



Goods & Service tax in India

February 2025

Disclaimer



This document has been developed to simply provide a quick overview in simple terms of the manners or models under which a company could setup an establishment in India; and the tax and regulatory frameworks that could preside over such an entity.

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The materials contained in this publication were assembled in August 2023 and were based on the law enforceable and information available at that time.

Abbreviations



AD Bank-1	Authorized Dealer Bank -1	HO	Head Office
AE	Associated Enterprises	JV	Joint Venture
ALP	Arm's Length Price	LLP	Limited Liability Partnership
AMT	Alternate Minimum tax	LO	Liaison Office
APA	Advance Pricing Agreements	MAT	Minimum Alternate Tax
BEPS	Base Erosion Profit Shifting	MCAA	Multilateral Competent Authority Agreement
BO	Branch Office	MNC	Multi-National Company
BOD	Board of Directors	OECD	Organization for Economic Co-operation and Development
CBDT	Central Board of Direct Taxes	PE	Permanent Establishment
CFS	Consolidated Financial Statements	PO	Project Office
DDT	Dividend Distribution Tax	POEM	Place of Effective Management
DTAA	Double Taxation Avoidance Agreement	RBI	Reserve Bank of India
ECB	External Commercial Borrowings	ROC	Registrar of Companies
ED	Executive Director	ROI	Return of Income
FCCB	Foreign Currency Convertible Bond	R&D	Research & Development
FDI	Foreign Direct Investment	SHR	Safe Harbor Rules
FTS	Fee for Technical Services	The Act	Income Tax Act, 1961
FY	Financial Year	TP	Transfer Pricing
GAAR	General Anti Avoidance Rules	TRC	Tax Residency Certificate
GDR	Gross Depository Receipt	WOS	Wholly-Owned Subsidiary
GOI	Government of India		

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This document covers the six major aspects for doing business in India, which companies need to understand in order to successfully initiate and sustain operations in the Indian market. These aspects have been divided into a multitude of sub-topics which have been carefully evaluated and collated to provide an insight on maintaining a fruitful business presence in India.

The first two chapters cover the initial phase, where we discuss how to setup a business in India and how to structure the funding of that new business. The third chapter focuses on understanding corporate taxes in India which is followed by the fourth chapter, which emphasizes on transfer pricing regulations in India. The fifth chapter discusses the Goods and Services Tax implications in India, which is proving to be a ground-breaking tax regime and finally, the sixth chapter discusses the provisions of expatriate taxation in India.

The inherent demand of quality advisory and financial services in the mentioned topics, coupled with our expertise in these six critical touch-points makes this document an important tool to analyze, evaluate and ease the decision-making process of companies looking to do business in India.



Goods and Services Tax

Goods and Services tax



The Government of India implemented the Goods and Services Tax ('GST') with effect from July 1st, 2017 to address and eliminate the old tax structure and its shortcomings. The comprehensive Goods and Services Tax replaced the multiple indirect tax structures, which earlier included Value Added Tax, Sales Tax, etc.

The implementation of GST received overwhelming support across industries. It was embraced as an opportunity to redefine supply-chain models, customize IT processes, and evaluate internal and external arrangements to safeguard interests and minimize their tax costs.



Goods and Services tax

Levy of GST

- It is a dual levy with State/Union territory GST and Central GST
- Intra-state supplies attract CGST + SGST/ UTGST
- Inter-state supplies attract IGST which is the sum total of CGST and SGST/UTGST

CATEGORY	APPLICABILITY
CGST	On transactions within the state or union territory; Levied by Central Government
SGST	On transactions within the state (including Delhi and Puducherry); Levied by the state
UTGST	On transactions within union territories without a legislature (all except Delhi and Puducherry); Levied by the union territory
IGST	Applicable on inter-state and import transactions; Levied by Central Government

Benefits of GST

- Wider tax base
- Elimination of cascading effect of multiple indirect taxes
- Rationalization of tax structure
- Harmonization of Centre and State administrations



Important aspects under GST

DESTINATION PRINCIPLE

The GST structure follows destination principle. Accordingly, imports are subject to GST, while exports are zero-rated. In case of inter-state transactions within India, the state tax applies in the state of destination as opposed to that of origin.

INPUT TAX CREDIT (ITC)

One of the key features of GST is that it has brought in a liberal ITC regime. Taxpayers are permitted to avail ITC of GST (which they have paid on procurement during the course of, or in furtherance to business to make taxable supplies). ITC can also be utilized to make payment for output GST liability.

Under the earlier indirect tax regime, cross-utilization of VAT paid on goods against output Service Tax liability and vice-versa was not permitted.

Under GST, cross-utilization of taxes paid on goods and services is allowed.

TRANSACTION BETWEEN RELATED PERSONS

Generally, only supplies made for a consideration are liable to GST. However, in the case of transactions between related parties and the locations of the same entity in different states, even supplies made without consideration will attract GST.

EXPORTS AND SUPPLIES TO SEZS (SPECIAL ECONOMIC ZONES):

Export of goods or services and supplies to SEZs have been categorized as zero-rated supplies. A supplier making zero-rated supplies is eligible to either:

- Supply goods or services under Letter of Undertaking without payment of tax
- Supply goods or services by paying tax, and thereafter claiming refund for tax paid

IMPORT OF GOODS

Import of goods into India continues to be governed by the Customs Law. Such imports will attract Basic Customs Duty (BCD), Social Welfare Surcharge, IGST and Compensation Cess (if applicable). BCD and Social Welfare Surcharge paid at the time of import is non-creditable and is therefore, a cost. However, ITC of IGST will be available for adjustment against output GST liability. ITC of Compensation Cess is only available for utilisation against an output Compensation Cess liability.

Important aspects under GST



Registration

A supplier of goods and/or services is required to obtain GST registration in every state to which it supplies goods and/or services. GST registration is not required if the aggregate turnover of a supplier is less than the threshold limit for GST Registration, or if the person is exclusively engaged in supplying GST-exempt goods and/or services.

COMPULSORY REGISTRATION

- Supplier making inter-state taxable supply of goods;
- Every electronic commerce operators;
- Non-resident taxable persons making taxable supply etc.

THRESHOLD LIMIT FOR GOODS

Currently, the Government the threshold limits is INR 4 Million (INR 2 Million, in case of special category state)

THRESHOLD LIMIT FOR SERVICE PROVIDERS

Currently, the limit is INR 2 million for service providers (INR 1 million in case of special category states).

However, specified categories of persons (such as non-resident taxable persons or those liable to pay tax under representation) are mandatorily required to obtain GST registration even if their annual turnover is less than the prescribed threshold.



Important aspects under GST

Composition Scheme

To ease the compliance burden, small taxpayers with an aggregate turnover of up to INR 15 Million in case of goods (INR 7.5 Million for Northeastern states) and INR 5 Million in case of services have been given the option to opt for a Composition Scheme. Under this scheme, suppliers can pay tax at a specified percentage of their turnover during the year without claiming the benefit of ITC on their procurement. Such suppliers cannot separately recover taxes from buyers on their invoice. Consequently, buyers are not eligible for claiming ITC on the tax paid by suppliers wanting to pay under the Composition Scheme. A supplier making inter-state supplies is not eligible for the Composition Scheme and cannot opt for it.

The tax rate prescribed under the scheme:

- 5% of the turnover for persons engaged in supply of food or beverages for human consumption
- 1% of the turnover for manufacturers and traders
- 6% of turnover for service providers in case turnover in the proceeding Financial Year is up to INR 5 Mn

Liability to pay GST

Generally, a supplier of goods or services bears the liability to pay GST. However, the recipient is liable to pay tax for certain types of transactions (GTAs, advocates, directors, etc.). This is usually referred to as reverse charge mechanism.

Compliance requirements

The GST law prescribes stringent compliance-related requirements. A supplier of goods and services is required to file multiple returns within a month on a state-wise basis for each registration.

All mandatory compliances under GST are to be undertaken on a common portal managed by the Goods and Service Tax Network (GSTN).

Businesses will need to be supported by robust IT/ERP systems in order to comply with the complex compliance-related requirements under GST.

The GST Council has approved the introduction of E-invoicing or electronic invoicing in a phased manner for reporting of business-to-business (B2B) invoices to GST system. CBIC has notified that e-invoicing will be applicable from 1st October 2022 for businesses with a turnover of more than INR 100 Mn (in any financial year from FY 2017-18 onwards).

Important aspects under GST



E-Invoicing

The GST Council has approved the introduction of E-invoicing or electronic invoicing in a phased manner for reporting of business-to-business (B2B) invoices to GST system. CBIC has notified that e-invoicing will be applicable from 1st August 2023 for businesses with a turnover of more than INR 50 Mn (in any financial year from FY 2017-18 onwards).

Refunds

Refunds form a very essential part of any business since they facilitate the businesses to claim back blocked funds, which further helps in easing out working capital pressure.

Central Board of Indirect taxes and Customs ('CBIC') has streamlined and standardized the process of claiming refunds with least possible submission of documents and department intervention.

Below are the broad categories wherein the refunds can be claimed :

1. Export of goods/services including supply to SEZ;
2. Accumulated Input tax Credit ('ITC') under Inverted duty structure (*i.e., when output tax rate is less than input tax rate*)
3. Excess payment due to inadvertent mistake
4. GST-TDS deducted by the specified organization



Annexures for compliance matters

Company Law



Secretarial Compliance(s) With Respect To Meetings, Minutes And Other Related Registers And Records For Companies

- Board Meeting – Quarterly or event-based
- Annual General Meeting – Annual
- Separate minute books for the board meeting and general meetings
- Extra-Ordinary General Meetings – Event-based
- Registers (Register of Members, Register of Director & Key Managerial Personnel & their Shareholding, Register of Contracts with Related Parties & Contracts in which Directors are interested) – Permanent

Annual Secretarial Compliance for Companies

- Disclosure of interest by directors – Annual or event-based
- Disclosure of non-qualification – Annual or event-based
- Filing of financials with the Registrar of Companies (“ROC”) – Annual
- Filing of Annual Return with ROC – Annual
- Appointment of Auditor – Annual
- DPT – 3 – Annual
- MSME Returns – Half yearly
- DIR-3 KYC – Annual

Annual Compliance For LLPs

- Filing of Annual Return
- Filing of statement of annual accounts

Annual FEMA Compliance for Companies and LLPs

- Filing of Foreign Assets and Liabilities (‘FLA’) Return

Annual Compliance for BO/LO/PO

- Filing of Annual Return
- Filing of statement of annual accounts
- Filing of annual activity certificate



Direct Tax, Indirect Tax and Transfer Pricing

Direct Tax

- Withholding Tax Computation & Deposit of tax withheld on Salaries and other payments – Monthly
- Withholding Tax Returns – Quarterly
- Advance Tax Payment – Quarterly
- Return Of Income Tax – Annual
- Tax Audit Report – Annual

Transfer Pricing

- Transfer Pricing Report & Accountant's Report – Annual
- Accountant's Report - Annual
- TP Report – Annual
- Master File – Annual
- CbCR – Annual

Indirect Tax

- GST Returns – Monthly
- GST Payment – Monthly
- GST Audit – Annual



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Our service offerings are undertaken by dedicated service lines:

- **Transfer Pricing**
- **International Tax**
- **Advisory Services**
- **Corporate Secretarial**
- **Tax and Regulatory**
- **Corporate Finance**
- **Financial Accounting**

Our Leadership



Senior Manager
Financial Accounting



pankaj ghosal

Manager
Tax Management



suman sapra

Additional Director
Tax Management



shrey aggarwal

Manager
Tax and Regulatory
Services



vaansh sharma

Manager
Financial Accounting



varun garg

Partners



Co-Founder and Partner



mohit aggarwal

Co-Founder and Partner



nitin garg

Partner



amit pandey

Co-Founder and Partner



vikrant suri

Data Security



As a firm, we're acutely aware of our responsibilities to client and third-party data. Data protection protocols are in place for avoiding any potential threats.

- DNS scan and verification
- Network Protection, including authentication protocols
- Data encryption across data storage devices
- CASB (Cloud Access Security Broker) safeguards to avoid data leakages, including protocols against potential attacks and breaches*
- Automatic multiple back ups at remote site
- Routine trainings and acceptance of policy by employees
- Optional cloud-based data storage and access with select and limited privileges
- User access control with 2FA (two factor authentication) for secure login

* under implementation

Coinmen Consultants LLP



As a firm, we've helped businesses weather through business cycles, funding crisis and a post pandemic world, and been a part of the best they've ever seen, yet. This presentation is put together by our team to ensure you know we're here for your next challenge.

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