 2013, subject to specific exclusions.

Constitution of the CSR Committee

Where the CSR obligation of a company exceeds INR 5 million in a financial year, the company must constitute a Corporate Social Responsibility Committee of the Board.

The CSR Committee shall comprise:

- two or more directors; and
- at least one independent director, where the appointment of an independent director is otherwise mandated under the Act.

In cases where the CSR obligation does not exceed INR 5 million, the functions of the CSR Committee may be discharged directly by the Board of Directors.

Roles and Responsibility of the Board:

The Act provides the following roles and responsibilities (in regarding CSR) for the Board of Directors:

- approve the CSR Policy of the company;
- ensure that the CSR activities are undertaken in accordance with the approved policy;
- ensure that the prescribed CSR expenditure is incurred during the financial year;
- monitor implementation and utilization of CSR funds;
- disclose CSR-related information in the Board's Report; and
- place the CSR Policy and details of CSR activities on the company's website, if any.

Permissible CSR Activities

CSR expenditure may be incurred only on activities specified under Schedule VII of the Companies Act, 2013, which includes, inter alia:

- eradication of hunger, poverty, and malnutrition;
- promotion of education and vocational skills;
- promotion of gender equality and women empowerment;
- environmental sustainability and conservation of natural resources;
- disaster management and relief;
- rural development projects.

CSR activities must be distinct from the company's normal business operations and should not result in direct commercial benefit to the company.

The Act expressly states that, during the implementation of the CSR Policy, the company must give preference to the local area and the area around which it operates.

Treatment of Unspent CSR Amounts

The Act prescribes a structured mechanism for dealing with unspent CSR amounts:

- **Ongoing projects:**

  Any unspent amount relating to an ongoing project must be transferred to a dedicated "Unspent CSR Account" within 30 days from the end of the financial year and spent within the next three financial years. If not spent within this period, the amount must be transferred to a fund specified in Schedule VII.

- **Non-ongoing projects:**

  Unspent amounts not relating to ongoing projects must be transferred to a Schedule VII fund within six months from the end of the financial year.

Implementation and monitoring

CSR activities may be implemented:

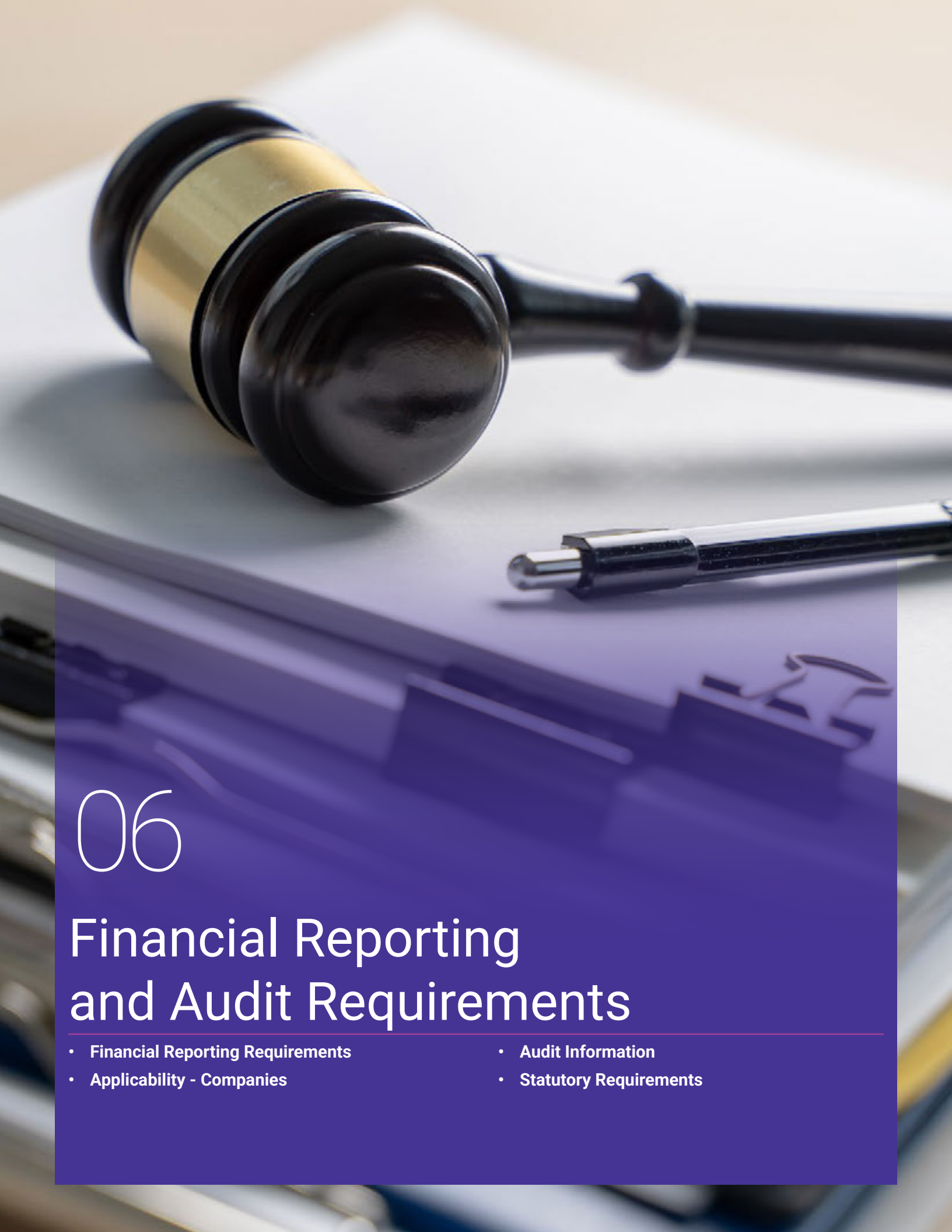
- directly by the company; or
- through eligible implementing agencies registered in accordance with the CSR Rules.

Administrative overheads incurred for CSR implementation are capped at 5% of the total CSR expenditure for the financial year.

Companies having an average CSR obligation of INR 100 million or more in the immediately preceding three financial years are required to undertake impact assessment of certain CSR projects, in the manner prescribed.

Consequences of non-compliance

Failure to comply with the CSR provisions attracts monetary penalties on the company and its officers in default. Additionally, non-compliance may attract adverse governance and reputational implications, particularly amid of investor and stakeholder scrutiny.



06

Financial Reporting and Audit Requirements

- Financial Reporting Requirements
- Applicability - Companies
- Audit Information
- Statutory Requirements

Financial Reporting Requirements

In India, financial reporting requirements for different types of entities are governed by relevant statutes. A brief summary of this is given below:

Types of entities	Preparation of financial statements mandatory or not	Relevant statute*	Reporting standards of accounting records	Remarks	Reporting timeline#
Proprietorship	Yes[1]	Income Tax Act, 1961	Cash basis of accounting/ Accounting Standards as issued by the Institute of Chartered Accountants of India (ICAI)	Applicable only if the turnover exceeds the limits specified under the relevant statute[2]	1. Without audit: Income Tax Return due date: 31 July* 2. With audit: Tax Audit due date: 30 September Income Tax Return due date: 31 October**
Partnership Firm	Yes	Income Tax Act, 1961	Cash basis of accounting/ Accounting Standards as issued by the ICAI	Applicable only if the turnover exceeds the limits specified under the relevant statute[3]	1. Without audit: Income Tax Return due date: 31 July 2. With audit: Tax Audit due date: 30 September Income Tax Return due date: 31 October
Limited Liability Partnership	Yes	Limited Liability Partnership Act, 2008	Cash basis of accounting/ Accounting Standards as issued by the ICAI	Only if the turnover exceeds the limits specified under the relevant statute[4]	Six months from the end of the financial year

1. When the turnover of a proprietorship is less than a specified threshold, financial reporting is not applicable.
2. INR 10 million in the case of business and INR 5 million – in the case of profession.
3. Ibid.
4. As per the Limited Liability Partnership Act, 2008, the audit of books of account would be mandatory when the turnover exceeds INR 4 million and contribution exceeds INR 2.5 million.

Types of entities	Preparation of financial statements mandatory or not	Relevant statute*	Reporting standards of accounting records	Remarks	Reporting timeline#
Listed Company	Yes	Companies Act, 2013, Securities and Exchange Board of India Guidelines, and any other relevant statute depending upon the nature of business and activities of the company	Ind AS^ as notified under the Companies Act, 2013 or such other accounting standards as may be applicable under the relevant statute	In case the company falls under a special statute, then the requirements of such special statute shall prevail	60 days from the end of the financial year[5]. Additionally, listed companies are also required to furnish quarterly financial results within 45 days from the end of the quarter except for the last quarter
Unlisted Public Company	Yes	Companies Act, 2013	Accounting Standards or Ind AS^ as notified under the Companies Act, 2013, or such other accounting standards as may be applicable under the relevant statute	In case the company falls under a special statute, then the requirements of such special statute shall prevail[6]	Six months from the end of the financial year
Private Company	Yes	Companies Act, 2013	Accounting Standards or Ind AS^ as notified under the Companies Act, 2013, or such other accounting standards as may be applicable under the relevant statute	In case the company falls under a special statute, then the requirements of such special statute shall prevail	Six months from the end of the financial year.

5. The requirements have been stipulated by the Securities Exchange of Board of India (SEBI)

6. Banking, financial services, insurance and electric companies where the form and contents of the financial statements are governed by respective statute

Types of entities	Preparation of financial statements mandatory or not	Relevant statute*	Reporting standards of accounting records	Remarks	Reporting timeline#
Charitable Trust	Yes	Relevant Trust Act and Income Tax Act, 1961[7]	Cash basis of accounting/ Accounting Standards as issued by the ICAI		1. Without audit: Income Tax Return due date: 31 July 2. With audit: Tax Audit due date: 30 September Income Tax Return due date: 31 October
Societies	Yes	Respective Society Act and Income Tax Act, 1961	Cash basis of accounting/ Accounting Standards as issued by the ICAI		1. Without audit: Income Tax Return due date: 31 July 2. With audit: Tax Audit due date: 30 September Income Tax Return due date: 31 October[8]
Liaison Office/ Branch Office/ Project Office	Yes	Companies Act 2013, Foreign Exchange Management Act, Insurance Regulatory and Development Act 1999	Accounting standards as notified under the Companies Act, 2013		Six months from the end of the financial year
Banks	Yes	Banking Regulation Act, 1949	Ind AS^^ as notified under the Companies Act, 2013, or such other accounting standards as may be applicable under the relevant statute		60 days from the end of the financial year

7. Depending upon the territory of registration and the purpose of the trust
8. Where form no. 49C and annual activity certificate is required to be filed/furnished, then the date of furnishing such form and certificate shall be within 60 days from and six months from the end of the financial year respectively.

Types of entities	Preparation of financial statements mandatory or not	Relevant statute*	Reporting standards of accounting records	Remarks	Reporting timeline#
Non-Banking Financial Institutions (NBFC)	Yes	Reserve Bank of India (RBI) and the Companies Act, 2013	Accounting Standards or Ind AS as notified under the Companies Act, 2013, or such other accounting standards as may be applicable under the relevant statute	Applicable only if the turnover exceeds the limits specified under the relevant statute	60 days/within 6 months from the end of the financial year from the end of the financial year

#Timeline for submission of financial information with relevant statutory authorities.

* The Preface to the Statements of Accounting Standards issued by the ICAI states the following - "Efforts will be made to issue Accounting Standards which are in conformity with the provisions of the applicable laws, customs, usages and business environment of our country. However, if due to subsequent amendments in the law, a particular Accounting Standard is found to be not in conformity with such law, the provisions of the said law will prevail, and the financial statements should be prepared in conformity with such law." For example, banks need to prepare financial statements in accordance with the Banking Regulation Act, 1949.

** The due date for filing the Tax Audit report in case of international or specified domestic transactions as per Sec. 92E is 31 October whereas the Income Tax Return due date is 30 November.

Note: For the purpose of computing taxable income in India, Income Computation and Disclosure Standards (ICDS) is a tax-computation framework notified under the Income Tax Act, applicable only to specified taxpayers (non-individuals following mercantile accounting) and specified heads of income (PGBP and IFOS), distinct from Accounting Standards, and incapable of overriding the Act or judicial precedents. The Union Budget 2026 has indicated an intent to explore greater alignment between ICDS and accounting standards, to ease compliance over time.

^ Ind AS

Ind AS are the Indian Accounting Standards that have been converged with the International Financial Reporting Standards (IFRS). Hence, Ind AS is primarily based on IFRS issued by the International Accounting Standard Board (IASB) with certain general differences between Ind AS and IFRS.

^^ Ind AS

The RBI notified the deferral of the implementation of Ind AS till further notice on 22 March 2019.

Applicability — Companies

- Currently, it is mandatory for the following types of companies to follow the Indian Accounting Standards:
  - Listed companies (irrespective of net worth)
  - Unlisted companies with a net worth of INR 2.5 billion or more
  - Companies whose equity and/or debt security are in the process of being listed
  - Holding, subsidiary, joint ventures, or associates of the companies mentioned above.

However, companies that are listed or in the process of being listed on Small and Medium Enterprise (SME) exchanges shall not be required to apply Ind AS.

Once a company opts to follow Ind AS, it shall be required to follow these standards for all subsequent financial statements

Companies not covered by the above criteria shall continue to apply existing accounting standards prescribed in the annexure to the Companies (Accounting Standards) Rules, 2006.

Applicability — NBFCs

- It is mandatory for NBFCs falling within the categories mentioned below to follow the Indian Accounting Standards:
  - NBFCs whose equity and/or debt securities are in the process of listing or are listed on any stock exchange in India or outside India
  - Unlisted NBFCs having a net worth > INR 2.5 billion.
- Holding/subsidiary/joint venture/associate companies of the above-mentioned NBFCs. If such companies were covered by the corporate roadmap, they would have to follow its timeline.

Applicability — Banks

- The Reserve Bank of India (RBI) has decided to defer the implementation of Ind AS until further notice.

Applicability — Insurance companies

Insurance companies in India are required to adopt Indian Accounting Standards (Ind AS) with effect from accounting periods beginning on or after 1 April 2026, in accordance with the Insurance Regulatory and Development Authority of India (IRDAI)'s Ind AS-based financial reporting framework. Ind AS 117 (Insurance Contracts), which is converged with IFRS 17, is included within the Ind AS framework applicable to insurers. IRDAI has also provided transition arrangements, including a period of parallel reporting.

Audit Information

The complete set of financial statements comprises the following:

- Balance Sheet as at the end of the reporting period as at the end of the reporting period
- Statement of Profit and Loss/Income (including Other Comprehensive Income for companies to whom Ind AS is applicable) and
- Statement of Cash Flows#
- Expenditure account for the reporting period
- Statement of Changes in Equity (for Companies to whom Ind AS is applicable)
- Statement of Cash Flows
  - Statement of Changes in Equity (for Companies to whom Ind AS is applicable)
- Notes forming part of the financial statements, a summary of significant accounting policies, and other explanatory information that may be required under relevant statutes

The following companies are exempt from preparing a Statement of Cash Flows:

- One Person Company
- Small company (Thresholds increased in November 2025 for Indian Private Companies)
- Dormant company
- A private company which is a start-up company.

Ind AS 118 is proposed on the lines of IFRS 18 which when effective, will change how information is presented in the Statement of P&L for Ind AS Companies.

Statutory Requirements

The following key records are to be maintained by most entities:

- All sums of money received and expended, and the matters in respect of which the receipt and expenditure take place

- All sales and purchases of goods/services by the entity
- The assets and liabilities of the entity
- In case of an entity engaged in manufacturing, processing, mining, etc., such particulars relating to the utilization of material, or labor, or other items of cost.
- The company shall keep such books of account or other relevant papers available in an electronic mode. Such books of account and other relevant books and papers are maintained in electronic mode shall be retained completely in the format in which they were originally generated, sent, or received, or in a format that shall present accurately the information generated, sent, or received, and the information contained in the electronic records shall remain complete and unaltered.

As part of the recent amendment, companies maintaining books of account in electronic form are required to ensure daily backups on servers physically located in India. In addition to the above, there may be requirements to maintain additional records under relevant statutes.

The types of mandatory audits to be conducted by an independent practicing Chartered Accountant:

Type of audit[9]	Timeline	Applicability
Audit under Section 139 of the Companies Act, 2013: Statutory audit##	Within 60 days from the end of the financial year for listed companies and within six months from the end of the financial year for other companies	For listed and other companies
Limited reviews	Within 45 days from the end of the quarter (except the last quarter wherein the reporting is required within 60 days)	Listed companies
Audit of financial statements for tax purpose	30 September in case transfer pricing regulations are not applicable, else 30 November	Companies where the statutory year-end is different from the tax year-end and where tax audit is applicable[9]
Tax audit certification	30 September in case transfer pricing regulations are not applicable, else 30 November	(refer footnote 9 for tax audit applicability)

Recent Accounting, Audit and Regulatory Developments

1. Uniform Definition of Wages under Labor Laws
The Code on Wages, 2019 introduced a uniform definition of "wages", which may increase the wage base used for determining certain employee benefits by restricting the extent of permissible exclusions from wages. As a result, employers may experience increased liabilities in respect of gratuity and other wage-linked benefits. Entities should evaluate the impact of the revised wage definition on employee benefit obligations and ensure that actuarial valuations, provisions and related financial statement disclosures appropriately reflect such impact.

2. ICAI Guidance Note on Financial Statements of LLPs and Non-Corporate Entities
ICAI issued Guidance Notes on Financial Statements of Limited Liability Partnerships and Non-Corporate Entities in August 2023 to standardize financial statement presentation and disclosures for LLPs, partnership firms, proprietorships and other non-corporate businesses. This Guidance Notes apply in a phased manner from accounting periods beginning on or after 1 April 2025 for entities with turnover exceeding INR 50 million and from 1 April 2026 for all LLPs and non-corporate entities.

9. Tax audit requirements apply where business turnover exceeds the prescribed threshold of INR 10 million (or INR 100 million relaxed limit subject to digital/cash transaction conditions)

3. Requirements related to Audit Trail:
The Companies Act, 2013 requires the management of companies to use only an accounting software that has a feature for recording the Audit Trail and to ensure that such logs have been operational throughout the year and cannot be disabled.
Auditor's reporting responsibility in relation to the audit trail:
The auditor must report on three aspects:

1. Whether the accounting software has the feature of Audit Trail, and the same has been in operation throughout the year and for all transactions;
2. Whether the feature of the Audit Trail has been tampered with; and
3. Whether the Audit Trail has been retained in accordance with legal requirements.

Internal Audit (IA) & Internal Financial Controls (IFC)

Internal Audit (IA) and Internal Financial Controls (IFC) are essential pillars of modern corporate governance, supporting organizations in strengthening financial integrity, operational efficiency, and risk management. These frameworks, governed in India by the Companies Act, 2013, are designed to enhance transparency, accountability, and the reliability of financial reporting.

Internal Audit serves as an independent assurance mechanism, assessing the effectiveness of internal controls, governance processes, and risk management practices. Under Section 138 of the Companies Act, 2013, IA is mandatory for specific categories of companies including listed entities, certain unlisted public companies, and private companies that meet defined financial thresholds.

IFC, introduced under Sections 134(5)(e) and 143(3)(i), require companies to maintain systems ensuring orderly business conduct, adherence to policies, safeguarding of assets, detection of fraud, accuracy of accounting records, and preparation of reliable financial statements. While directors are responsible for implementing IFC across all companies, auditors must report on the effectiveness of IFC for entities that meet statutory criteria.

Both IA and IFC reinforce stakeholder trust, support regulatory compliance, and promote strong governance by mitigating financial and operational risks and improving overall business resilience.

Internal Audit (IA) Applicability – Companies Act, 2013

Category of Company	Applicability Criteria	Internal Audit Mandatory?
Listed Companies	All listed entities	Yes
Unlisted Public Companies	Any one: • Paid-up share capital ≥ INR 500 million • Turnover ≥ INR 2000 million • Loans/borrowings ≥ INR 1000 million • Deposits ≥ INR 250 million	Yes
Private Companies	Any one: • Turnover ≥ INR 2000 million • Loans/borrowings ≥ INR 1000 million	Yes
Other Companies	Not meeting thresholds	Not Mandatory (Voluntary Recommended)

Internal Financial Controls (IFC) Applicability – Directors' & Auditors' Reporting

Directors' Responsibility (Section 134(5)(e)) applies to all companies—every entity must establish and maintain adequate Internal Financial Controls.

Category of Company	Applicability Criteria	IFC Audit Required?
Listed Companies	All listed entities	Yes
Unlisted Public Companies	Any one: • Turnover ≥ INR 500 million • Loans/borrowings ≥ INR 250 million	Yes
Private Companies	Any one: • Turnover ≥ INR 500 million • Loans/borrowings ≥ INR 250 million	Yes
Exempt Entities	OPCs, Small Companies, and private companies below thresholds	No (Directors' responsibility still applies)



07

Company Taxation

- Company Taxation
- Resident Companies
- Foreign Companies
- Tax Returns and Assessment
- Profits Subject to Tax
- Employee Taxes
- Calculating Trading Profits
- Income Computation and Disclosure Standards (ICDS)
- Interest Deduction
- Capital Assets
- Double Taxation Relief
- Withholding Tax
- Capital Gains Tax (CGT)
- Tax Losses
- Transfer Pricing
- Planning Points for Foreign Investors

Company Taxation

In India, all domestic companies are liable to tax on their global income, while foreign companies are liable to tax in India with respect to income received or deemed to be received in India or income which accrues or arises in India or income which is deemed to accrue or arise in India. The effective corporate tax rate (base rate + surcharge + cess) depends on the type of the company (domestic or foreign) and the quantum of its taxable income in the previous year. The year refers to the Tax Year (TY), which begins on 1 April and ends on 31 March, The rate of tax, surcharge, and cess could be changed by the Finance Act passed by the Indian government every year.

After the Finance Act, 2019 received its presidential assent, in view of economic circumstances, the government announced sweeping tax reforms through The Taxation Laws (Amendment) Act, 2019. The most important aspect of which was a significant reduction in tax rates to boost the Indian economy

The key amendments as introduced by The Taxation Laws (Amendment) Act, 2019 are as follows[1]:

1. Introduction of Section 200 of Income Tax Act, 2025 (erstwhile section 115BAA of Income-tax Act, 1961): (applicable from TY 2019-20 onwards)

    - All domestic companies have an option to pay Income Tax at the rate of 22% (plus applicable surcharge and cess), provided the below-mentioned conditions are complied with. Such companies should not avail any exemptions or incentives under different provisions of Income tax. Therefore, the total income of such company shall be computed without:

        a. Claiming any deduction especially available for units established in special economic zones under Section 10AA

        b. Claiming additional depreciation under Section 32 and investment allowance

        c. Claiming deduction under Section 48 for tea, coffee and rubber manufacturing companies

        d. Claiming deduction towards deposits made towards site restoration fund under Section 49 by companies engaged in extraction or production of petroleum or natural gas or both in India

        e. Claiming a deduction for expenditure made for scientific research under Section 45

        f. Claiming a deduction for the capital expenditure incurred by any specified business under Section 46

        g. Claiming a deduction for the expenditure incurred on an agriculture extension project or on a skill development project under Section 47

        h. Claiming deduction under Chapter VIII except for deduction under Section 146 and Section 148

        i. Claiming a set-off of any loss carried forward from earlier years, if such losses were incurred in respect of the aforementioned deductions.

    - Such companies will have to exercise this option to be taxed under Section 200 on or before the due date of filing Income Tax returns, i.e., usually 31 October . Once the company opts for Section 200 in a particular tax year, it cannot be withdrawn subsequently.

1. The Taxation Laws (Amendment) Act, 2019, Income Tax Department, https://www.incometaxindia.gov.in/Pages/acts/taxation-laws-amendment-act-2019.aspx

- Section 206 of the Act relating to the Minimum Alternate Tax (MAT) states that the provisions of said section shall not apply to a person who has exercised the option referred to under the newly inserted Section 200.
- Domestic companies opting for Section 200 will not be able to claim MAT credits for taxes paid under MAT during the tax holiday period. Companies would not be able to reduce their tax liabilities under Section 200 by claiming MAT credits. With effect from tax year 2026-27, Domestic companies opting for section 200, can claim deduction of accumulated MAT credits upto 25% of tax liability.

2. Introduction of Section 201 (applicable from FY 2019-20 onwards) :
   - A domestic company will be entitled to the benefit of the low corporate tax rate (15% plus applicable surcharge and cess) if the domestic company has been incorporated and registered on or after 1 October 2019 and has commenced manufacturing on or before 31 March 2023. The company should be engaged in the business of manufacture or production of any article or thing, and research in relation to such article or thing. The company can also be engaged in the distribution of such articles or things manufactured or produced by it. Such a company should satisfy the following conditions:
     a. Not be formed by the splitting up and reconstruction of a business already in existence except in case of a business being re-established under Section 140;
     b. Does not use any plant or machinery previously used for any purpose. However, the company can utilize the plant and machinery used outside India and used in India for the first time;
     c. The company can use old plant and machinery if its value does not exceed 20% of the total value of the plant and machinery used by the company;
     d. Does not use a building previously used as a hotel or a convention center. A 'hotel' means a hotel of two-star, three-star or four-star category as classified by the Central Government. 'Convention center' means a building of a prescribed area comprising of convention halls to be used for the purpose of holding conferences and seminars, being of such size and number, and having such other facilities and amenities, as may be prescribed.
   - The total income of such company shall be computed without:
     a. Deduction under Section 144 for units in Special Economic Zones
     b. Deduction for additional depreciation under Section 33
     c. Deduction under Section 48 for tea, coffee and rubber manufacturing companies
     d. Deduction towards deposits made towards site restoration fund under Section 49 by companies engaged in the extraction or production of petroleum or natural gas or both in India
     e. Deduction for expenditure made for scientific research under Section 45
     f. Deduction for the capital expenditure incurred by any specified business under Section 46
     g. Deduction for the expenditure incurred on an agriculture extension project or on a skill development project under Section 47
     h. Claiming deduction under Chapter VIII except for deduction under Section 146 and Section 148
     i. Set off of any loss carried forward from earlier years if such losses were incurred in respect of the aforementioned deductions.
   - Such companies will have to exercise this option to be taxed under the Section 201 on or before the due date of filing Income Tax returns, i.e., usually 30 October of the tax year. Once the company opts for Section 205 in a

particular financial year, it cannot be withdrawn subsequently.

- Applicability of transfer pricing provisions

  a. In a case where due to a close connection between the company and any other person, or for any other reason, the business between them is so arranged such that the company earns more than ordinary profits, the Assessing Officer may ignore the excess profits. The Assessing Officer will consider only the profits reasonably deemed to be derived from the business.

  b. In a case where the business transaction involves a specified domestic transaction referred to in Section 243, the profits of the transaction will be determined with regards to the arm's length price.

- Applicability of MAT provisions

  a. Section 206 of the Act related to Minimum Alternate Tax (MAT) provides that the provisions of the said section shall not apply to a person who has exercised the option referred to under the newly inserted Section 201.

  b. The domestic companies opting for Section 201 will not be able to claim MAT credits for taxes paid under MAT during the tax holiday period. The companies also would not be able to reduce their tax liabilities under Section 201 by claiming MAT credits.

- Presumptive Taxation

  The law also provides a presumptive taxation regime to resident Individual, HUF and partnership firm (excluding LLP) wherein a certain percentage of the turnover is claimed as deemed total income from tax purposes.

  a. In case of business (other than agency and commission business), 8% or more of the turnover can be claimed as total income of the assessee. Furthermore, a reduced rate of 6% is applicable if the receipts/ turnover through electronic means. The said provisions are applicable if the turnover does not exceed INR 20 million.

     Furthermore, if the transactions (both receipts and payments) in cash does not exceed 5% of the total transaction value, the provisions of presumptive taxation are available for turnover up to INR 30 million.

  b. In case of profession, 50% or more of the turnover can be claimed as total income of the assessee. The said provisions are applicable if the turnover does not exceed INR 5 million.

     Furthermore, if the transactions (both receipts and payments) in cash do not exceed 5% of the total transaction value, the provisions of presumptive taxation are available for turnover up to INR 7.5 million.

The Finance Act 2026 has not altered the tax rates applicable for corporates, and the same remains in line with rates announced in Finance Act 2025.

The tax rate applicable for TY 2026-27 in case of domestic companies not opting for the beneficial regime and having a turnover or gross receipts in FY 2024-25 not exceeding INR 4 billion is 25% of the total income plus the applicable surcharge and health and education cess. For all other domestic companies (not opting for the beneficial regime and have turnover exceeding INR 4 billion), the base tax rate shall continue to be 30% plus applicable surcharges and the health and education cess.

Furthermore, up till FY 2017-18, Education Cess at the rate of 2% and Secondary and Higher Education Cess at the rate of 1% was payable on the base tax rate and surcharge. The Finance Act, 2018, has discontinued the same from FY 2018-19, and a new cess, namely the health and education cess at the rate of 4% has been introduced.

The corporate tax rates applicable for TY 2026-27 are outlined below:

Particulars	Taxable income > INR 100 million	INR 10 million < taxable income < INR 100 million	Other cases
Domestic company (not opting for lower tax rates and having turnover exceeding INR 4 billion in FY 2024-25)	34.944% (30% base rate + 12% surcharge + 4% Health and education cess)	33.384% (30% base rate + 7% surcharge + 4% Health and education cess)	31.20% (30% base rate + 4% Health and education cess)
Domestic company (not opting for lower tax rates and having turnover not exceeding INR 4 billion in FY 2024-25)	29.12% (25% base rate + 12% surcharge + 4% Health and education cess)	27.82% (25% base rate + 7% surcharge + 4% Health and education cess)	26.00% (25% base rate + 4% Health and education cess)
Domestic company (opting for lower tax rates)	25.168% (22% base rate + 10% surcharge + 4% Health and education cess)	25.168% (22% base rate + 10% surcharge + 4% Health and education cess)	25.168% (22% base rate + 10% surcharge + 4% Health and education cess)
New domestic manufacturing companies*	17.16% (15% base rate + 10% surcharge + 4% Health and education cess)	17.16% (15% base rate + 10% surcharge + 4% Health and education cess)	17.16% (15% base rate + 10% surcharge + 4% Health and education cess)
Foreign company	38.22% (35% base rate + 5% surcharge + 4% Health and education cess)	37.128% (35% base rate + 2% surcharge + 4% Health and education cess)	36.40% (35% base rate + 4% Health and education cess)

*Domestic companies which have been incorporated and registered on or after 1 October 2019 and have commenced manufacturing on or before 31 March 2024.

Minimum Alternate Tax (MAT) (also known as book tax profits)

The Income Tax Act, 2025 (ITA), also provides for tax on 'book profits' in case the tax on the company's book profit (post certain adjustments) is greater than the tax on income computed as per the standard provisions of the ITA. This is commonly known as MAT, which is charged at a rate of 18.5% on book profits plus applicable surcharge and 4% Health and education cess on the tax and surcharge. The limits for the applicability of the surcharge are the same as mentioned in the table above.

The Taxation Laws (Amendment) Act, 2019, has reduced the MAT rate from 18.5% to 15%. The Finance Act, 2026 further reduced the MAT rate from 15% to 14%.

Furthermore, MAT provisions will not be applicable for domestic companies opting for beneficial tax regime (i.e., domestic companies opting for 22% base tax rate or new manufacturing companies opting for 15% base tax rate).

Credit for MAT paid can be carried forward and claimed against standard corporate tax payments arising in the future, subject to a limitation period of 15 years instead of 10 years as provided earlier. However, the Finance Act, 2026 restricts the carry-forward of MAT credit from Tax Year 2026–27 onwards. Accordingly, taxes paid under the MAT provisions will constitute the final tax liability, and no MAT credit will be allowed to be carried forward to subsequent years.

However, as per The Taxation Laws (Amendment) Act, 2019, credit for MAT is not available for companies opting for beneficial tax regime. The Act expressly amends the MAT Credit provisions to deny MAT Credit to any company which opts for the reduced tax rate. However, from tax year 2026-27, where the Company opts for beneficial tax regime, it can utilize the accumulated MAT credit against its tax liability subject to a limit of 25% of tax liability.

In the case of income earned by Foreign Institutional Investors/Foreign Portfolio Investors (FIIs/FPIs) and foreign companies from various sources, such as capital gains, interest, royalty, and fees for technical services, MAT provisions will not be applicable from FY 2015–16 onwards. Also, MAT shall not apply to foreign companies not having any Permanent Establishment (PE) in India or which are not required to be registered under the Companies Act in India.

Apart from the above, foreign companies engaged in the business of shipping, exploration of mineral oils, operation of aircraft, and civil construction concerning turnkey power projects can opt for presumptive taxation. In such a case, taxable income is first computed at a certain fixed percentage of the gross receipts, and then the above- referred corporate tax, surcharge, and health and education cess shall be applicable.

Abolishment of Dividend Distribution Tax (DDT)

The Finance Act, 2020, states that the provisions of Section 115-O of the Act relating to levy of DDT on companies declaring dividends would be applicable only to those dividends that are declared, distributed or paid on or before 31 March 2020. This means that companies declaring or distributing dividends after 1 April 2020 no longer have to pay DDT. The key impacts of this amendment are as follows:

a. Any dividends received on or after 1 April 2020 will no longer be exempt in the hands of the shareholders, and the same would be taxable as per the rates applicable to the recipient

b. The company shall be liable to deduct Tax Deducted at Source (TDS) @ 10% while making a payment of dividend to a shareholder being a person residing in India, as per Section 194, if the amount of dividend exceeds INR 10,000

c. The company shall be liable to deduct TDS @ 20% while making payment of dividends to a shareholder being a person non-resident in India plus surcharge and cess as applicable. However, provisions of the tax treaty with the country of residence would apply if it were more beneficial

d. The Finance Act, 2020 has also clarified that dividend income, which is subject to DDT and received after 1 April 2020, shall be exempt in the hands of the shareholder/ unit holder

e. Furthermore, Finance Act 2022 has specified that dividend received from a foreign company is taxable as per rates applicable to the recipient company and not at a flat rate of 15%

f. No cascading effect will occur on the taxation of dividends by providing deduction of dividends received by one domestic company from another domestic company, or foreign company, or from a business trust to the extent of dividend distributed or actual dividend received, whichever is lower.

Abolishment of Buyback Tax (BBT):

While the Finance Act (No. 2), 2019 extended the scope of Buyback Tax as per Section 115QA to listed companies as well, Finance Act, 2024 has stated that provisions of section 115QA shall no longer be applicable from 1 October 2024. This means that companies buying back shares will no longer be required to withhold tax on buy-back. The key impact of this amendment is:

- The receipts from such buy-back will be considered as deemed dividend in the hands of the recipient without allowing any deduction for expenses
- The cost of such shares will be considered as capital loss and shall be allowed to be set off against subsequent gains.
  The Finance Act, 2026 has amended the tax treatment of gains arising on the buyback of shares. With effect from Tax Year 2026–27, the consideration received on a buyback will be taxed as capital gains in the hands of the shareholders, replacing the earlier dividend-based taxation regime. Further, an additional tax has been introduced for promoter shareholders under Section 69(2) of the ITA. Consequently, the effective tax rate on buyback gains for promoter shareholders is 22% in the case of a domestic company and 30% for other promoters.

Resident Companies

A company incorporated in India under the Companies Act, 1956/2013, would always be a 'resident' in India. With effect from 1 April 2016, a foreign company is regarded as a 'resident' in India only if, during the previous year, the Place of Effective Management (POEM) of the company was in India (i.e., key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance, made in India). Certain guidelines have been issued in connection with the determination of POEM.

The Tax Incidence of companies depends on their residential status. Therefore, a foreign company can avoid taxation of its global income if it can prove that its POEM is not in India. In that case, only its income accruing or arising in India, or deemed to accrue or arise in India, or received in India would be taxable in India.

It would be essential to note that POEM rules would not apply to a foreign entity if its turnover or gross receipt is less than INR 500 million.

Particulars	Resident	Non- resident
Income received or deemed to be received in India	Taxable	Taxable
Income accruing or arising or deemed to accrue or arise in India	Taxable	Taxable
Income accruing or arising outside India from: • Business controlled in India or profession set up in India • Any other source	 Taxable Taxable	 Taxable Non-Taxable

Foreign Companies

Income Tax

Under the ITA, a foreign company is liable to income tax in India on income received or deemed to be received in India or income accruing or arising in India or deemed to accrue or arise in India.

Income deemed to accrue or arise in India would include:

- Income arising from a business connection in India or property or asset or source of income in India
- Capital gains from the transfer of capital assets situated in India
- Interest, dividend, royalties, and fees for technical services paid to a non-resident[2].

An asset or capital asset being any share or interest in a foreign company is deemed to be situated in India if it derives its value, directly or indirectly, substantially from assets located in India.

Accordingly, any indirect transfer of such shares would also be taxable in India. To provide clarity, the criteria for when such taxation would be triggered has been laid down from FY 2015-16 onwards. The criteria are as follows:

- Share of a foreign company shall be deemed to derive substantial value from Indian assets if the fair value of the Indian assets:
  - exceeds INR 100 million
  - The said value is equal to or greater than 50% of the value of all assets owned by the foreign company.
- The fair value of assets (without deduction of liabilities against such assets) is to be decided as per rules laid down in Rule 11UB, 11UC, and 114DB. Furthermore, the requirements under Form 3CT and Form 49D must also be complied with.
- The amount to be taxed in India should be proportional to the value of Indian assets to the global assets of the foreign company
- An exemption has been provided from indirect transfers to:
  - small shareholders, i.e., shareholders who hold less than 5% voting power/share capital and do not have management or control
  - foreign amalgamations and demergers, subject to certain conditions
  - Category-I* and Category-II* FPIs under the SEBI Act[3]:-

    *As mentioned above, there is an exemption from indirect transfer provisions applied to Category-I or Category-II FPIs under the SEBI Act. With SEBI coming up with SEBI (FPI) Regulations, 2019, it has been provided for the current exemption to be grandfathered and protected.

    *Furthermore, a similar exemption is proposed to be extended to investments by only Category-I FPIs under the SEBI (FPI) Regulations, 2019
- An Indian company whose ownership or control outside India is transferred directly or indirectly would be required to report such a transaction to the tax authorities and:
  - failure of reporting will attract a penalty of 2% of the transaction value in case the transfer has the effect of transferring the right of management or control
  - in other cases, the penalty will be INR 5,000.

2. This income would be taxable in India whether or not the non-resident has a residence or place of business in India or has rendered services in India.
3. Security and Exchange Board of India Act, 1992.

Exemption to non-residents from the filing of Income-Tax returns

- Under the current regime, a non-resident is exempt from filing tax returns if the total income consists only of a certain dividend, interest, royalty or fees for technical services income, and the due taxes under the provisions of the Act are withheld.

Taxability of Business Income

In case non-residents have a business connection or a PE (Permanent Establishment) in India, income attributable to such business connection or PE would be taxable in India at the rate of 35% (plus applicable surcharge and Health and education cess).

However, while calculating the taxable income, a deduction for expenses incurred for earning such income and some parts of general administrative expenses are allowed as an expense.

In line with ongoing international discussions, 'Income attributable to the operations carried out in India,' has been defined as:

a. Advertising revenues from ads that target Indian customers or customers who access the advertisement through an Indian IP address;

b. Income from the sale of data collected from an Indian resident or from anyone through an Indian IP address;

c. Income from the sale of goods and services using data collected from an Indian resident or from anyone through an Indian IP address.

The business connection includes any business activity carried out by a non-resident through a person acting mainly or wholly on their behalf. Furthermore, keeping in mind the challenges of taxation in a digital economy, the Finance Act, 2018 has introduced the concept of 'Significant Economic Presence' (SEP) for business connections in India. This relates to virtual business connections of non-residents in India without any physical presence. PE means some presence in India in the form of a fixed place, employee presence, and more through which business activities are carried out in India by the non-resident. Where a non-resident constitutes a business connection or PE in India, it is required to carry out compliances as expected of a domestic company (i.e., maintaining books of accounts, getting accounts audited, various regulatory filings, etc.) Presently, SEP of a non-resident in India constitutes 'business connection' in India. The threshold to determine SEP of a non-resident is given below:

1. Revenue-linked condition: threshold of INR 20 million

2. User-linked condition: threshold of 300,000 Indian users.

As mentioned earlier, if a foreign company has a PE in India, the tax authorities may try to subject that company to the provisions of MAT– this view of the tax authorities may, however, be subject to litigation.

Goodwill not eligible for depreciation

Finance Act 2021 stated that the goodwill of a business or a profession is not a depreciable asset and hence the same is not eligible for depreciation. However, it has been stated that the cost of such goodwill will be allowed as a deduction as and when such goodwill is sold/transferred.

Fund Managers in India not to constitute a Business Connection or PE

Before the Finance Act, 2015, the presence of a fund manager in India was deemed to constitute a business connection in India even though the fund manager was an independent person. Thus, when a manager located in India undertook any fund management activity with respect to investments outside India for an offshore fund, the profits earned by the fund from such investments could be liable to tax in India.

In the Finance Act, 2015, it was clarified that the presence of a fund manager in India would not give rise to a business connection/PE in India with respect to offshore funds subject to the fulfillment of specific conditions and compliances by both the offshore fund and the fund managers. With a view to introducing a relaxation, for calculating the aggregate investment, a provision was made to exclude the contribution of fund managers during the first three years up to INR 250 million.

For funds which are incorporated during any relevant previous year, it is proposed to extend the applicability of the monthly average of the corpus to INR 1,000 million, to be fulfilled within twelve months from the last day of the month of its establishment.

Presumptive Taxation

As stated earlier, the ITA also provides for a mechanism wherein income in the case of specified businesses, such as shipping, aircraft, civil construction, etc. is computed on a presumptive basis, which results in a lower effective tax rate.

Taxability of income (other than business income) under the Income Tax Act:

- Royalty/Fees for Technical Services: Income earned by a foreign company in the nature of royalty/fees for technical services is taxable in India on a gross basis at the rate of 20% (plus applicable surcharge and Health and education cess).
  - Presently, the definition of 'Royalty' excludes the sale, distribution, or exhibition of cinematographic films. As such, non-residents are not taxed in respect of such income, although a Double Taxation Avoidance Agreement (DTAA) may provide India the right to impose a tax.
  - In order to avoid such discriminatory situations for Indian residents, the Finance Act 2022 amended the definition of 'Royalty' and made the sale, distribution, or exhibition of Cinematographic films are taxable for non-residents.
- Interest: Interest income earned by non-residents for loans provided in a foreign currency is taxable in India at the rate of 20% (plus applicable surcharge and Health and education cess).

However, the interest from foreign currency loans and any long-term bonds would be taxable at a concessional rate of 5% (plus applicable surcharge and Health and education cess) provided the loan or bonds are acquired during a specified period and subject to specified conditions. Furthermore, the said concessional rate of 5% (on the interest income of such bonds) would apply even if the non-resident does not have a Permanent Account Number (PAN) in India. The benefit of 5% taxation has also been extended to interest earned from Rupee Denominated Bonds.

- Transfer of carbon credits: The Transfer of carbon credit is taxable on a gross basis at the rate of 10%.
- Dividend: Dividend income received from an Indian company is taxable in the hands of foreign companies @ 20% as per Section 115A.
- Other income: Other income earned by foreign companies would be liable to be taxed at the maximum rate (i.e. 35% plus applicable surcharge and Health and education cess).

However, with respect to the above, where a beneficial rate/provision is prescribed under any treaty entered into by India with a foreign country, a non-resident can claim such beneficial rate/provision subject to conditions mentioned under the treaty with the respective country.

Equalization Levy

An equalization levy of 6% shall be charged on the amount of consideration for any 'specified service' received/receivable by the non-resident person from a person resident in India and carrying on business or profession; or from a non-resident having a PE in India. The term 'specified service' means an online advertisement, any provision for digital advertising space, or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this regard.

The equalization levy shall not be charged where the non-resident providing the specified service has a PE in India, and the specified service is effectively connected with such PE, or the aggregate amount of consideration does not exceed INR 100,000 in the previous year, or the payment made is not for the purpose of carrying out business or profession of the taxpayer.

Specific exemptions provided under Section 10 (50) of the ITA for income arising from any specified service are prescribed in this 'Equalization Levy' chapter. This chapter has become effective from 1 June 2016.

The Finance Act, 2020 has extended the scope of equalization levy, and the new amendments to the same are as follows:-

a. Applicability - E-commerce supply of goods or services on or after 1 April 2020

b. E-commerce supply or service will include online sale of goods or online provision of services or both facilitated/owned by the e-commerce operator

c. E-commerce operator means a non-resident who owns, operates, or manages a digital or e-facility or platform for the online sale of goods or online provision of services or both

d. The equalization levy will be applicable at the rate of 2% of the consideration received or receivable on e-commerce supply of goods or services or both by the e-commerce operator

e. It will be applicable for the sale or facilities provided to a resident in India or a non-resident in specified circumstances or to a person who buys goods or services or both using the internet protocol address located in India

f. Specified circumstances mean sales of advertisements which target a customer who is resident in India, or a customer who accesses the advertisement through an internet protocol address located in India, and sale of data collected from a person who is resident in India, or from a person who uses an internet protocol address located in India

g. The equalization levy will not be applicable where the e-commerce operator has a PE in India, or it is leviable @ 6% as per the existing provision, or the sales of such goods/services are less than INR 20 million during the previous year

h. The equalization levy will be paid by every e-commerce operator by the due date to the Central government as follows

i. The interest leviable is 1% and a penalty equal to equalization levy will be applicable in case of failure to pay the equalization levy.

Quarter Ending	Due date for the quarter
30 June	7 July
30 September	7 October
31 December	7 January
31 March	31 March

a. However, a sunset clause has been inserted on the above mentioned Equalization Levy on E-commerce supply of goods or services and therefore Equalization Levy shall not be applicable to any consideration received by an e-commerce operator from e-commerce supply or services made, provided, or facilitated by it on or after the 1st day of August 2024.

b. However, Equalization Levy is still applicable on consideration paid on online advertisement.

It is also provided that income arising from e-commerce supply or services chargeable to equalization levy (not being income which is already chargeable to tax as royalty/fees for technical services read with the relevant tax treaty) would now be exempt under Section 10(50) of the Income Tax Act, 1961.

Tax Returns and Assessment

The Indian fiscal year, as well as corporation tax year, runs from 1 April to 31 March. All listed companies (irrespective of having made a profit or loss) are required to file their tax returns electronically by 31 October each year. However, for those that have entered into international transactions with Associated Enterprises (AE) or Specified Domestic Transactions (SDT) (see Transfer Pricing), the due date to file tax returns electronically is 30 November.

Even foreign companies are required to file tax returns with respect to income earned in India, except in certain specified circumstances where income consists of dividends, specified interest, and due taxes have been withheld on the same. Tax returns must be digitally signed by the Managing Director of the company and, in case the company does not have one, then by any director. However, in the case of a foreign company, the tax return can be digitally signed by an individual holding a valid Power of Attorney.

It is mandatory for the company and the signatory (unless he is a non-resident) to get a PAN in India. The company is also required to obtain and furnish electronically the report of a Chartered Accountant, concerning transactions with an AE.

Similarly, it must obtain and furnish electronically the report of a Chartered Accountant if its annual turnover exceeds INR 10 million.

In case of any error or omission in the tax returns, the same can be revised within 12 months from end to relevant tax year or before the completion of the tax assessment, whichever is earlier. A belated tax return can be filed within a period of nine months from the end of relevant tax year or the completion of the tax assessment, whichever is earlier. In the case of a belated tax return, the company cannot carry forward its tax losses.

Revenue Audits

Tax returns filed by companies can be subjected to a revenue audit, popularly known as a scrutiny assessment in India. The tax authorities lay down specific parameters every year, and if a company fits those parameters, it would mandatorily be selected for an assessment. For other companies, the same is based on random selection through the Computer-Aided Scrutiny Selection (CASS) system.

In the assessment proceedings, the tax authorities could either accept the income as in return if they are satisfied with the correctness of the income and expenditure or make adjustments to the income either by increasing revenues or disallowing the expenditure. A company can file an appeal against the adjustments made. There is an exhaustive and robust appeal mechanism and tax judiciary system in India.

The Finance Act, 2018 had introduced a new scheme to carry out the assessments electronically. Recently, the Central Board of Direct Taxes (CBDT), the apex policy-making body of the Income Tax Department, issued a notification proposing the E-assessment Scheme 2019 in connection with e-assessment for specified people and territories. The Scheme lays down the setting up of various jurisdictional e-assessment centers to implement and facilitate the effective and smooth operation of the Scheme. The Scheme is a progressive step towards faceless assessment intending to achieve higher transparency and curb various malpractices.

This path-breaking initiative would radically change the outlook in which Indian tax assessments are perceived and hopefully mitigate protracted litigation, thereby facilitating the ease of doing business in India.

Profits Subject to Tax

The taxable income for a business is computed in accordance with the common business or accounting principles to which necessary tax adjustments in accordance with the ITA are required to be made.

Profits from the business are chargeable to tax on a receipt or accrual basis as per the accounting method adopted by the assessee. However, companies have to offer the profits to tax on an accrual basis as the Indian Companies Act does not allow them to follow the cash system of accounting. Principally, deductions are allowed for all business-related revenue expenses incurred during the fiscal year.

Capital expenses (other than those specifically allowed) and personal expenses are not deductible. The onus of proving that the expenditure has been incurred wholly and exclusively for the business is squarely on the company.

Furthermore, any expenditure that is considered against public policy is not allowable as a deduction. In the case of fixed assets, depreciation is available at prescribed rates and in accordance with the provisions of the ITA. Certain revenue expenditures that are necessary to bring the fixed asset into its existing condition have to be added to the cost of the fixed asset. Certain specified expenses are allowed only on the basis of actual payment irrespective of the accrual system of accounting followed by the company.

The following sections of this chapter cover some specific allowable and disallowable deductions in calculating taxable business profits.

Employee Taxes

An employee is liable to pay taxes on the salary earned by him/her. For income to be regarded as 'salary,' it is imperative to have an employer-employee relationship.

The income under the head 'salary' is liable to tax either on a receipt basis or accrual basis, whichever event is earlier. It would also include a salary.

Components of salaries mainly include basic salary, fees, commission, bonus, retirement benefits, a contribution to social security over the specified limits, allowances, perquisites, etc.

Perquisites are benefits provided in kind and would, inter alia, include rent-free accommodation, interest-free loans or subsidized loans, provision of movable assets for use or transfer of such assets to the employees at a subsidized cost, free or concessional education, provision of motor cars, provision of domestic help, club membership, etc. The Finance Act 2020, in the case of start-up employers, has provided to defer the time limit to deposit TDS on Employee Stock Option Plans to within 14 days from the expiry of 60 months from the end of the relevant tax year or the date of sale of such ESOP shares or the date on which the assessee ceases to be an employee.

The ITA also provides for several exemptions and deductions while computing income under the head 'salaries.' These, among other things, include professional taxes paid, house rent allowance subject to specified limits and conditions, etc.

Furthermore, the Finance Act, 2019, has increased the standard deduction to INR 50,000 (INR 75,000 in case on new tax regime) to replace the earlier transport allowance and medical reimbursements. The mechanism of calculating the exempt allowances is based on Rules. However, the quantum of deduction and/or exemption is not very significant, and most of the limits specified in the ITA/Rules have outlived their utility.

Employers are required to compulsorily withhold tax on taxable salaries if income exceeds the minimum exemption limit. Tax is to be withheld at an average rate based on the estimated income of the employee for the whole year at the time of actual payment of salary every month. While calculating the estimated income of the employee, the applicable deductions and exemptions are also considered.

Calculating Trading Profits

Trading profits represent profits as per the Profit and Loss Account which are drawn as per the provisions of the Indian Companies Act, which is further adjusted considering the admissible/ inadmissible expenses as per the provisions of the ITA (see Profits subject to tax).

According to the ITA, for the purpose of calculating profits, all income accrued/earned during the fiscal year should be considered. Capital receipts are not considered while calculating trading profits. However, what constitutes a capital receipt is a matter of considerable litigation.

As explained earlier, capital expenses are not deductible. However, the ITA has prescribed certain capital expenses that can be allowed as deductions, but over a period of time. For example:

- Preliminary expenses incurred prior to the setting up of, or in connection with the extension of the business, are allowed over a period of five years subject to certain conditions
- Expenditure incurred on amalgamation is allowed over a period of five years
- Expenditure on the prospecting of certain minerals is allowed over a period of 10 years
- Expenditure on obtaining a telecommunication license over the license period.

Furthermore, according to the ITA, certain capital expenditures are allowed in the year that they are incurred. For example:

- Capital expenditure (except on land) on scientific research related to the business carried out by the company
- The entire capital expenditure (except on land, goodwill, and financial instruments) in case of specified businesses that have commenced operations in the specified time period
- Weighted deduction of 150% in the case of expenditure on an in-house scientific research and development facility as approved by the prescribed authority, which inter alia includes capital expenditure, except that on land and building. This deduction has been reduced to 100% from 1 April 2020 onwards.

Similarly, a company is eligible to claim depreciation on fixed assets according to the rate prescribed in the Income Tax Rules. A company is also eligible to claim bad debts, provided the sales in respect thereof have been offered to tax either in the current financial year or in the previous financial year. Besides allowing the claim for expenditure, the ITA also allows claims for business losses provided they are in the revenue field and discovered in the year under consideration. Examples of business losses are a loss on account of obsolete stock, loss on account of fire/ theft/burglary/ fraud, etc.

The ITA also restricts the allowance of certain revenue expenses if certain requirements are not met:

- If tax is not withheld and deposited in the government treasury within the prescribed time, 30% of the expense claimed by the company shall be disallowed in case payment to residents and 100% in case of payment to non-resident.
- Certain statutory expenses like tax, duty, cess or fees are not allowed as deduction unless they are actually paid either during the year or up to the time allowed to file tax returns. An exception to the above rule is in the case of payments, due to entities registered as MSMEs. When there is a delay in payment to entities registered as MSMEs, as per the MSME law, the deduction for such expenses is allowed in the year in which the payment is actually made.

Certain expenses are expressly not allowed while computing taxable income. For example:

- Tax on profits, tax on capital
- Tax paid by an employer on behalf of an employee on non-monetary perquisites
- Expenditure incurred with respect to exempt income – a controversial provision.

Particulars	Amount (INR)	Amount (INR)
A. Net Profit as per Profit and Loss Account		XXX
B. Inadmissible expenses debited to Profit and Loss Account		
• Disallowable expenses/claims	XXX	
• Depreciation as per the Companies Act	XXX	
• Deemed income not credited to Profit and Loss Account	XXX	XXX
C. Total = (A + B)		XXX
D. Admissible deduction allowable claims/deductions	XXX	
• Depreciation as per the Income Tax Act	XXX	
• Incomes chargeable under other heads credited to Profit and Loss Account/Exempt Income	XXX	XXX
E. Profits and Gains of Business or Profession (C – D)		XXX

Income Computation and Disclosure Standards (ICDS)

The Indian government has notified 10 Income Computation and Disclosure Standards (ICDS) that are applicable for computing income chargeable as 'Business income' and 'Income from other sources.' ICDS would apply to both residents as well as non-residents, to individuals as well as companies.

Furthermore, with the introduction of separate standards for Income Tax, this would not result in maintaining different books of accounts for income tax purposes. In Union Budget 2026, it is proposed to constitute separate committee for incorporating the requirements of ICDS in the Indian Accounting Standards and separate accounting requirement based on ICDS will be done away from tax year 2027-28.

However, a reconciliation statement would have to be prepared to keep track of the differences. In case of any conflict, the provisions of the ITA would prevail over the ICDS. In such a scenario, whether the interpretation of law rendered by higher courts in India would also prevail over ICDS would be a litigation issue. The Finance Act, 2018, has incorporated the provisions of ICDS under the relevant provisions of the ITA with effect from 1 April 2017. Thus, it has settled the controversy on whether the interpretation of law rendered by higher courts in India would prevail over ICDS.

The 10 ICDS that would apply to both residents and non-residents are as follows:

- ICDS I relating to accounting policies
- ICDS II relating to valuation of inventories
- ICDS III relating to construction contracts
- ICDS IV relating to revenue recognition
- ICDS V relating to tangible fixed assets
- ICDS VI relating to the effects of changes in foreign exchange rates
- ICDS VII relating to government grants
- ICDS VIII relating to securities
- ICDS IX relating to borrowing costs
- ICDS X relating to provisions, contingent liabilities, and contingent assets.

The ICDS is effective for computing taxable income from financial years beginning 1 April 2016 and onwards.

Interest Deduction

Interest on borrowed capital for business or profession is allowed as a deduction. However, interest payable on capital borrowed for acquiring a capital asset for extension of business or a new business, until the date such asset is first put to use, is not allowable as a revenue deduction.

Such interest shall be loaded on the cost of the capital asset and would be eligible for depreciation. The utilization of loans is an important factor in deciding the allowability of interest on the same. Interest on borrowings utilized for granting interest-free advances to related parties or sister concerns may not be allowed if the business expediency of such advance is not proven. Furthermore, interest in borrowings utilized for the purpose of earning tax-free income (e.g., tax-free interest income) would be disallowed due to particular provisions of the ITA.

Thin Capitalization Rules

Several jurisdictions across the globe have specific thin capitalization rules to deter erosion of the tax base through excessive debt and, thereby, excessive interest payments. There is no specific thin capitalization provision under the ITA. As there are no enabling provisions to question whether a business should have raised funds through equity instead of a loan, interest deduction is allowed solely based on the principles laid down in the paragraph above. Interest payments to overseas-related parties and in some specific instances, to domestic-related parties would, however, be subject to transfer pricing provisions.

With effect from 1 April 2017, if the transaction of debt is construed by the tax authorities solely for tax benefits, then the arrangement could be examined and disregarded under the General Anti-Avoidance Rules (GAAR).

Furthermore, a restriction has been introduced in the Finance Act, 2017, for interest deduction to the extent of 30% of EBITDA (Earnings Before Interest, interest paid by a resident company to a non-resident associated enterprise.

Taxes, Depreciation, and Amortization) in the case of interest paid by a resident company to a non- resident associated enterprise exceeding INR 10 million.

Capital Assets

According to the ITA, capital assets have been defined to mean the property of any kind including business assets but excluding stock-in-trade and movable personal effects, such as wearing apparel, personal furniture, personal car, etc.

Thus, broadly, capital assets can be classified as business-related assets and personal capital assets, excluding the ones specified above. Business-related capital assets can be further classified as ‘depreciable capital assets’ and ‘non- depreciable capital assets.’ The tax treatment of personal capital assets and non-depreciable assets has been dealt with separately in the Capital Gains Tax section.

Depreciable assets

The tax treatment of depreciable capital assets is explained here. According to the ITA, depreciation for tax purposes has to be calculated on the Written Down Value (WDV) of the block of assets at the prescribed rates (except for undertakings engaged in the generation or generation and distribution of power, and which have the option of claiming depreciation on a straight-line basis). A block of assets has been defined as a group of assets falling within a class of assets comprising of tangible and intangible assets for which the same percentage of depreciation is prescribed.

The rates of depreciation are given in the table below:

Asset class	Rate of depreciation (%)
General plant and machinery	15
Cars other than those used in the busi-ness of running them on hire	15
Computers (including software)	40
Purely temporary erections	100
Residential buildings	5
Buildings other than the above	10
Furniture and fittings including electrical fittings	10
Ships	20
Intangible assets: Any know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial right of a similar nature	25

The WDV of a block of assets is calculated as below:

First Year:	XXX
Cost of the asset at the time of acquisition of assets	XXX
Less: Depreciation as calculated based on the above rates	XXX
Closing WDV of the block of assets	XXX
Subsequent year:	
Opening WDV of the block at the begin-ning of the next year	XXX
Add: Actual cost of assets acquired dur-ing the year	XXX
Less: Sale proceeds from the disposal of any asset during the year	XXX
WDV for the purpose of calculating depreciation	XXX

With effect from 1 April 2017, the highest rate of depreciation on assets will be reduced to 40% (whether for new or existing assets).

The actual cost of a depreciable asset comprises its purchase price (including import duties and other non-refundable taxes or levies) and any directly attributable cost of bringing the asset to its working condition for its intended use.

The sales of an individual depreciable asset does not result in any capital gains as long as the sales proceeds of those individual assets are less than the WDV of that particular 'block of assets.' If the sales proceeds are more than the WDV of the 'block of assets,' the resultant gain is regarded as a 'deemed short-term capital gain' irrespective of the holding period of the individual assets and would be chargeable to tax at the normal corporate tax rate. The concepts of short-term and long-term capital gains are explained in the section on Capital Gains Tax. This concept of taxation differentiates capital gains on depreciable assets as compared to capital gains on non-depreciable assets and personal assets. Furthermore, an additional or accelerated depreciation at the rate of 20% is allowed to taxpayers engaged in the manufacture or production of any article or product, or in the business of generation, distribution or transmission of power, in the year in which the new plant and machinery acquired is first put to use. If the new plant and machinery is put to use for less than 180 days in the said financial year, half of the additional depreciation would be allowed in the first year of putting the asset to use, and the remaining half will be allowed in the immediately succeeding financial year.

Double Taxation Relief

India allows relief from double taxation of income in the following ways:

Unilateral relief: A resident of India deriving income from a country with which India does not have a tax treaty is eligible to claim credit for taxes paid in the foreign country. However, such credit would be restricted to Indian taxes on such foreign income or actual foreign taxes paid, whichever is less.

Bilateral relief: India has a comprehensive tax treaty network with over 90 countries to avoid double taxation of income. Under the Indian tax laws, a taxpayer can avail of the provisions of the tax treaty or domestic tax laws, whichever is beneficial to the taxpayer.

Typically, bilateral relief is provided through the 'credit method' or 'exemption method.' In order to avail ourselves of the beneficial provisions of a tax treaty, non-resident companies and entities are required to obtain a valid Tax Residency Certificate (TRC) from the government of the country of residence along with other prescribed documents and information.

The government has issued comprehensive guidelines about the mechanism for claiming tax credit in India for foreign taxes paid by an Indian resident. The same is effective from 1 April 2017 onwards.

Aligning Double Taxation Avoidance Agreements (DTAA) with Multilateral Instrument (MLI)

India has signed the MLI with representatives of many other countries, and the provisions of the MLI apply to India's DTAAs from FY 2020-21 onwards. The MLI applies alongside existing DTAAs.

Article 6 of MLI provides for modification of the Covered Tax Agreement to include the following preamble text:

> "Intending to eliminate double taxation with respect to the taxes covered by this agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of third jurisdictions),"

To align the scope under the preamble text of the MLI with the scope mentioned under the Act, suitable amendments were incorporated in Sections 90 and 90A by Finance Act 2020.A new definition has been inserted by Finance Act 2021 to define the term 'liable to tax' to mean that there is an income tax liability for a person under the law of his country for the time being in force and also includes a person who has subsequently been exempted from such liability under the law of his country. This term will have a crucial impact on deciding cases where treaty benefits are to be granted.

Withholding Tax

Withholding tax, known as Tax Deducted at Source (TDS) in India, aims at collecting revenue at the very source of income. Its significance to the government lies in the fact that this tax is collected in advance. It ensures a regular source of revenue, provides greater reach and widens the tax base.

The ITA requires the taxpayer to withhold tax at source at:

- The appropriate rate considering the nature of payment and status of the recipient (i.e., corporate or non-corporate assessee)
- The time of payment or credit of the amount, whichever is earlier, except salary payments where tax is required to be deducted only on the actual payment of salary.

Please see Appendix 1 for TDS rates on payments made to non-residents and foreign companies and Appendix 2 for TDS rates on some common payments to residents.

If the rates prescribed in a tax treaty are lower than the rates in the table in Appendix 1, the lower rates can be adopted.

A person availing the treaty benefit is required to furnish the Tax Residency Certificate (TRC), Form 41 and is also required to give a declaration in the specified form.

If the recipient does not have a PAN in India, TDS would be the maximum of the:

- Tax rate prescribed in the ITA
- Rates in force (i.e., tax rate specified in the Finance Act or the rate specified in the treaty, whichever is lower)
- However, with effect from 1 June 2016, this higher withholding tax rate of 20% will not apply to non-residents, provided such non-resident furnishes contact details, TRC, Tax Identification Number (TIN), etc. to the taxpayer.

The person deducting the tax has a tedious compliance burden post deduction of tax, namely:

- In case of expenses other than salary, deposit the tax within seven days from the end of the month in which tax has been deducted, except in the case of tax deduction for the month of March. With respect to tax deducted in March, the due date of payment is 30 April
- With respect to TDS on salary, the same timeline as specified above applies.
- Apart from the deposit of taxes, a corporate is required to file the statement of TDS on or before the last day of the month succeeding each quarter, specifying the details of taxes deducted and the deductees on whose behalf the taxes were paid. However, for the quarter that ends in March, the due date is 31 May.

This statement is required to be filed separately in three different forms for salary payments, payments to non-residents, and all other payments.

- A corporation is also required to issue a TDS certificate to the persons from whose payments the tax has been deducted within the specified time.

There are stringent penal provisions, including prosecution, for not complying with these TDS provisions.

Capital Gains Tax (CGT)

According to the ITA, an assessee is chargeable to pay CGT on the transfer of 'capital assets.' See the section on Capital Assets for the definition of the term. The rate of CGT depends on whether the capital asset is a short-term or a long- term capital asset.

Any capital asset held for less than 36 months is regarded as a short-term capital asset; otherwise, it is considered to be a long-term capital asset. However, securities listed on a recognized stock exchange in India, units of an equity-oriented mutual fund, and zero-coupon bonds held for more than 12 months are considered long-term assets. With effect from 1 April 2016, a share of an unlisted company will be treated as a long-term capital asset, if held for a period exceeding 24 months (reduced from 36 months).

Furthermore, with effect from 1 April 2017, immovable property being land or building, or both, would be treated as long-term capital assets, if held for a period exceeding 24 months.

With effect from 1 April 2023, gains on Market Linked Debentures (MLD) and debt mutual funds are to be treated as deemed short-term capital gains and shall be taxed accordingly.

Section 73 of the Act provides for the cost of acquisition for the capital asset, which became the property of the assessee under certain situations. Further, clause (102) of Section 2 of the Act provides the definition of the term 'short-term capital asset.' It also provides for the determination of the period of holding of the capital asset held by the assessee.

The Finance Act, 2020 amended Sub-section (42A) of Section 2 of the Income Tax Act,1961 to provide that in the case of a capital asset, being a unit or units in a segregated portfolio, the period for which the original unit or units in the main portfolio were held by the assessee should also be included.

Furthermore, Section 73 of the ITA provides that the cost of acquisition of a unit or units in the segregated portfolio shall be in the same proportion as the net asset value of the asset transferred to the segregated portfolio bears to the net asset value of the total portfolio immediately before the segregation of portfolios.

The sales of capital assets is taxable based on the following rate structure:

Particulars	Applicable Tax Rate*
1. Sale of short-term capital assets: listed equity shares and units of equity-oriented mutu-al funds, which have been charged to Securities Transaction Tax (STT) in India#	15%
2. Sale of short-term capital assets: other than the above including MLDs and debt mutual funds and unlisted bonds and unlisted debentures	Based on corporate tax rate/ individual tax rate
3. Sale of long-term capital assets: listed equity shares and units of equity-oriented mutual funds, which have been charged to STT in India and purchase of such assets which have been charged to STT (except certain exceptional situations provided in law such as Ini-tial Public Offering (IPO), bonus, etc.)**	10% (If the number of gains exceeds INR 100,000)
4. Sale of long-term capital assets: listed securities or zero-coupon bonds, which have not been charged to STT, and listed equity shares, where the purchase of such assets has not been subject to STT	If costs are not adjusted for inflation – 10% If costs are adjusted for inflation – 20%
5. Sale of long-term capital assets: other than those mentioned in points 3 and 4 above	20% with adjustment for Inflation***

*Applicable surcharge and Health and education cess at the rate of 4% shall also be levied.
as per Union Budget 2024-25 capital gain rate increased from 15% to 20%
** as per Union Budget 2024-25 capital gain rate increased from 10% to 12.5%.and amount of exemption increase by 25000.
***as per Union Budget 2024-25 indexation on long term capital assets are abolished and tax rate is reduced to 12.5%.

However, certain exceptions in the case of taxability of capital gains in the hands of a non-resident are:

- Capital gains arising from the transfer of a capital asset, being shares and debentures of an Indian company that have been initially purchased and sold in foreign currency, are required to be computed in the foreign currency. The net gain in foreign currency would be converted to Indian Rupees considering the prevailing exchange rate on the last day of the month immediately preceding the month in which the capital asset is transferred. Furthermore, the cost of such capital assets cannot be adjusted for inflation despite the fact that the same being a long-term gain;

Long-term capital gains arising from the transfer of unlisted securities would be chargeable to tax at the rate of 12.5%.

However, the cost of the said asset cannot be adjusted for inflation.

- Transfer of capital assets as a consequence of amalgamation, demerger or business reorganization, in compliance with conditions of the Indian Income Tax law, is not taxable in India;
- Capital gains arising on account of long-term capital assets are also exempt up to INR 5 million if the profit is invested in specified bonds within six months of the transfer of the long-term capital asset. However, the Finance Act 2018 has restricted this benefit only to the long-term capital assets being land and buildings. Furthermore, the Finance Act, 2018, has increased the lock-in period from three years to five years and also clarified that the exemption would be withdrawn if these investments are sold within five years
- Also, there are a few other avenues available to save tax on capital gains in the case of an individual.

Tax Losses

The ITA deals with losses arising under the following heads of income:

- Losses under the head 'Income from house property'
- Losses under the head 'Business income,' further split into 'Business loss' and 'Unabsorbed depreciation'
- Losses under the head 'Speculation business income'
- Losses under the head 'Capital gains', further classified into 'Long-term capital loss' and 'Short-term capital loss'
- Losses under the head 'Income from other sources'

These losses are computed under the different provisions of the ITA, and there are various provisions governing the set-off and carrying forward of such losses. Also, the losses under the head 'Income from house property' can be set off against income from any other head computed for the same year. However, losses under the head 'Speculated loss' and 'Capital loss' can be set off only against 'Speculated gain' and 'Capital gain' respectively, computed for the year

This is shown in the following table:

Loss under the head	Can be set off in same year against						
	Salaries	Income from house property	Business in-come	Speculated business income	Short- term capital gains	Long- term capital gains	Income from other sources
Loss from house property	✓	✓	✓	✓	✓	✓	✓
Business loss	✗	✓	✓	✓	✓	✓	✓
Speculated business loss	✗	✗	✗	✓	✗	✗	✗
Unabsorbed depreciation	✗	✓	✓	✓	✓	✓	✓
Short-term capital loss	✗	✗	✗	✗	✓	✓	✗
Long-term capital loss	✗	✗	✗	✗	✗	✓	✗
Loss from income from other sources	✓	✓	✓	✓	✓	✓	✓

There are also restrictions on the utilization of tax losses under each head when they are carried forward to subsequent years, as shown in the following table:

Loss under the head	Can be set off in subsequent years against						
	Salaries	Income from house property	Business income	Speculated business income	Short- term capital gains	Long- term capital gains	Income from other sources
Loss from house property	✗	✓	✗	✗	✗	✗	✗
Business loss	✗	✗	✓	✓	✗	✗	✗
Speculated business loss	✗	✗	✗	✓	✗	✗	✗
Unabsorbed depreciation	✗	✓	✓	✓	✓	✓	✓
Short-term capital loss	✗	✗	✗	✗	✓	✓	✗
Long-term capital loss	✗	✗	✗	✗	✗	✓	✗
Loss from income from other sources	✗	✗	✗	✗	✗	✗	✗

There are specific provisions for carrying forward losses with respect to the head of income against which they can be set off and the time limit for each, which are mentioned below:

Nature of loss	Can be set off against (in subsequent years)	Number of years that it can be carried forward for
Loss from house property	Income from House Property	8 years
Business loss	Business profits	8 years
Speculated business loss	Speculated business profit	4 years
Unabsorbed depreciation	Any head of income except salary	Infinite
Short-term capital loss	Capital gain (short-term or long-term)	8 years
Long-term capital loss	Long term capital gains	8 years

It is pertinent to note that closely held companies are required to satisfy a 51% continuity of ownership criteria for carrying forward business losses.

Transfer Pricing

Transfer pricing refers to the inter-company pricing arrangements between related business entities and commonly applies to intercompany transfers of services and tangible/intangible properties. In India, detailed transfer pricing provisions were introduced by the Finance Act, 2001 to facilitate the computation of fair, reasonable, and equitable profits and tax in India for businesses carried on by multinational companies. Essentially, transfer pricing is the process of determining the prices of cross-border transactions between related/associated parties. Section 92 of the ITA provides that the price of any transaction between Associated Enterprises (AE), either or both of whom are non-residents for tax purposes (international transaction), shall be computed with regard to the arm's length principle. Subsequently, the Finance Act, 2012 also brought 'Specified Domestic Transactions', (SDT) under the purview of transfer pricing, to mitigate tax arbitrages where transactions are carried out between two related Indian entities (and both of them enjoy tax holidays or preferential rates of taxes). Lately, the Finance Act, 2025 and Income Tax Act, 2025 has amended the structure of the section by incorporating Section 161 to 173 to replace the Erstwhile Section 92.

With effect from 1 April 2026, the Income-tax Act, 2025) has replaced the Income-tax Act, 1961 in its entirety, and the Income-tax Rules, 2026 have correspondingly replaced the Income-tax Rules, 1962.

The transfer pricing code – earlier contained in Sections 92 to 92F (Chapter X) of the 1961 Act – has been re-enacted, largely without change of substance, as Sections 161 to 173 (also within Chapter X) of the Income-tax Act, 2025. Because transfer pricing provisions apply with reference to the tax year in which the transaction takes place, compliances for FY 2025-26 (AY 2026-27) continue to be governed by the erstwhile 1961 Act/1962 Rules numbering, while FY 2026-27 (AY 2027-28) onward will follow the new numbering used throughout this note.

- Associated Enterprises: Two enterprises are considered to be associated if there is - :
  - Direct / indirect participation in the management, or control or capital of two enterprises by the same – one or more persons; or Direct/indirect shareholding with 26% or more of the voting power; or
  - Advancing loans of 51% or more of the total assets; or

- Guarantee not less than 10% of the total borrowings; or
- Appointment of more than 50% of the Board of Directors
- Complete/absolute dependence of commercial rights of manufacture/ processing
- Supply of at least 90% raw materials/ consumables required for the manufacture or processing of goods
- Sale of manufactured goods, whereby the terms, conditions, and prices are influenced by the other party
- Control by the same person/relative/HUF/firm
- Relationship of mutual interest as may be prescribed

Transactions Covered

The regulations cover (i) all international transactions and (ii) certain specified domestic transactions (which may result in tax arbitrage) in case the value exceeds INR 200 million (INR 20 crores) in a tax year.

International transactions would include routine transactions relating to

- Purchase, sale, transfer, lease or use of tangible property;
- Purchase, sale, transfer, lease or use of intangible property (including transfer of ownership or provision of use of rights);
- Capital financing, lending or borrowing of money (Long term or short term or guarantee, purchase / Sale of marketable securities, any advance or receivable or payment or debt arising during the course of business);
- Provision or availing of services;
- Transactions involving business restructuring;
- Mutual Agreement for allocation of costs / cost contribution arrangements;
- Any other transaction having bearing on profits, income, losses or assets

SDTs would include cases of inter-unit transfer of goods and services, which enjoy tax exemptions/deductions for carrying out eligible activities/businesses as well as transactions with new manufacturing companies having lower effective corporate tax rate. The threshold for the applicability of SDT remains to be INR 200 million.

Furthermore, in India there is also a concept of deemed international transactions which covers transactions with third parties (whether resident or not) under the ambit of transfer pricing if:

- There exists a prior agreement in relation to such a transaction between the third party and the associated enterprise, or;
- The terms of such transactions are determined in substance between the third party and the associated enterprise.

Reporting and Compliance

Obtaining an accountant's certificate in the prescribed format is mandatory and would have to be filed on or before the prescribed due date[4] of the relevant assessment year, along with the tax return. There is no threshold exemption limit provided for compliance. Strict penal provisions have been established for non-compliance with the prescribed requirements.

Determination of 'Arm's Length Price' (ALP)

A crucial aspect of transfer pricing is the process of determining the Arm's Length Price (ALP). The Central Board of Direct Taxes (CBDT) has prescribed six methods for determining the ALP:

- Comparable Uncontrolled Price Method
- Resale Price Method
- Cost Plus Method
- Profit Split Method
- Transactional Net Margin Method
- Other Method (via Notification No. 18/2012 dated 23 May 2012)

The 'other method' has been prescribed to potentially cover transactions involving intangibles and business restructuring for which the above methods may not be the most appropriate. The regulations do not give preference to any specific method or method. The choice of the appropriate method is determined with respect to the nature and class of transaction, the classes of associated people, the functions performed by them, and other relevant factors.

Usage of multiple year data and range

To enhance the reliability of the comparability analysis, taxpayers need to examine multiple year data as opposed to single year data in order to evaluate factors that influence transfer pricing, such as long-term arrangements, business/product life cycles, etc.

The adoption of the arm's length range and allowing the usage of multiple year data and a range of comparable results (35th to 65th percentile) has aligned the transfer pricing rules to global practices, to a certain extent.

However, if the dataset contains less than six comparability data points, taxpayers need to use the arithmetical means to ascertain the ALP, wherein a tolerance range of 1% for 'wholesale trading' and 3% for all other transactions is also allowed vis-a-vis the ALP. 'Wholesale trading' has also been defined to include:

- Where the purchase cost of finished goods is 80% or more of the total cost of such trades; and
- The average monthly closing inventory of such goods is 10% or less of sales from such trading activities

Extensive Transfer Pricing Documentation (Three-tiered documentation approach)

The transfer pricing documentation requirements have been substantially revised to align with Action Plan 13 of the OECD BEPS Project, in which a three-tiered documentation (viz. Country by Country Report (CbCR), Master File, and Local File requirements) was introduced.

- Local File: The requirement of maintaining prescribed documentation would be attracted only in cases wherever aggregate value of international transactions exceed INR 10 million for the year. Furthermore, there is no specific format prescribed for documentation, but an indicative list to be included has been prescribed. A taxpayer (falling within the thresholds above) is required to keep contemporaneous documentation (in the English language) for demonstrating the arm's length nature of the international transactions and SDTs (collectively referred to as a related party transaction). The record-keeping (retention of documentation) should be for a period of 8 years from the end of the relevant year of assessment. For comparability analysis, the taxpayer can use publicly available databases (Indian and overseas as relevant for the analysis) to arrive at an ALP, and appropriate adjustments need to be made if necessary. The Indian databases widely used are maintained by private companies, while the corporate filings of companies are available on the public portal, namely, the Ministry of Company Affairs (MCA).
- Additionally, in line with the international consensus on this topic, it is now proposed that companies need to maintain and furnish extensive, group-level details to the Indian tax authorities by way of a Master File (MF) and CbCR, in addition to the current transfer pricing documentation (local file) requirements in India.

Master File- Rule 123 (erstwhile Rule 10DA): The information to be captured in the Master File can be broadly classified in four categories, i.e., (i) Description of the business, (ii) Particulars of intangibles, (iii) Particulars of financing activities, (iv) General information. Additionally, the groups consolidated financial statement is also expected to be included.

The applicability and timelines required for the Master File are as follows:

Entity	Applicability	Form to be filed	Due Date
Indian subsidiary / Affiliate of the multinational group	A constituent entity irrespective of: • Whether the entity has entered into international transactions • Threshold applicability • Whether the entity is resident or not	Part A of Form No. 56 (erstwhile Form No, 3CEAA)	By due date of furnishing the return of Income (i.e., 30 November)
	A constituent entity passing the prescribed thresholds	Part B of Form No. 56 (erstwhile Form No, 3CEAA)	By due date of furnishing the return of Income (i.e., 30 November)
	The designated entity, where there are multiple constituent entities resident in India	Form No. 57 (erstwhile Form No. 3CEAB)	At least 30 days before the due date of filing Form No 3CEAA

- CbC Report (CbCR) - Rule 124 (erstwhile Rule 10DB): The CbCR shall include economic information within the multinational group, such as the nature of main business activities, revenues, profit/loss, Income Taxes paid, stated capitals, accumulated earnings, number of employees, tangible assets, etc. for each country in which the group operates.
- The CbC reporting requirements shall apply to Indian multinational groups having a consolidated revenue above a threshold to be prescribed. It was indicated that the revenue threshold will be INR 64 billion (which is meant to be equivalent to the globally adopted EUR 750 million per year).

The applicability and timelines required for CbCR are as follows:

Entity	Applicability	Form to be filed	Due Date
Indian subsidiary/affiliate of the multinational group, wherein the parent entity is not a resident of India	Intimation of details of parent entity/alternate reporting entity which will file the CbCR	Form No. 58 (erstwhile Form No. 3CEAC)	2 months prior to furnishing the CbCR
Parent entity or alternate parent entity in India	Every parent entity or the alternate reporting entity resident in India	Form No. 59 (erstwhile Form No. 3CEAD)	The due date for furnishing the CbCR is on or before the due date for filing of Return of Income for the relevant accounting year of the group.
Indian subsidiary/affiliate of the multinational group, wherein the parent entity is not a resident of India	Intimation of multiple constituent group entities in India	Form No. 60 (erstwhile Form No. 3CEAE)	No timeline mentioned in the rules. This needs to be clarified by the CBDT.

Secondary Adjustment

The concept of 'secondary adjustment' was introduced in 2017 to align transfer pricing provisions with international best practices. As a concept, secondary adjustment arises when the taxpayer agrees to a transfer price, which is different from what is recorded in the books of accounts. The taxpayer can agree to this different transfer price, either suo moto at the time of filing a tax return, or once the transfer pricing adjustment is done by the tax officer and not further litigated, or during the APA or Mutual Agreement Procedure (MAP) proceedings. The provisions require Indian taxpayers to repatriate the difference in transfer price as per tax and as per books of accounts (excess money) from the overseas AE within 90 days. In case the repatriation is not made within 90 days, it would be deemed as a loan given by the taxpayer to the AE, and the interest shall be computed till the time the repatriation is made by the AE. However, Finance Bill (No. 2) of 2019 provided certain clarifications regarding the effective implementation of these provisions, which are given below:

- These provisions shall not apply if the primary adjustment does not exceed INR 10 million or the same pertains to AY 2016-17 and earlier years. These two conditions are not cumulative.
- The taxpayer may choose not to make a secondary adjustment by a one-time tax payment of 18% on the amount to be repatriated, plus a 12% surcharge on such tax. However, the taxpayer will continue to pay the due interest till the date of such one-time tax, as per the existing provisions.
- The amount of primary adjustment may be repatriated from any of the AEs not resident in India, and not necessarily the transacting AEs.

Section 177 (erstwhile Section 94B) - Limitation of interest benefit (Deduction)

In conformance with OECD BEPS Action Plan 4, the Finance Act, 2017 introduced erstwhile Section 94B "Limiting Base Erosion Involving Interest Deductions and Other Financial Payments" now Section 177 of the Income Tax Act, 2025, where an Indian company or PE of a foreign entity as a borrower pays interest exceeding INR 10 million in respect of a debt issued/ guaranteed (implicit or explicit) by a non-resident AE. The provisions intend to disallow interest expense in 'excess' of 30% of the earnings before interest, tax, depreciation, and amortization, subject to actual interest expense. However, the same shall be available to be carried forward for a period of 8 years and will be allowed as a deduction in subsequent years. The above restriction is not applicable to banking and insurance companies.

Penalty

In case of any lapses/adverse inferences drawn by the transfer pricing officers, penalties linked to the value of transactions are attracted. The penalties, circumstances under which they shall be attracted, and their quantum are mentioned below:

Nature of penalty	Penalty
Failure to maintain documentation; Failure to furnish documentation to tax authorities, when called for; and Failure to disclose a transaction in the Chartered Accountant's report (Form 48 – erstwhile Form No. 3CEB)	2% of value of the international transaction entered into between related parties
For under-reporting of income	50% of the amount of tax payable on the under- reported income
For misreporting of income including failure to report any international transaction or related material facts	200% of the tax payable on the misreported income
Failure to furnish the Master File; and Inaccurate information filed under the CbCR	INR 500,000
Failure to furnish the CbCR or further information as called for	INR 5000-50,000 per day depending upon the period of delay

Late fees for failure in furnishing Form 48 (as per section 172) shall be – (i) a sum of Rs. 50000 for a delay up to one month for which such failure continues; and (ii) a sum of Rs. 100000 thereafter.

(as per the erstwhile Section 271, there was a penalty of INR 100000 for failure to furnish Form 3CEB)

Safe Harbor

In existence since 2013, Safe Harbor Provisions have undergone a conscious revision to rationalize the acceptable profit ranges for a series of transactions such as IT/ITES/KPO, guarantee, etc. Also, a new category of international transactions for 'receipt of low value-adding intra-group services were added. Safe Harbor Provisions have been stated to be in force only for the specific tax year/financial year and currently. Further, the Safe Harbor for intra-group loans have been aligned with the global practices of shifting the reliance from London Inter-Bank Offered Rate (LIBOR) as a base rate to currency-specific base reference rates, which is an attempt to provide administrative clarity and certainty to the taxpayers. As of FY 2025-26, the existing safe harbour rates shall apply.

The Finance Act, 2026 has since introduced a further, more significant round of reform:

- The IT/ITeS/KPO categories have been consolidated into a single 'Information Technology Services' category, carrying a fixed margin of 15.5%;
- The eligibility threshold has been raised sharply, from INR 300 crore to INR 2,000 crore;
- Safe Harbour eligibility, previously extended year-by-year, has been confirmed for two consecutive assessment years at a time – currently AY 2025-26 and AY 2026-27 – restoring the earlier multi-year practice and giving taxpayers greater planning certainty;

Advance Pricing Agreements (APA)[4]

It should be noted that Central Board of Direct taxes has entered into a record 219 APAs in FY 2025-26 with Indian taxpayers. This includes Unilateral APAs (UAPAs) and Bilateral APAs (BAPAs). With this, the total number of APAs since the inception of the APA programme has crossed the 1000th mark, aggregating to 1034 APAs, comprising 750 UAPAs and 284 BAPAs.

This year, CBDT again recorded the highest ever APA signings in any financial year since the launch of the APA programme, signing a total of 219 APAs. This year, CBDT also signed 84 BAPAs, crossing the record of 65 BAPAs signed last year in FY 2024-25.

The BAPAs were signed pursuant to entering into Mutual Agreements with 13 of India's treaty partners namely the US, Finland, the UK, Singapore, Japan, South Korea, Australia, Denmark, Sweden, France, Indonesia, Ireland and New Zealand. Notably, this year also marks the achievement of signing India's first-ever bilateral APAs with France, Ireland, Indonesia and Sweden. CBDT has consistently been signing a high number of APAs, having concluded 174 APAs in the previous financial year and 125 APAs in the year before that.

In March 2015, the Central Board of Direct Taxes (CBDT) introduced roll-back provisions according to which, an APA would also be applicable to international transactions undertaken in the previous 4 financial years are subject to certain conditions. On 19 December 2014, India signed its first Bilateral APA (BAPA) with Japan, which was to be valid for 5 years. In FY 24-25, India not only had a record number of agreements getting signed but also marks the year of India's first signing of Multilateral APA (MAPA).

The New Block Transfer Pricing Assessment System

The government has made efforts to rationalize transfer pricing assessment provisions by introducing block assessments in transfer pricing, where arm's length price determined by the TPO for any previous year shall apply to similar transactions for two (2) consecutive years immediately following the previous year. This amendment is proposed to be effective from 1 April 2026 for assessment years starting 2026-27.

The benefit of block assessments shall be available to the taxpayer by making an application to the TPO in Form No.46 (filed after the third tax year but before 30 June following that year). The TPO is bound to declare

4. https://www.incometaxindia.gov.in/documents/d/guest/cbdt-signs-219-advance-pricing-agreements-in-fy-2025-26-pdf

the validity of the form within one month from the end of the month in which such option is exercised by the taxpayer. These benefits of block assessments will not apply to cases under search and seizure (erstwhile Chapter XIV-B). Rules and guidelines for implementation shall be separately prescribed.

Planning Points for Foreign Investors

According to the Indian exchange control regulations, a foreign business can have a presence in India in the form of a liaison office, branch office, project office, company, and Limited Liability Partnership (LLP).

The factors to be looked at are as follows:

Particulars	Liaison office	Branch office and Project office	Subsidiary company	Limited liability partnership (LLP)
Regulatory approval	Reserve Bank of India (RBI)[5], Registrar of Companies (ROC) and local registrations	RBI, ROC and local registrations	RBI[6], ROC and local registrations	RBI, ROC and local registrations
Rate of tax[7]	Nil (since it is not permitted to carry out any revenue-generating activity)	Normal tax rate - 35% of net taxable income. Minimum Alternate Tax (MAT)[8] - 15% of adjusted book profits.	Normal tax rate - 30% of net taxable income. Companies with total turnover in FY 2020-21 less than INR 4 billion: 25% Certain manufacturing companies foregoing specific deductions - 25% MAT - 15% of adjusted book profits. **Consessional Tax Regime[9]:** New manufacturing company – 15% Special rate for domestic companies foregoing specific deductions and complying with specific requirements – 22%* (MAT is not applicable under concessional tax regime)	Normal tax rate - 30% of net taxable income. Alternate Minimum Tax (AMT)[10] - 18.5% of adjusted book profits.

*It may be noted that conditions provided for availing concessional tax rate is likely to be fulfilled by most Indian companies. Accordingly, at a broad level, the corporate tax rate for an Indian company is reduced to 22%.

5. Could be under the automatic or government approval route involving post-facto intimation or prior approval, respectively.
6. Only for few sectors, where FDI is permitted under the approval route
7. Excluding surcharge and Health and education cess
8. MAT is designed to ensure that no company with substantial accounting income can avoid tax liability by using exclusions, deductions, and incentives available under the Income Tax Act
9. The Taxation Laws (Amendment) Act, 2019, Income Tax Department, https://www.incometaxindia.gov.in/Pages/acts/taxation-laws-amendment-act-2019.aspx
10. AMT is similar to MAT and applies to non-corporate bodies only if they are claiming incentive-linked or profit-linked deductions

Particulars	Liaison office	Branch office and Project office	Subsidiary company	Limited liability partnership (LLP)
Long-term capital gain tax rate on exit from business[11]	Not Applicable	Not applicable	12.5% on the capital gain exceeding INR 1,25,000[12] or 20%[13]	20%
Advance tax payment	Not applicable (since it is not permitted to carry out revenue-generating activity)	To be paid for in four installments	To be paid for in four installments	To be paid for in four installments
Minimum capital norms	Not applicable (funded by head office)	Not applicable (funded by head office/internal accruals)	No minimum capital	No minimum capital
Repatriation of profits	Not applicable	No further tax on repatriation of profits	Dividend distributed to the shareholder would be taxable in the hands of shareholders	No further tax on repatriation
Permanent Establishment (PE)	Generally, do not constitute PE, but litigation exists	Constitutes a PE and a taxable presence under a tax treaty or Income Tax provisions	An independent taxable entity and not a PE of a foreign company. However, based on the role and function of the Indian entity, PE risk may be evaluated	Should not constitute PE. However, based on the role and function of LLP, PE risk may have to be evaluated
Applicable surcharge and education cess	Not liable to tax	Surcharge: Total income of: Up to INR 10 million - Nil Up to INR 100 million - 2% Above INR 100 million - 5% Health and education cess at the rate of 4%	Surcharge: Total income of: Up to INR 10 million - Nil Up to INR 100 million - 7% Above INR 100 million - 12% Education cess at the rate of 4% Concessional Tax Regime: Surcharge at the rate of 10% Health and education cess at the rate of 4%	Surcharge: Total income of: Up to INR 10 million - Nil Above INR 10 million - 12% Health and education cess at the rate of 4%

11. Excluding surcharge and Health and education cess.
12. Transfer of listed equity shares/unit of an equity-oriented fund which attracts STT and transfer-of unlisted shares (without benefit of indexation and foreign currency fluctuation)
13. Other cases

Investment via Shares or Loans

A foreign corporation can fund its Indian subsidiary by infusing share capital (FDI) or by extending a loan (External Commercial Borrowing (ECB)). Both FDI and ECBs can be availed by the Indian subsidiary subject to the fulfilment of prescribed exchange control regulations. The critical tax and regulatory implications of FDI/ECBs are:

- Repatriation of capital: Foreign capital invested in India is generally allowed to be repatriated along with capital appreciation, if any, after payment of taxes due on them, provided the investment was made on a repatriable basis. The repatriation is, however, subject to lock-in conditions in certain sectors.
- Return of dividend: The dividend income is freely repatriable. The same would be taxable in the hands of the shareholder.
- Payment of interest on ECBs: Subject to certain conditions, withholding tax on ECBs (wherever allowed) has been reduced from 20% to 5% (with applicable surcharge and cess) for ECBs availed between 1 July 2012 and 1 July 2023. Further, in case of monies borrowed by the issue of long- term bonds or Rupee Denominated Bonds (RDBs), issued on or after 1 April 2020 but before 1 July 2023, and listed in the stock exchange located in International Financial Service Centers (IFSC), the rate would be 4%. In case such monies are borrowed after 1 July 2023, the rate would be 9%. The concessional rate of 5% would apply on interest on long-term bonds even if the non-resident does not have a PAN in India.

Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)

The Finance Act (No. 2), 2014 introduced a taxation regime for business trusts - REITs and InvITs. These business trusts give small investors access to large-income-producing real estate and infrastructure assets, much like how mutual funds provide access to stocks. The Securities and Exchange Board of India (SEBI) issued guidelines for regulating such business trusts, and an investor can enter the property market with as little as INR 200,000. Both these models have the following distinctive elements:

- The trust would raise capital by issuing units, which would be listed on recognized stock exchanges in India
- The trust can raise debt from residents as well as non-residents
- Income-bearing assets would be held by the trust by acquiring controlling or another specific interest in an Indian company (Special Purpose Vehicle (SPV)) from the sponsor (promoters of the SPV)

Furthermore, the taxation regime of such business trusts would, among other things, include the following:

- No capital gains tax on the sponsor at the time of exchange of shares of the SPV with the units of the trust.
- Capital gain on transfer of units held for more than 36 months shall be taxable at the rate of 12.5% on an amount exceeding INR 1,25,000.
- Capital gains on the disposal of other assets by the trust shall be taxable in the hands of the trust. However, the same would not be taxable in the hands of the unitholders at the time of distribution.
- Dividend, interest, and rental income received by the trust from the SPV is accorded a pass-through status. Accordingly, this dividend, interest, and rental income would not be chargeable to tax in the hands of the trust. However, at the time of distribution of this income to investors of the business trust, taxes would be required to be withheld as per the ITA.
- Distributions made by a business trust shown as repayment of debt in excess of issue price of the unit would be taxable in the hands of the unit holder as income from other sources. Such income would be liable to withholding tax as per the ITA.
- Other income of the trust shall be taxable at the maximum marginal rate (30%).

In addition, certain other reporting compliances like filing of tax returns, etc. would be required to be undertaken by business trusts.

Alternative Investment Funds (AIFs)[14]

An AIF is any fund established or incorporated in India in the form of a trust, company, LLP, or a body corporate that is a privately pooled investment vehicle which collects funds from investors, whether Indian or foreign, for investing it in accordance with a defined investment policy for the benefit of its investors.

Category I AIFs are those that invest in start-ups or early-stage ventures, social ventures, Small-and Medium-sized Enterprises (SMEs), infrastructure, other sectors or areas that the government or regulators consider as socially or economically desirable and should include venture capital funds, SME funds, social venture funds, infrastructure funds and such other AIFs as may be specified. AIFs that are generally perceived to have positive spill-over effects on the economy and for which the Board, or government, or other regulators in India might consider providing incentives or concessions shall be included, and such funds that are formed as trusts or companies shall be construed as 'venture capital company' or 'venture capital fund' as specified in the ITA.

Category III AIFs are those that employ diverse or complex trading strategies and may employ leverage, including through investment in listed or unlisted derivatives. AIFs, such as hedge funds or funds which trade with a view to making short-term returns or such other funds which are open-ended and for which no specific incentives or concessions are given by the government or any other regulator shall be included.

Category II AIFs are those that do not fall into Category I and III and do not undertake leverage or borrowing other than to meet day-to-day operational requirements as permitted in the regulations. AIFs, such as private equity funds or debt funds for which no specific incentives or concessions are given by the government or any other regulator, shall be included.

From FY 2019-20 onwards, a special tax regime for Category I and II AIFs has been provided, irrespective of whether they are set up as a trust, company, LLP, or as any other body corporate:

- Any income (other than income from profits and gains from business) of the investment fund will be taxable in the hands of the unitholders and not the investment fund.
- Income from profits and gains of business of the investment fund shall be taxable in the hands of the investment fund only.
- Accumulated losses except business losses as on 31 March 2019 shall be distributed to the unitholders in their investment ratio and shall be allowed to be carried forward in future years. Losses in business shall still be subject to set off and carried forward to the subsequent years, only at the fund level (i.e. it will not be passed on to the unit holders).
- Any losses, except business losses, shall be distributed to the unitholders post 1 April 2019 and shall not be eligible to be set off/carry forward by the investment fund. The unit holder should have held the units for at least a period of 12 months. The share of losses of the unitholders who have held units for a period of less than 12 months shall lapse.
- Any income that is not taxable at the fund level and paid to unitholders by the investment fund would be subject to withholding tax at the rate of 10%. According to the Finance Act, 2016, when the unit holder is a non-resident, the withholding tax shall be at the rates in force (depending on the source of income taxable in the hands of unitholders or the price provided under the relevant tax treaty, whichever is lower). However, withholding tax would not be applied if the income is not chargeable to tax under the provisions of the ITA itself.
- Any income from the investment fund would be exempt from TDS requirements. This would be provided by issuing the appropriate notification.

14. This income would be taxable in India based on whether or not the non-resident has a residence or place of business in India or has rendered services in India.

- It is mandatory for the investment fund to file its Return of Income. The investment fund shall also be required to provide the details of various components of income, etc. for the purpose of the scheme to the prescribed Income Tax authorities and the investors.

This tax pass-through will enhance the ability of these funds to mobilize higher resources and make higher investments in small and medium enterprises, infrastructure and social projects, and provide the much-required private equity to new ventures and start-ups.

Tax incentives to International Financial Services Centers (IFSCs)

To incentivize the growth of IFSCs into world-class financial services hubs, the following tax benefits are provided to IFSC's:

- Long-term capital gains arising from transactions undertaken in a foreign currency on a recognized stock exchange located in an IFSC (even when the STT is not paid with respect to such transactions) will be exempt from tax[15]
- Short-term capital gains arising from an operation undertaken in foreign currency on a recognized stock exchange located in an IFSC (even when STT is not paid with respect to such transactions) will be taxable at a concessional rate of 20% (plus the applicable surcharge and cess)
- In the case of a company, being a unit located in an IFSC and deriving its income solely in convertible foreign exchange, MAT shall be chargeable at the rate of 9%
- The Finance Act, 2018, exempts the transfer of specified bonds or GDRs, RBDs of an Indian company, or derivatives by a non-resident in foreign currency on a recognized stock exchange located in any IFSC. Furthermore, the Finance Act (No. 2), 2019, has also exempted the transfer of any derivatives or such other securities as notified by the Central Government.
- STT/Commodities Transaction Tax (CTT) shall not be levied on the taxable securities transactions/ commodities transactions entered by any person on a recognized stock exchange located in an IFSC where the consideration for such a transaction is paid or payable in foreign currency (applicable from 1 June 2016)
- Any income by way of interest payable by a unit in IFSC to a non-resident after 1 September 2019 shall be exempt.
- After 1 September 2019, no additional income tax shall be payable by a specified mutual fund out of its income derived from transactions made in a recognized stock exchange located in an IFSC, and where such consideration is paid in convertible foreign exchange.
- In order to incentivize the setting up of fund managers of offshore funds in the IFSC, Finance Act 2020 has amended Section 9A for enabling the Central Government to relax/modify the specified conditions, where the fund manager is located in an IFSC, and its operations commenced on or before 31 March 2024. Under Finance Act 2025, some further conditions are proposed to be relaxed/ modified for cases where operations commenced on or before 31 March 2030.
- In order to boost the undertaking of aircraft or ship leasing activities in IFSCs, Finance Act 2020 introduced a new Section 10(4F) for providing exemption to any royalty income earned by a non-resident from lease of an aircraft to a unit in an IFSC. The exemption is subject to the fulfilment of certain specified conditions.
- Dividend received by an aircraft leasing unit in IFSC from a company which is also engaged in aircraft leasing activity shall be exempt. Similarly, under Finance Act 2025, it is proposed that capital gains and dividends from companies in IFSC engaged in ship leasing shall be exempt.
- Capital gains from the transfer of equity shares of an IFSC entity engaged in aircraft leasing and commencing operations on or before 31 March 2026 shall be exempt, subject to conditions.

15. This amendment has been applicable from 1 April 2016.

- Dividends received by FII from a unit in IFSC shall be taxable at a concessional Income Tax rate of 10% subject to certain conditions.
- Relocation of a specified offshore fund to an IFSC shall be tax neutral if such transfer takes place before 31 March 2025 subject to certain conditions
- Income derived by non-residents from transactions in offshore derivative instruments entered into with an offshore banking unit of an IFSC shall be exempt subject to fulfilment of conditions by such offshore banking unit. Under Finance Act 2025, it is proposed to provide the same exemption to Foreign Portfolio Investors.
- Income of non-residents from a portfolio of securities, financial products, funds, etc. from an account maintained with an offshore banking unit of an IFSC shall be exempt
- With effect from assessment year 2023-24, an offshore banking unit of a foreign bank in Special Economic Zone (SEZ) will enjoy a tax holiday period of 10 years (100% of its income from specified sources shall be exempt). Furthermore, an IFSC unit can apply for the tonnage tax scheme under the Income Tax Act within three months from the date on which the tax holiday period ends.
- Shares issued by a private company to Category I or II AIFs located in an IFSC will not be subjected to angel tax provisions under the Income Tax Act. However, the angel tax has been abolished w.e.f. AY 2024-25 i.e. from 1 April 2024 for all categories of Investors.
- Any amount credited in the books without a satisfactory explanation, in the opinion of the Assessing Officer (AO), shall be subject to Income Tax. However, if the nature and source of the funds are adequately explained to the creditors, the amount shall not be chargeable. Furthermore, the requirement to provide details of the source shall not apply if the credit is made to entities regulated by the International Financial Services Centers Authority (IFSCA).
- Retail Fund and ETF Shall be qualified as Specified Fund on par with Category III AIF (with Non-Resident Investor) in IFSC
- Under Finance Act 2025, it is proposed that in case of non-residents availing life insurance from office based in IFSC, proceeds received shall be exempted without the condition of premium payment.

Other Tax Incentives

The Indian government offers various types of tax incentives to accelerate economic growth and extend various direct and indirect incentives to the business community. Some incentives available under the ITA are as follows:

- India has robust tax treaties with many countries. Taxpayers have the option of availing of benefits under a tax treaty to the extent it is more beneficial vis-a-vis the provisions of the ITA (subject to documentation requirements).
- The rate of withholding tax on interest on ECBs has been reduced from 20% to 5% subject to certain conditions.
- Profit and investment-linked incentives:
  - For units located in Special Economic Zones (SEZs) - 100% Income Tax exemption on export income for the first five years, 50% for the next five years, and 50% on the re-invested export profit for the next five years. However, no exemption will be allowed to non-filers of income tax return with effect from FY 2023-24.
  - For SEZ developers - Income Tax exemption on income for a block of 10 years in 15 years where the development of an SEZ begun on or before 31 March 2017.
- Investment-linked incentives are available for specified activities/sectors, such as:
  - Infrastructure
  - Oil and gas
  - Research and development activities

- Activities in specified geographical areas
- Cold storage, warehousing facilities for agriculture produce and sugar
- Hotels, hospitals, and slum redevelopment or rehabilitation with certain restrictions.

However, the company will be liable to pay tax under the provisions of MAT wherever profit- and investment linked incentives are available.

- Accelerated depreciation at the rate of 20% is available on new plants or machinery acquired and installed by an undertaking engaged in the manufacture of any article.
- In the case of additional wages paid to new employees across all sectors, the taxpayer will enjoy an additional tax deduction of 30% of the salary paid for a period of three years, subject to certain conditions.
- 100% deduction will be allowed for business income earned by an eligible start-up for a period of three consecutive years. The start-up should be engaged in a business that involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property and should hold a certificate of eligible business from the Inter-Ministerial Board of Certification notified by the Central Government. The turnover of the business should not exceed INR 1 billion in any year in which deduction is claimed.
- The taxpayer will have the option of claiming this deduction for three consecutive years from a period of ten years starting from the year of incorporation of the start-up[16]. The start-up should not be formed by splitting up or reconstructing a business already in existence. It should also not be formed by using second- hand plant and machinery exceeding 20% of the total value of plant and machinery.
- The restriction in respect of Interest allowability popularly known as Thin Capitalization shall not be applicable to Finance company located in the IFSC.

Other Recent Developments

- With effect from 1 April 2024, a specific tax regime is proposed to be introduced for non-residents engaged in domestic cruise ships wherein a concessional rate of 20% tax is proposed subject to fulfillment of prescribed conditions. Furthermore, lease rentals received by non-residents are also proposed to be exempted from tax up to 31 March 2030
- Short term gains on certain financial assets (securities listed on a recognized stock exchange in India, units of an equity-oriented mutual fund, and zero-coupon bonds) shall henceforth attract a tax rate of 20% from 23 July 2024, while that on all other financial assets and all non-financial assets shall continue to attract the applicable tax rate.

Long-term gains on all financial and non-financial assets, on the other hand, will attract a tax rate of 12.5%. Also, the limit of exemption of capital gains on certain financial assets (securities listed on a recognized stock exchange in India, units of an equity-oriented mutual fund, and zero-coupon bonds) has been increased from INR 0.1 million to INR 0.125 million per year

- Holding period for determining long-term and short-term has been simplified for all listed securities. For listed securities, a period of 12 months is to be considered, and for other assets period of 24 months should be considered for determining whether the asset is a long-term capital asset or not.
- Unlisted bonds and debentures, debt mutual funds and market linked debentures, irrespective of holding period, will attract tax on capital gains at applicable rates and shall be deemed to be short term gains.
- No Indexation benefit on long term capital asset shall be available for sale of capital assets made by Non-Residents and Foreign Company from 23 July 2024 onwards.

16.Section- 80-IAC, Income Tax Act, 1961

- Buyback tax has been revamped wherein from 1 October 2024 buybacks will be taxable in the hands of the recipient as deemed dividends.
- Another critical amendment under the Indian tax laws pertains to treatment of capital gains from the sale of Market Linked Debentures (MLD) or units of Specified Mutual Funds (where investment in equity shares of domestic companies is less than 35%). With effect from 1 April 2023, any capital gains from the sale of MLD or units of Specified Mutual Funds shall be treated as short term capital gains. Units of Specified Mutual Fund acquired prior to 1 April 2023 are grandfathered.



08

Personal Taxation

- Residential Status
- Scope of Taxation
- How to Compute Tax - A Broad Structure
- Income Tax Rates
- Ways to Discharge Income Tax Liability
- Tax Treatment of Employee Stock Option Plans (ESOP)
- Electronic Filing of Tax Returns

While companies contribute a considerable amount to the tax collected each year by the Indian government, contributions from individuals also form a vital element of the revenue.

Income Tax Act, 1961, has been repealed and new Income Tax Act, 2025 is made applicable from 01 April 2026. Personal tax as per the Indian Income Tax Act, 2025 (ITA), is levied on individuals. The rates of taxation differ in each tax year (1 April 2026 to 31 March 2026).

Residential Status

It is crucial for an individual to determine their correct residential status since, in India, taxation for a particular year is dependent on the residential status for that year. The Indian tax law categorizes the residential status of an individual as 'resident' or 'non-resident' depending on the duration of stay in India.

An individual is considered to be a resident if they satisfy any of the following conditions:[1]

a. Been in India for a period of 182 days or more during that financial year

b. Been in India for a period of 60 days or more during that financial year, and at least 365 days during the preceding four years

Further, in condition (b) above, the period of 60 days would be extended to 182 days in the following cases:

- An Indian citizen who leaves India in any year for the purpose of employment
- An Indian citizen who leaves India as a member of the crew on an Indian ship
- An Indian citizen or a person of Indian origin, who has settled abroad, visits India.

The Finance Act 2020, has now amended the residency rules and reduced the number of days from 182 days to 120 days for Indian citizen or a person of Indian origin who has settled abroad and where total income, excluding foreign sources income, exceeds INR 1.5 million. Furthermore, a new concept of deemed residency has been introduced whereby an Indian citizen who is not liable to tax in any other country by reason of domicile, residence, etc. would be deemed to be a resident of India, and thus, their Indian income would be taxable in India[2].

In the case of an Indian citizen being a member of the crew of a foreign-bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined as per the rules prescribed.

An individual is classified as a non-resident if they do not satisfy either of the above conditions.

The law has further categorized the residential status of a 'resident in India' into 'resident and ordinarily resident' and 'resident and not ordinarily resident.' A person is said to be 'resident and not ordinarily resident' in India in any year if the person has:

- Been a non-resident in India in 9 out of the preceding 10 years
- Been in India for a period of, or periods amounting in all to, 729 days or less during the preceding 7 years.

Thus, if an individual fulfills any one of the above conditions, he would be regarded as 'resident and not ordinarily resident' in India for that particular financial year.

The Finance Act 2020 has extended the definition of resident but not ordinarily resident to include the following two categories:-

a. Person of Indian origin or citizen of India having total income, other than income from foreign sources, exceeding INR 1.5 million and who comes on visit to India and who has been in India for a period exceeding 120 days or more but less than 182 days

b. A citizen of India who is not liable to tax in any other country by reason of domicile, residence, etc.

1. Section 6 of the Income Tax Act, 1961-2020, Income Tax Department, - https://www.incometaxindia.gov.in/pages/acts/income-tax-act.aspx

2. FAQs on Provisions useful for non-residents, Income Tax Department - https://www.incometaxindia.gov.in/Pages/faqs.aspx

The actual number of days an individual is present in India is generally determined on the basis of entries in the passport, taking into account the day of entry as well as exit.

An individual considered to be a resident of India as well as another country can determine his residential status as per the criteria specified under the tax treaty entered into by the Indian government with the government of that other country, if any.

Particulars of income	Resident and ordinarily resident	Resident and not ordinarily resident	Non- resident
Income received or deemed to be received in India	Taxable	Taxable	Taxable
Income accrues or arises in or is deemed to accrue or arise in India	Taxable	Taxable	Taxable
Income earned outside India	Taxable	Taxable (only if earned from a business/ profession controlled from India)	Not taxable

Scope of Taxation

Once the residential status has been determined based on the above conditions, and the income of the individual is taxable in India, the computation mechanism is mostly similar for all individuals, irrespective of residential status. However, there could be a few exceptions that must be considered on a case-by-case basis.

How to Compute Tax – A Broad Structure

For tax purposes, income is broadly divided into different heads, and separate computation mechanisms have been prescribed for each head. The heads are:

- Income from employment/salary
- Income from house property (rental income)
- Income from business and profession
- Income from capital gains
- Income from other sources (dividend, winnings from lotteries, gifts, family pensions, etc.)

After aggregating income under the various heads, the taxpayer can then reduce taxable income with certain allowable deductions. For example, an individual could claim deductions with respect to investments made in the Public Provident Fund or payment of life insurance premium, medical health policy premium, investment in certain mutual funds, etc.

After these deductions, the resultant taxable income is required to be offered to tax at the rates prescribed by the law.

Income Tax Rates

The tax rate applicable to an individual would depend on his income bracket. Various income slabs, along with different tax rates, are provided every year in

the Union Budget and are generally presented to the Parliament of India on the first day of February.

The slab rates mentioned in the Budget are applicable for the following financial year (April-March).

Furthermore, the law also provides special exemptions to 'resident senior citizens' (individuals who are more than 60 years of age) and 'resident very senior citizens' (individuals who are more than 80 years of age), where the basic exemption limit is INR 0.3 Million and INR 0.5 Million, respectively.

Section 393(1) of the ITA read with section 263(8)(b) provides conditions for exempting senior citizens aged 75 years and above from filing Income Tax returns. This Section became applicable on 1 April 2021.

The Finance Act has provided the following rates for individual taxpayers (other than senior citizens):

Income	Tax Rate
Up to INR 0.25 million	Exempt
INR 0.25 million - 0.5 million	5%
INR 0.5 million - 1.0 million	20%
Above INR 1 million	30%

Relief under section 156 of the ITA (erstwhile section 87A) up to INR 12,500 is available for resident individuals having a total income of up to INR 0.5 million . In addition to the above, individuals with a total income exceeding INR 5 million up to INR 10 million in a year are liable to pay a surcharge of 10%. Also, individuals with a total income exceeding INR 10 million up to INR 20 million in a year are liable to pay a surcharge at the rate of 15%.

Additionally, under the Finance Act, 2019, a surcharge of 25% is leviable in case the income exceeds INR 20 million but does not exceed INR 50 million. Similarly, a surcharge of 37% shall be leviable in case the income exceeds INR 50 million.

Surcharge rate on dividend income, capital gains is capped at a 15%.

The Finance Act 2023 introduced a new tax regime that individuals, Hindu Undivided Families (HUFs), AOP, and, BOI, can opt for, instead of the existing structure. The

Income	Tax Rate
Up to INR 0.3 million	Exempt
INR 0.3 million - 0.6 million*	5%
INR 0.6 million - 0.9 million	10%
INR 0.9 million - 1.2 million	15%
INR 1.2 million - 1.50 million	20%
Above INR 1.5 million	30%
Above INR 1.5 million	30%

Income	Tax Rate
Up to INR 0.3 million	Exempt
INR 0.3 million - 0.7 million	5%
INR 0.7 million - 1.0 million	10%
INR 1 million - 1.2 million	15%
INR 1.2 million - 1.50 million	20%
Above INR 1.5 million	30%

Income	Tax Rate
Up to INR 0.4 million	Exempt
INR 0.4 million - 0.8 million	5%
INR 0.8 million - 1.2 million	10%
INR 1.2 million to 1.6 million	15%
INR 1.6 million to 2.0 million	20%
INR 2.0 million to 2.4 million	25%
Above INR 2.4 million	30%

salient features of the new regime are as follows:

The new tax rates will be applicable if the individual,

Finance Act, 2024 has further revised the applicable rates as under:

Further, Finance Act 2025 revised applicable rates as under:

HUF, Associations Of Persons (AOPs), or Bodies Of Individuals (BOI) complies with all the points mentioned below:

- Forego all deductions (excluding standard deductions of INR 50,000 is increased to INR 75,000 in the Finance Act, 2024) and exemptions such as House Rent Allowance, interest on housing loan, PPF and other Section 123 (erstwhile section 80C) investments, Mediclaim, etc.
- Apart from this, deduction of National Pension and limit of deduction is increased from 10% to 14%. No loss shall be allowed to be set off carried from earlier years if such loss pertains to any specific deductions or loss under the head income from house property.
- Additional depreciation shall not be allowed, and only normal depreciation shall be available
- No exemption or deduction will be available for allowances or perquisites provided under any law for the time being in force

Individuals and HUFs, having income from business or profession, must opt for the new tax regime before filing their return of income. After opting for this new tax regime, it can only be withdrawn once in a lifetime.

All taxes in India are further increased by a Health and education cess, which is 4% of the total tax payable (tax plus applicable surcharge).

The surcharge rate under the new regime has been pegged to 25% in cases where total taxable income exceeds INR 20 million.

Furthermore, it has been clarified that the new regime will operate as the default regime and taxpayers will have a choice to specifically opt for the old regime, if required.

The concept of marginal relief is also available in case of people opting for the new regime and a rebate under section 156 of the ITA (erstwhile Section 87A) is allowed up to 100% of the total tax liability or INR 60,000, whichever is less (for Tax Year 2026-27).

Taxation of Dividend Income

The Finance Act 2020 has done away with dividend distribution tax, and consequently, any dividend income earned shall be taxable in the hands of the recipient.

Furthermore, a clarification is provided in the Act that if DDT has been charged and a dividend is received after 1 April 2020, the same shall not be taxable in the hands of recipients. Furthermore, a higher surcharge of 25% and 37% is not applicable to the dividend income.

Taxation of excess contribution to specified funds by employers

Furthermore, any accretion to the above fund by way of interest or dividend or anything of similar nature, which relates to contribution in excess of INR 0.75 million will also be taxable.

Apart from the above, effective 1 October 2024, any amount received on account of buy-back of shares shall be considered as dividend in the hands of taxpayers and cost of acquisition is to be allowed as capital loss. However, the Finance Act 2026 reintroduced the taxation of income arising from the buy-back of shares under the head 'capital gain'. Further, in case of promotors, additional tax is levied resulting in an effective tax rate of 30% where the promoter is a non-corporate entity, and 22% where the promoter is a company.

You can learn more about individual tax liabilities on the Income Tax Department's website, www.incometaxindia.gov.in.

Ways to Discharge Income Tax Liability

An individual can discharge their income tax liability in either or all of the options mentioned below:

- Advance Tax
- Tax Deducted at Source (TDS)
- Self Assessment Tax

Advance Tax

Advance Tax means the payment of tax before the end of the year. An individual has to estimate their total income for that particular financial year and discharge tax liability in four installments during the year itself, i.e., 15%, 45%, 75%, and 100% of the tax liability, which is due on 15 June, 15 September, 15 December, and 15 March of that year.

However, an individual is liable to pay Advance Tax only under the following conditions:

- The tax liability is more than INR 10,000
- The above liability of INR 10,000 is arrived at after considering TDS/ TCS (if any) has been deducted from receipts or paid by taxpayers.

Further, Resident senior citizens (aged 60 years or above) who do not have income chargeable under the head "Profits and Gains of Business or Profession" are exempt from the payment of Advance Tax.

For individuals with salary as the sole source of income, Advance Tax would not be applicable as the entire tax liability would be taken care of by the employer by way of TDS.

Tax Deducted at Source (TDS)

TDS refers to the portion of a payment that is deducted by the taxpayer before making payment of the amount to the payee. The TDS rate would depend on the nature of the income earned by the individual. For example, TDS on professional fees would be 10% while that from contractual payments would be 2%.

The TDS deducted by the taxpayer is required to be deposited with the tax authorities within prescribed time limits.

It is crucial to keep in mind that TDS is only a part payment of tax. The final tax liability would be arrived at based on the slab rates applicable to the individual.

For non-residents, TDS is applicable on any sum paid to them. For example, if a foreign individual receives a certain sum from an Indian company, and such amount is taxable in India, then the Indian company is liable to deduct tax at the applicable rates and deposit the same with the authorities within the prescribed time limits.

Self Assessment Tax

In case the Advance Tax paid by the individual and the TDS is not adequate to cover the entire gross tax liability for the year, then the same can be discharged by the individual himself before the tax return is filed. Such tax paid would be regarded as Self Assessment Tax.

Aadhaar-related Compliances

In pursuit of promoting ease of compliance, the inter-changeability of Permanent Account Number (PAN) and Aadhaar has been permitted for filing of income tax returns and mandatory quoting in prescribed transactions with effect from 1 September 2019.

Currently, it is mandatory for an individual to obtain an Aadhaar number (unique identification number) and link the same with their PAN (Indian tax registration number) of the individual. It is mandatory to quote the said Aadhaar number in the tax return, or the enrollment ID of the Aadhaar application is required to be quoted on the income tax return.

The requirement of linking of PAN and Aadhaar needs to be carried out to avoid inactivation of PAN. PAN holders who link PAN-Aadhaar between 1 July 2022 to 30 June 2023 must pay a penalty of INR 1,000. PAN card will become inoperative from 01 July 2023 if PAN holders do not link it with their Aadhaar card.[3]

3. Sector-wise GVA Data, MOSPI - , https://incometaxindia.gov.in/Pages/tax-services/file-income-tax-return.aspx

Tax Treatment of Employee Stock Option Plans (ESOP)

An increasing number of multinational companies prefer granting Employee Stock Option Plans (ESOPs) to their employees wherein they are granted an option to buy the shares of the employer company at a discounted rate, lower than the market value.

The taxation of ESOPs as per Indian laws is carried out in two stages. In the first stage, it is taxable in the hands of the employee as salary (prerequisite given by the employer), which is represented by the difference between the Fair Market Value (FMV) of the shares and the actual price at which they are purchased by the employees. The law lays down the procedure for determining the FMV of the shares.

The point of taxability is the date on which the option is exercised by the employee to subscribe to the shares. Employers are liable to deduct tax at source on this part of the income.

The second stage of taxability arises when the said shares are sold or transferred. The difference between the sale price and the FMV (calculated in the earlier phase of taxation) is taxable as capital gains. The tax treatment of such capital gains would be as prescribed in the section Capital Gains Tax in Chapter 7.

Furthermore, in the case of eligible start-ups, the tax on ESOP is to be paid within 14 days from the below mentioned events, whichever triggers at the earliest:

a. After the expiry of a period of 48 months from the end of relevant assessment year in which they are issued

b. From the date of sale

c. From the date the assessee ceases to be an employee of the employer who allotted such shares or security

Electronic Filing of Tax Returns

The past few years have seen a multitude of changes in the process of filing tax returns in India. Now, most taxpayers are expected to file their tax returns electronically instead of manually– a paradigm shift in the tax administration in India. The online filing is linked to an individual's PAN/Aadhaar.

The Indian tax department has set up a Central Processing Center (CPC), a state-of-the-art facility in Bengaluru, that processes all tax returns that have been filed electronically. There is drastically reduction in the time taken to process tax returns and issue refunds. As a result, a large number of taxpayers, particularly individuals, have started receiving their refunds within a few months of filing returns.

The Finance Act, 2019 has included the following additional categories of persons in the mandatory return filing list:

- Persons claiming capital gains tax exemption
- Persons depositing an amount or aggregate of amounts exceeding INR 10 million in one or more current bank accounts
- Foreign travel expense exceeding INR 0.2 million for themselves or any other person
- Electricity expense of an amount or aggregate of amounts exceeding INR 0.1 million.

To know more about the e-filing of income tax returns, you can visit https://incometaxindia.gov.in/Pages/tax-services/file-income-tax-return.aspx

Personal taxation in India is dynamic and complicated, with several interpretational and other issues. However, the scheme of law provides for many relaxations with a view of avoiding unnecessary hassles for individual taxpayers and has simplified the process to encourage timely and accurate tax return filing and payment.



09

Indirect Taxation

- **Customs Duty**
- **Goods and Services Tax (GST)**

Customs Duty

In India, Customs Duty is levied on the import of goods and is payable at the time of clearance of goods for home consumption from the customs port/customs bonded warehouse.

Customs Duty comprises the following elements:

- Basic Customs Duty (BCD) (standard tariff rate typically ranging between 10% to 150%)
- Social Welfare Surcharge (SWS) (10% on BCD)
- Integrated GST (IGST) (same as GST rate applicable on local supply, in lieu of Countervailing Duty and Special Additional Duty)

Furthermore, 'Agriculture Infrastructure and Development Cess' at varying rates is applicable on the import of gold, silver, alcoholic beverages, apples, coal, etc.

With a view to protecting the domestic industry from unfair injury, Anti-Dumping Duty (ADD)/Safeguard Duty (SD) is imposed on the import of notified goods (such as steel products, jute products, tiles, etc.) from specified countries (such as China PR, Vietnam, Korea PR, Nepal, etc.)

BCD, SWS, and ADD/SG are not available as input tax credit to the importer. However, credit can be availed for IGST and Compensation Cess under the GST Law (subject to certain conditions, restrictions, and documentation requirements).

The Customs Law provides for the valuation of imports, prescribing the declared transaction value as the assessable value for the purpose of calculating the applicable Customs Duty, where the price is the sole consideration, and the buyer and seller of goods are not related. Certain inclusions are prescribed such as the amount paid or payable for costs and services such as commissions and brokerages, engineering, design work, royalties and license fees, insurance, etc., to the extent they are not included in the price of the goods.

Imports from a related seller may be subjected to an investigation by a Special Valuation Branch (SVB) to determine whether or not the circumstances surrounding the sale and price thereof have been influenced by their relationship. However, certain exceptions have been prescribed in this regard, such as the import of samples & prototypes, and small-value consignments.

Goods and Services Tax (GST)

The Goods and Services Tax (GST) regime, in effect from 1 July 2017, has evolved over the years. The regime has streamlined tax administration, enhanced transparency, and eliminated the cascading effect of taxes.

Furthermore, unlike the erstwhile indirect tax regime, decisions in the GST regime are taken by a centralized body, i.e., the GST Council, which comprises the Union and State Finance Ministers.

The key concepts under the GST legislation have been outlined below:

- Supply: GST is levied on the 'supply' of goods or services. The scope of supply is wide and includes sale, transfer, barter, exchange, license, rental, lease, etc., as well as certain activities undertaken even without consideration.
- Administration: The GST Law is administered by the Center and the respective States/Union Territories. Accordingly, there are three types of taxes under GST:
  - Central Goods and Services Tax (CGST)
  - State Goods and Services Tax (SGST)/Union Territory Goods and Services Tax (UTGST)
  - Integrated Goods and Services Tax (IGST)
- Inter-state versus intra-state supply: CGST and SGST/UTGST are levied on all intra-state supplies of goods or services, and IGST is levied on all inter-

state supplies of goods or services. The location of the supplier and POS for the goods/services determines whether the transaction is an interstate or intrastate supply.

- Place of Supply (POS): As GST is a destination-based tax, POS provisions have been formed in a manner to determine the territory of a supply transaction where the goods/services will be consumed and accordingly, determine its taxability.
- Time of supply: The time of supply provisions determine when GST must be paid for the supply of goods and services, ensuring alignment in tax collection.
- Registration: : A person exceeding the prescribed threshold limit i.e., aggregate turnover of supply of goods of INR 4 million and/or INR 2 million or supply of services (INR 2 million and INR 1 million respectively for a taxable person conducting business in north-eastern states) is required to undertake registration under GST, including specified persons, irrespective of their turnover. Registration can also be obtained voluntarily under the facility provided.
- Composition levy: It is an alternative method of levying tax designed for small taxpayers. It is a subsidized GST rate for taxpayers with an aggregate turnover of up to INR 15 million (INR 5 million for service providers).
- Reverse Charge Mechanism (RCM): Typically, a supplier of goods/services is liable to pay GST on the supply. However, for the import of services and other notified goods/services, a mechanism has been prescribed under which the liability to pay GST falls on the recipient of the supply.
- Rate of tax: The GST legislation provides for the classification of goods and services, and the applicable tax rates are determined based on that classification.
  - The Services Accounting Code (SAC) is used to classify of services. Each kind of service offered has a unified code for measurement, recognition, and taxation.
  - The Harmonized System Nomenclature (HSN) code is used to classify of goods. (HSN is a globally adopted product description and coding system)

  The commodities and services subject to GST are predominantly categorized under three tax slabs, viz. 5%, 18%, and 40% w.e.f. 22 September 2025. GST is not applicable to essential commodities such as fish, eggs, fresh meat, milk, curd, fresh fruits, buttermilk, vegetables, jute, etc. Most goods are covered by the 5% and 18% tax slabs, while services are generally taxed at 18%.

  The 40% tax slab mostly covers luxury and sin goods, and specific services such as admission to IPL matches, etc.[1]
- Input Tax Credit (ITC): The recipient of goods or services would be eligible to claim ITC, subject to certain restrictions. The ITC availed is eligible for utilization as a set-off against the tax payment , subject to prescribed restrictions.
- ITC reconciliation: A stringent mechanism is in place to ensure that ITC availed by the recipient matches the corresponding GST disclosed and paid by the supplier(s). This is intended to encourage companies to source their inputs, input services, and capital goods only from GST-compliant businesses, which in turn would help detect and minimize tax fraud.

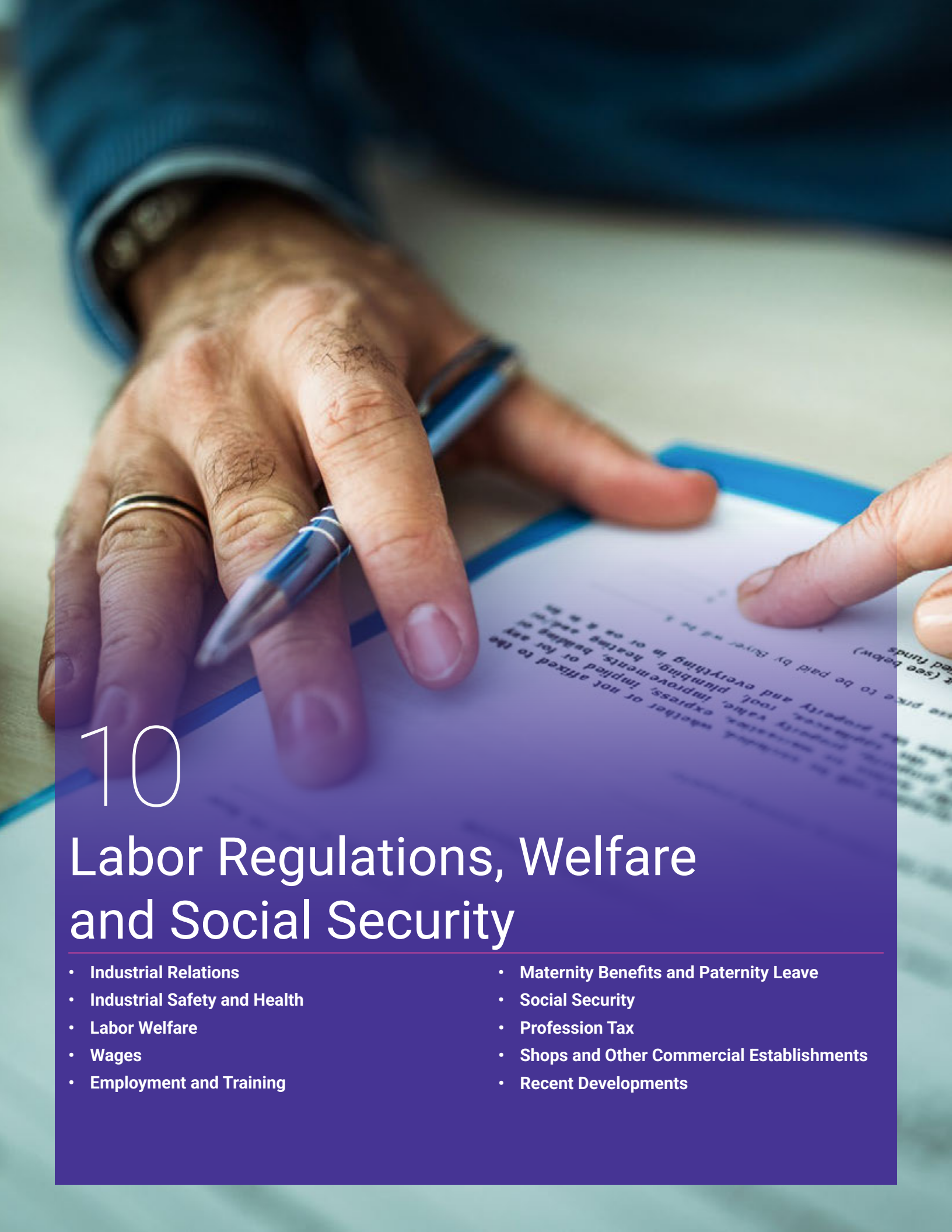
  The Government has introduced an Invoice Management System (IMS) to automate and streamline the IT claim process.
- Digitization: Procedures for different processes such as registration, tax payments, refunds, returns, etc. have been automated and simplified under a unified platform - GSTN (Goods and Services Tax Network). This has facilitated the creation of a platform for swift processing since the interface between the taxpayer and the tax authorities has been reduced.

1. The extensive list of GST rates for products and services can be found at the CBIC Portal, https://cbic-gst.gov.in/gst-goods-services-rates.html

- E-invoicing: Businesses having a turnover above INR 50 million in a financial year are required to comply with e-invoicing provisions. Accordingly, they are required to incorporate a unique Invoice Reference Number (IRN) and QR Code generated online on their B2B and export invoices. While e-invoicing is not applicable to B2C supplies, taxpayers with a turnover of more than INR 5 billion are required to generate a dynamic QR Code to enable digital payments. E-invoicing is prevalent in Brazil, China, South Korea, and other countries.
- Compliances: Compliances have been simplified through the harmonization of tax rates, procedures, and allied laws. A taxpayer is required to file monthly/quarterly GST returns disclosing their outward supplies, availment of ITC, and discharge of applicable tax liability. Furthermore, companies having an aggregate turnover of more than INR 20 million is required to comply with annual filings, while those with turnover exceeding INR 50 million should also reconcile their books of account with GST returns.

  Additionally, an E-way bill is required for the movement of goods, subject to thresholds prescribed by each State.
- Valuation: Valuation plays a paramount role in GST. The GST Law accepts the transaction value where price is the sole consideration, and the supplier and recipient are unrelated. However, in the case of related-party transactions, or where the price is not the sole consideration, certain methods have been prescribed for deriving the value of supplies. Certain additions (such as delayed payment interest) and deductions (such as discounts) have been prescribed under the GST Law.
- Refunds: Companies engaged in zero-rated supplies (exports out of India and supplies to SEZs for authorized operations) are eligible to claim a refund of GST paid thereon, or of unutilized accumulated ITC, subject to certain conditions and restrictions.
- Anti-profiteering: The anti-profiteering measure ensures that the benefits of GST rate changes and/or availability of ITC are passed on to end consumers by way of a commensurate reduction in the prices of goods/services.

The GST regime has largely stabilized since its implementation in 2017. The GST Council has been receptive to industry representations, introducing suitable amendments, clarifications, and various trade facilitation measures, to allay concerns and reduce disputes. At the same time, the administration is focused on plugging revenue leakages and tax fraud through special drives to weed out fake/suspicious GSTINs from the GST eco-system.



10

Labor Regulations, Welfare and Social Security

- Industrial Relations
- Industrial Safety and Health
- Labor Welfare
- Wages
- Employment and Training
- Maternity Benefits and Paternity Leave
- Social Security
- Profession Tax
- Shops and Other Commercial Establishments
- Recent Developments

Under the Constitution of India, labor is a subject on the Concurrent List, where both the Central and State Governments are competent to enact legislation.[1] As a result, India has a plethora of laws (29 labor-related statutes by the Central Government alone) addressing various aspects, such as industrial relations, the formation of trade unions, occupational safety and health, labor welfare, minimum wages, conditions of employment, disciplinary action, employment and training, accidental and social security benefits, etc.[2]

The Ministry of Labor and Employment implemented four new Labor Codes marking a significant shift in India's labour and employment law framework. These Labor Codes simplifies, rationalize, and amalgamate 29 labor laws into four Labor Codes, in line with the recommendations of the Second National Commission on Labor:

- Code on Wages, 2019 (Wage Code)[3];
- Code on Industrial Relations, 2020 (IR Code);
- Code on Social Security, 2020 (SS Code); and
- Code on Occupational Safety, Health, and Working Conditions, 2020 (OSH Code).

The 4 Codes were brought into force with effect from 21 November 2025, and the final Central Rules under each of the Codes - the Industrial Relations (Central) Rules, 2026, Code on Wages (Central) Rules, 2026, the Social Security (Central) Rules, 2026, and the Occupational Safety, Health and Working Conditions (Central) Rules, 2026 were recently notified on May 8, 2026, together with the Model Standing Orders, 2026 which contain separate schedules for the mining, manufacturing and services sectors.

These Central Rules govern establishments in the central sphere. Since labor is a subject under the Concurrent List of the Constitution of India, individual States are required to frame and notify their respective rules for implementation of the Codes. In Maharashtra, the State Rules under the Code on Wages, 2019, Industrial Relations Code, 2020, Occupational Safety, Health and Working Conditions Code, 2020 and the Code on Social Security, 2020 remain in draft form. Accordingly, certain aspects of the Labor Codes in Maharashtra continue to be governed by the applicable transitional framework pending notification of the remaining State Rules.

The Key Reforms Introduced by the Labor Codes include:

1. Consolidation and Rationalization of Statutes: The 29 existing central labor laws are rationalized into four thematic codes, reducing overlap, improving clarity, and creating a harmonized compliance structure. This simplifies interpretation, record-keeping, and enforcement across establishments.
2. Uniform Definitions to Promote Consistency: The Codes introduce standardized definitions—most notably "wages", which will apply across all four Codes. This uniformity reduces ambiguity and limits the scope for conflicting interpretations. The redefined wage structure (with capped exclusions) is expected to have downstream implications for:
    - payroll structuring,
    - computation of social security contributions,
    - gratuity, leave encashment, and
    - retrenchment compensation.
3. Emphasis on Social Security and Wider Coverage: The SS Code expands coverage to a broader workforce, including:
    - gig workers,
    - platform workers,
    - unorganized worker, and
    - fixed-term employees.

    This represents India's most significant step toward universal social security, creating an enabling framework for contributory schemes and welfare measures applicable beyond traditional employment structures.

1. Constitutional Provision, Ministry of Labor & Employment - https://labour.gov.in/constitutional-provision
2. About the Ministry, Ministry of Labor & Employment - https://labour.gov.in/about-ministry
3. The Code on Wages, Ministry of Labor & Employment - https://labour.gov.in/labour-reforms

4. Streamlined Compliance and Digital Governance: The Codes adopt a technology-driven compliance model, with provisions for:
   - single registration for multiple Acts,
   - unified returns and electronic record-keeping,
   - web-based inspection systems, and
   - algorithm-based selection for inspections.

   This significantly reduces administrative burdens while improving transparency and predictability for employers.
5. Fixed-Term Employment Regularized: The Codes formally recognize fixed-term employment, enabling employers to engage talent for defined periods without triggering the obligations associated with permanent employment. Fixed-term employees must receive the same statutory benefits as permanent employees, including gratuity (on a pro-rata basis), payable upon completion of one (1) year of continuous service, strengthening workforce protection while allowing staffing flexibility. Non-renewal of a fixed-term contract upon expiry of its term does not, by itself, constitute retrenchment.
6. Strengthened Industrial Relations Framework: The Industrial Relations Code introduces several key reforms:
   - Higher thresholds for prior government approval for layoffs, retrenchment, and closure (300 workers instead of 100).
   - Establishment of Industrial Tribunals with streamlined dispute-resolution mechanisms.
   - Mandatory notice of strike and corresponding restrictions to promote industrial peace and continuity.
   - These reforms aim to balance employer flexibility with worker protection.
7. Rationalized Health, Safety, and Working Conditions: The OSH Code consolidates provisions governing safety, working conditions, and welfare across a wide range of establishments. Key features include:
   - a single license for factories, contract labor, and other activities,
   - uniform standards for workplace safety,
   - expanded protections for women employees, including enabling night-shift work with safeguards, and
   - mandatory health checks and welfare measures in specified sectors.
8. Expansion of Employer Obligations and Enforcement Powers: The Codes enhance both employer responsibilities and enforcement capabilities through:
   - increased penalties for non-compliance,
   - compounding of certain offences to promote quicker resolution,
   - employer obligations to maintain electronic registers and exhibit updated notices, and
   - broader powers for inspectors-cum-facilitators to advise establishments on compliance.
9. Protection of Workers' Rights: The Codes introduce multiple employee-centric reforms, including:
   - timely and full payment of wages under a unified framework,
   - stronger mechanisms for redressal of grievances,
   - statutory recognition of re-skilling funds for retrenched workers, and
   - provisions enabling leave encashment and continuous service flexibility.

Labor Welfare[4]

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) was enacted to provide protection against sexual harassment of women at the workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto. Under the POSH Act, all the establishments are covered. For establishments employing less than 10 employees a Local Committee has to be constituted to look into the sexual harassment complaints under the POSH Act and thereby investigate the matter and recommend measures to resolve it. Likewise, establishments having 10 or more employees, have to constitute an Internal Committee, which shall look into the matter of sexual harassment under the POSH Act. Constitution of such committees shall be as per the prescription under the POSH Act. All establishments are required to comply with the mandates under the POSH Act to avoid attracting any penalties for non-compliances prescribed thereto. In line with recent regulatory developments under the POSH Act, registration of all private sector organizations in India has been mandated through a series of State and District-level directions, reinforced by the Supreme Court's continuing monitoring of POSH Act compliance on the SHe-Box portal. The SHe-Box (Sexual Harassment Electronic-Box) is a centralized online complaint management system administered by the Ministry of Women and Child Development, Government of India. It provides a single-window mechanism for women to lodge complaints of sexual harassment at the workplace across both the organized and unorganized sectors, and across public and private establishments, with facilities for online submission as well as real-time tracking of complaint status.

The Supreme Court is separately monitoring nationwide compliance with the POSH Act in Aureliano Fernandes v. State of Goa, and by orders dated 3 December2024, 12 August 2025 and 7 January 2026 has directed district-wise surveys of establishments, the appointment of District Officers and nodal officers, and the onboarding of Internal Committee details onto the SHe-Box portal. In Dr. Sohail Malik v. Union of India (decided 10 December 2025), the Supreme Court has further held that an aggrieved woman may approach the Internal Committee of her own workplace even where the respondent is employed with a different organization.

Enforcement activity has intensified markedly in 2026. In April and May 2026, allegations of sustained sexual harassment at the Nashik (Maharashtra) BPO unit of a leading IT services company led to multiple FIRs, a Special Investigation Team probe and arrests, including of a senior manager for allegedly failing to act upon a verbal complaint. The National Commission for Women, taking suo motu cognizance, conducted a fact-finding inquiry on 18 April 19 April 2026 and, in its report submitted to the Maharashtra Government on 8 May 2026, found material non-compliance with the POSH Act, including the maintenance of a single Internal Committee shared between two offices in different cities, and directed the constitution of separate Internal Committees at each unit employing 10 or more employees. The episode underscores that an Internal Committee must be constituted at every workplace; offices and administrative units at different locations each require their own committee, and managerial inaction upon a complaint, however informally made, can attract personal criminal exposure in addition to penalties under the POSH Act.

In the wake of these events, the Maharashtra Women and Child Development Department has, by circular dated 14 May 14, 2026 issued under Section 25 of the POSH Act, authorized 12 categories of officials, including District Officers and officers of the Women and Child Development Department, to inspect government, semi-government and private establishments for POSH compliance against a standardized 31 point checklist covering, inter alia, Internal Committee constitution, complaint-handling timelines, awareness and training, annual reporting, SHe-Box onboarding and the extension of safeguards to remote and virtual work environments. Employers with establishments in Maharashtra should accordingly anticipate inspection-led enforcement and maintain demonstrable, documented compliance.

4. Acts and Rules, Chief Labor Commissioner, https://clc.gov.in/clc/acts-rules/acts-and-rules

Employment and Training[5]

The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 has been repealed, and its provisions relating to vacancy notification have been incorporated into Chapter XIII of the Code on Social Security, 2020, under which "career centers" replace employment exchanges. Pursuant to the notification dated 8 May 2026, establishments (including those in the private sector) are also required to notify vacancies to the designated career centers, subject to the exemptions prescribed therein, including vacancies carrying total monthly remuneration below INR 11,000.

The Apprentices Act, 1961 (Apprentices Act) aims to provide practical training to technically qualified persons in various trades. The objective is to promote new and skilled manpower. The scheme is also extended to engineers and diploma-holders.

The Apprentices Act requires employers to hire apprentices in certain designated trades as notified by the government. The Apprentices Act specifies the obligations of employers and apprentices, the standard of education/physical fitness, duration of training, terms and conditions of the contract, payment, health, safety, welfare, working hours, etc. The Apprentices Act makes it obligatory for employers to engage apprentices in “designated trades” and “optional trades” for all employers who have a workforce of 30 (thirty) employees or above (sum of total regular and contract employees), across all sectors. Pursuant to the recommendations of the 38th Central Apprenticeship Council, and notified via circular dated 13 May 2026 by the Board of Apprentice Training, Western Region, Mumbai, the prescribed stipend band has been revised upward by approximately 36%, from INR 7,000–INR 9,000 to INR 9,600–INR 12,300 per month.

Paternity Leave

While 15 days of paternity leave is authorized for male employees working within the government/ public sector, it is not obligatory for the private sector. Large private companies tend to have their own policies specifying the paternity benefits extended to their male employees.

Profession Tax

As profession tax varies from state to state (it is not imposed by all State Governments), in order to get an overview, we will discuss the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975. An employer must register under the Act and obtain a registration/enrollment Certificate under which the payment in respect of taxes can be deducted from employees’ salaries (currently up to a maximum of INR 2,500 per year). With effect from 1 April 2023, women employees drawing salary up to INR 25,000 per month are exempt from profession tax in Maharashtra. In Maharashtra, profession tax is applicable to both individuals and organizations (a company, firm, proprietary concern, Hindu Undivided Family (HUF), society, club, an association of people, corporation, or any other corporate body in Maharashtra).

Shops and Other Commercial Establishments

Every state has its own Shops and Establishment Act (Shop Act) with regard to shops and commercial establishments. For example, the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017 is applicable to shops and commercial establishments in Maharashtra employing 10 or more employees.

5. Employment & Training, Acts and Rules, Ministry of Labor & Employment https://labour.gov.in/employment-training

These Shop Act regulate the conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theaters, and other places of public amusement or entertainment as per the applicability which may differ from one state to another.

The Shop Act is applicable to all persons employed in a shop or commercial establishment with or without wages, except members of the employer's family. It does not apply to workmen in a factory or in an establishment attached to a factory to whom benefits under the Factories Act, 1948, are applicable. The typical provisions include registration of establishments, working hours, holidays, leaves, penalties, etc.

Further, pursuant to the Government Circular dated 30 April 2026, the Maharashtra Labor Department has clarified that establishments registered under Section 3 of the Occupational Safety, Health and Working Conditions Code, 2020 are not required to obtain a separate registration under the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017. However, the substantive provisions of the Maharashtra Shops and Establishments Act, including provisions governing leave entitlements, spread-over hours, etc., continue to apply, except to the extent they are inconsistent with the Labor Codes, in which case the corresponding provisions of the applicable Labor Code shall prevail by virtue of Article 254 of the Constitution of India.

Recent Developments

To improve compliance, catalyze job creation and ensure ease of doing business while safeguarding the health, safety, and social security of workers in both the organized and unorganized sectors, the Central and State Governments have initiated various labor reforms.

Some of the Central Government's labor reforms are highlighted below:

Legislative Initiatives

- The Child Labor (Prohibition and Regulation) Amendment Act, 2016, provides for a complete ban on employment of children below 14 years in any occupation or process. The Act continues in force as a standalone statute alongside the Labor Codes, which cross-refer to it in prohibiting the employment of children and restricting the deployment of adolescents in hazardous work.
- The Ministry of Commerce and Industry issued the Special Economic Zones (5th Amendment) Rules, 2022 vide notification dated 8 December 2022 (SEZ Amendment Rules), under which certain permitted categories of employees of establishments within SEZs (Units) are allowed to work from home. These apply to employees of Units providing Information Technology (IT) and IT-enabled services, working from home or any place outside the SEZ, until December 31, 2027, pursuant to the Special Economic Zones (Fifth Amendment) Rules, 2024 (G.S.R. 786(E) dated December 26, 2024), which extended the hybrid-working facility under Rule 43A of the SEZ Rules, 2006. Additionally, they also apply (subject to conditions) to employees of Units who are temporarily incapacitated, traveling, and working off-site that are also permitted to work from home.
- The Ministry of Labor and Employment, vide press release dated 3 April2023, announced the launch of the e-Shram portal, a national database for unorganized workers aged 16 to 59, interlinked with Aadhaar. The Ministry of Labor and Employment has taken several steps to increase registration on the e-Shram portal, such as providing a multi-channel registration facility to unorganized workers across the country. The Common Services Center, a special-purpose vehicle, along with its more than 400,000 village-level entrepreneurs, has been onboarded to provide registration facilities at the village level. In addition, the e-Shram portal has been integrated with the Unified Mobile Application for New-age Governance (UMANG) mobile application to provide on-the-go registration and updating facilities to unorganized workers.

- As of mid-2026, the e-Shram portal has registered over INR 310 million unorganized workers and has evolved into a "One Stop Solution" platform (launched on 21 October 2024) integrating various Central welfare schemes. A dedicated Aggregator Module, launched on 12 December 2024, facilitates the onboarding of platform aggregators and registration of gig and platform workers engaged by them. The Social Security (Central) Rules, 2026 require aggregators to register gig and platform workers on the designated portal on an ongoing basis, with the Ministry of Labor & Employment directing aggregators to complete onboarding and API integration with the e-Shram portal by 21 June 2026. While the Code on Social Security, 2020 contemplates contributions by aggregators towards social security for gig and platform workers, the contribution rate is yet to be notified by the Central Government. Separately, Karnataka has become the first State to operationalize a statutory welfare framework for platform-based gig workers, including the levy of a notified welfare fee on aggregators under the Karnataka Platform-based Gig Workers (Social Security and Welfare) Act, 2025.

Governance Reforms

- The Ministry has notified “Ease of Compliance to maintain Registers under various Labor Laws Rules, 2017” on 21 February 2017, which has, in effect, replaced the 56 Registers/Forms and 9 Central Labor Laws and Rules with 5 common Registers/ Forms. This will save effort and costs and lessen the compliance burden on various establishments.
- With the notification of the Central Rules under the Labor Codes on 8 May 2026, consolidated electronic registers, wage slips and unified return formats have been prescribed for establishments within the central sphere, replacing the corresponding registers and returns under the repealed central labor enactments. The prescribed records may be maintained electronically and must be retained for a minimum period of five years. Since Maharashtra is yet to notify all of its corresponding State Rules under the Labor Codes, establishments falling within the State sphere should continue to comply with the applicable register and return requirements under the existing legal framework and transitional provisions until the relevant State Rules are brought into force.



Appendices

Appendix 1

TDS rates on payments made to non-residents and foreign companies:

	Nature of payment	Rate of tax*
a)	TDS on interest on infrastructure debt fund, on foreign currency loans (under a loan agreement or by way of issue of long term bonds), on rupee denominated bonds of any Indian company or government security	5%
b)	TDS on long term infrastructure bonds issued between 1st July 2012 to 1st October 2014	4%
c)	TDS on interest other than (a) and (b)	20%
d)	TDS on long-term capital gains on specified assets	10%
e)	TDS on long-term capital gains other than (d)	20%
f)	TDS on short-term capital gains on listed shares and units of equity-oriented mutual funds	15%
g)	TDS on dividend income	20%
h)	TDS on short-term capital gains other than (f) and (g)	40%
i)	Royalty and fees for technical services	20%
	* The rate of TDS shall be increased by applicable surcharge and Health and education cess @ 4%.	

Appendix 2

TDS rates on some of the common payments made to residents:

Nature of payment	Rate of TDS in case of payment to		Threshold limit for aggregate payment p.a
	Individual or HUF	Others, including corporate assessees	
TDS on salaries paid	According to the slab rates applicable to respective employees		NA
TDS on dividend	10%	10%	INR 5,000 (only in the case of resident individuals)
TDS on dividend received from business trust if SPV has opted for beneficial tax regime	10%	10%	
TDS on income from mutual funds	10%	10%	INR 5,000
TDS on interest on securities (including listed securities)	10%	10%	INR 10,000
TDS on deemed dividends	30%	30%	NA
TDS on interest other than 'Interest on Securities'			
- By banks, co-operative societies, post offices	10%	10%	INR 40,000
- By others	10%	10%	INR 5,000
TDS on winnings from lottery or crossword puzzle (other than online gaming)	30%	30%	INR 10,000
TDS on winnings from horse races	30%	30%	INR 10,000*
TDS on payments to contractors	1%	2%	INR 30,000 for a single transaction and INR 100,000 for the year
- Paid by individual/HUF not liable to a tax audit	5%#	5%#	INR 5,000,000
TDS on payment of insurance commission	5%#	5%#	INR 15,000
TDS on commission or brokerage	5%#	5%#	INR 15,000
TDS on rent			
- Land, building, furniture and fittings	10%	10%	INR 240,000
- Plant and machinery, equipment	2%	2%	INR 240,000
- TDS on rent (Paid by individual or HUF not covered above)	5%	5%	INR 600,000 (INR 50,000 p.m.)

Nature of payment	Rate of TDS in case of payment to		Threshold limit for aggregate payment p.a
	Individual or HUF	Others, including corporate assessees	
TDS on transfer of immovable property other than agricultural land (Consideration to include incidental and amenities charges)	1%	1%	INR 5,000,000
TDS on transfer of immovable property by an individual or HUF under a redevelopment agreement	10%	10%	N/A
TDS by an e-commerce operator while making payments to an e-commerce participant for sale of goods or providing services or both	1%	1%	INR 500,000 for individuals and HUFs, provided that such individual/HUF furnishes PAN/ Aadhar to the e-commerce operator
TDS on technical services and TDS on royalty for consideration for sale, distribution or exhibition of cinematographic films	2%	2%	INR 30,000
TDS on fees for professional or technical services, royalty and non-compete fees	10%	10%	INR 30,000
- Paid by individual/HUF not liable to a tax audit	5%#	5%#	INR 5,000,000
TDS on income from business of operation of call centers	2%	2%	INR 30,000
TDS on remuneration/commission paid to director, other than salary	10%	10%	NA
TDS on payment of compensation on compulsory acquisition of immovable property other than agricultural land	10%	10%	INR 250,000
TDS on cash withdrawal from bank accounts#	2% 5%	2% 5%	INR 2,500,000 to INR 10,000,000 Exceeding INR 10,000,000
TDS on purchase of goods	0.1%	0.1%	INR 50,00,000
TDS on benefit/perquisite (including benefits in kind)	10%	10%	INR 20,000
Payment on transfer of virtual digital asset	1%	1%	INR 50,000 when payment is made by a specified person and INR 10,000 when payment is made by a person other than a specified person
Net winnings from online gaming	Rates in force	Rates in force	N/A

These amendments are applicable with effect from 1 April 2023

These amendments are introduced by The Finance Act, 2023 applicable with effect from 1 April 2023

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