



# India

## Tax Highlights

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## Tax Highlights

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# Introduction

India is the second most populous and seventh largest country in the world, with a highly diverse population consisting of thousands of ethnic groups and hundreds of languages.

India is one of the most surprising countries among emerging markets, with a highly diversified industrial base and a extraordinary growth perspectives ahead that carry important business opportunities for foreign enterprises which export and invest. It offers a young and low cost labour force not adequately specialized yet and it has a significant competitive advantage compared to the neighbouring big emerging economies such as Vietnam, Indonesia and China.

The most interesting opportunities relate to infrastructure, machineries and mechatronics, renewable energy, automotive, agro-industrial technology, ICT and pharma, across the industrial poles of Delhi-Gurgaon-Noida, Mumbai-Pune, Chennai, Bangalore, Calcutta, in the states of Gujarat, Rajasthan and in the rest of the territory.

The most critical risks: exchange rate fluctuations, a fast changing legal and regulatory framework, cultural barriers.

### Some Numbers:

1.311	Million people
200	Million people that represent the Indian middle class (SACE)
380	Million people that represent the new middle class (SACE)
32,7%	Urbanized population (SACE)
25,92%	Industry contribution to GVA (Indian Central Statistics Office, 2020-2021)
53,89%	Services contribution to GVA (Indian Central Statistics Office, 2020-2021)
1.927 USD	GDP per capita (World Bank, 2020)
6,77%	Indian share of world GDP (WB, 2020, PPP)
23	Tariff and non-tariff barriers against European enterprises
63/190	Ease of Doing Business Index (WB, 2020)
86/180	Corruption Index (Transparency International, 2020)

# 1. The Tax System: Overview

Since its independency from the United Kingdom in 1947, India has been a federal republic with a parliamentary system of government. Today it's a Union of 28 states and 8 union territories.

India tax system has a federal structure and it is regulated by the Income Tax Act (ITA, 1961) and the Goods and Service Tax (GST) introduced in 2017, easing and consolidating a complex web of indirect taxation before in place. Taxes are levied by Central Government and by State Governments. Some minor taxes are also levied by the local authorities such as the Municipality and the Local Governments.

Tax year is from 1 April to 31 March of the following year.

## 2. Direct taxes

### 2.1. Taxation of legal persons

#### Corporate income tax

- \* Domestic companies, which are companies incorporated in India, including companies that are wholly owned subsidiaries of foreign companies:

25% - if its turnover in the FY 2019-2020  $\leq$  INR 4 billion (55 million USD)

30% - if its turnover in the FY 2019-2020  $>$  INR 4 billion (55 million USD)

#### *Surcharge*

7%: if income exceeds INR 10 million

12%: if income exceeds INR 100 million

- \* Foreign companies, including branches of foreign companies and project offices: 40%

#### *Surcharge*

2%: if income exceeds INR 10 million

5%: if income exceeds INR 100 million

- \* Firms (including LLPs): 30%

#### *Surcharge*

12%: if income exceeds INR 100 million

There is an Education Cess applicable on the total of Surcharge and Tax payable: 4%

Dividend Distribution Tax (DDT): None

### Alternate Minimum Tax and Concessional Tax Regimes

There is a minimum tax of 15% on book profit and from September 2019 companies can opt for concessional tax regimes from 15% to 22% depending on the activity

### Capital Gains

Capital gains are taxed, depending on the nature of asset and investment terms.

### Losses

Losses can be carried forward up to 8 years, subject to ownership continuity test

### Withholding tax

Interests, royalties and fees for technical services distributed by a Resident to a Non-Resident company are subject to a withholding tax. Rates provided below do not consider possible lower treaty rates.

### Royalties and payments for technical services

Royalties paid to non-residents are subject to withholding tax at 10% (excluding Surcharge and Education Cess).

### Interests

Interests paid to non-residents are subject to withholding tax at 20% (excluding Surcharge and Education Cess).

### Business Profits

Business profits and other income paid to non-residents are subject to withholding tax at 40% (excluding Surcharge and Education Cess).

### Dividends

Dividends paid to non-residents are subject to withholding tax at 20% (excluding Surcharge and Education Cess).

Anti-avoidance legislation

Transfer pricing - Yes

Thin capitalization - No

Controlled Foreign Company Legislation - No

## 2.2. Taxation of natural persons

**Ordinarily Resident:** Present in India for at least 182 days in a tax year, or present for at least 60 days in a tax year and for at least 365 days in past 4 tax years preceding the relevant tax year. They are taxed on their global income

**Resident but not ordinarily resident.** A resident individual who does satisfies either of the following conditions, qualifies as a Resident but not ordinarily resident ('NOR'):

- o If he was non resident in India, in 9 out of 10 immediately preceding tax years, or
- o If he was in India for less than 730 days in the 7 immediately preceding tax years.

They are taxed on the income that arises in India, or income that arises outside India, but from a business controlled in India or a professional set up in India.

If individual does not qualify as ordinarily resident or resident but not ordinarily resident, the individual is non resident and taxed only on that income that arises in India.

Personal income is classified in 5 categories: income from salaries; income from house property; profits and gains from business or profession; capital gains; income from other sources (dividends, interests, etc.)

## Tax Rates (FY 2022-2023)

Tax Rate	Income (INR)
Nil	Up to INR 250.000
5%	250.001 – 500.000
20%	500.001 – 1.000.000
30%	Above 1.000.000

## Surcharge

- o 10%: if income  $\leq$  INR 10 million
- o 15%: if income  $>$  INR 10 million

There is also an Education Cess applicable on the total of Surcharge and Tax payable: 4%

## Expatriates

Taxability of expatriates is driven by their tax residential status in India.

If their stay in India is medium term (generally 6 months to 2 years), they may qualify as Not Ordinarily Resident. In such a case, only the salary earned for services rendered in India

(wherever received), shall be taxable in India according to tax rates for natural persons. Expatriates who visit India for very short term (less than 6 months) are generally eligible to avail a short stay exemption, provided:

- his stay in India does not exceed a total of 90 days in tax year;
- his employer is not engaged in any business in India; and
- such salary is not deductible in computing any income of his employer, that may be chargeable to tax in India.

Employees (domestic or international) are required to contribute towards statutory social security contribution funds. This obligation is at the tax rate of 24% of basic salary, 12% borne by the employee and 12% borne by the employer, who deposits the total contributions to the provident fund.

## 3. Indirect taxes

### Goods and Service Tax

As from 1 July 2017, GST is levied on supply of goods and services. For all intra-state supplies, Central GST and State GST (or Union Territory GST, as the case may be) is applicable, whereas for all inter-state supplies (including imports), Integrated GST applies. Exports and supplies to SEZs are zero-rated for GST purposes.

GST standard: 12% and 18%

Registration is state-specific and compulsory for companies reaching a turnover of 2 million INR and for inter-state suppliers, e-commerce operators and other certain categories of persons.

### Other taxes

#### Custom duties

Duties on import of goods. Rates may vary from 0% to 32%. Also, a cess may be added in case of some goods. Sometimes, GST is also added to the import duty payable, to negate adverse effect of imports on domestic manufacturers.

In case a company in India imports goods from its parent / associate company, it has to obtain registration under Special Valuation Branch (SVB) of the Customs Department.

## Stamp Duty

There is a Stamp Duty levied for the transaction performed by way of sale, purchase, lease, conveyance deed, etc.

## Virtual Digital Assets

Any income from the transfer of any virtual digital asset, such as crypto-assets and non-fungible tokens, is taxed at a flat rate of 30%. With effect from 1 July 2022, the payment shall be deducted at source at the rate of 1%.

# 4. Other Tax incentives

## Incentives for start-ups

Start-ups established before 31 March 2023 are given tax incentives for three consecutive years out of ten years from incorporation.

## 5. Corporate Compliance

Government has introduced rules such as the mandatory filing of Know Your Customer (KYC) documentation for directors of companies.

Company law requires identification of a company's significant beneficial owners (SBOs). Any individual who, directly or indirectly, holds more than 10% of the shares, or voting rights, or rights to participate in more than 10% of the distributable dividends of a company; or who exercise significant influence over the company, etc., is considered an SBO. All SBOs are required to make timely disclosures regarding their holdings in an Indian company and any changes thereto to the company, and the company in turn must notify the Registrar of Companies.

### **Continuing compliances**

Annual filing of accounts and related party transactions, annual filing of details of directors, shareholding details and meetings, filings related to events, such as director's appointment, allotment of shares, passing of special resolutions, etc.

## 6. Our services

### **Accounting services**

We support the foreign accounting division of the client by analyzing and optimizing the local processes on the basis of local regulations, potential risk areas, reference industry and through periodic company site visits. We offer accounting outsourcing services customized to the specific needs of the client

### **Tax Services**

We offer consulting services in domestic and international taxation, assisting clients that deal with different jurisdictions, guiding them in planning and complying with their local tax requirements and in cross-border transactions

### **Corporate services**

We offer our own experience and competence to clients that start an internationalization project or a corporate reorganization abroad, in the establishment process, in local regulatory compliance and administrative support, leveraging our know-how and our strategic partnerships consolidated over time

## 6.1. Our services in India

### **Accounting services**

- Accounting in Outsourcing
- Financial statement reporting as per local, international standards and per client's internal requirements
- Accounting Due diligence
- Payroll services and Social Security compliance
- Process assurance
- Support for recruiting accounting & admin staff
- Training and supervision for internal accounting department

### **Tax Services**

- Tax Advisory and Tax Due Diligence
- Compliance with withholding tax processes, filings, certifications
- GST/VAT compliance, tax returns and tax clearances
- Liaison with local tax authorities
- Transfer pricing

### **Corporate services**

- Feasibility studies on establishing a Business in India
- Company formation services
- Expat services, residence visas and work permits
- Assistance in opening a bank account in a local bank
- Compliance for statutory filings and Company Secretary
- Assistance in Company Liquidation and Corporate Amendments
- Advisory on local regulations and corporate compliance

## 7. Strengths

### **Global presence, local focus**

- 7 Partner
- 11 Countries in which we are present
- 14 Offices
- 500+ Continuative clients around the globe

### **Why Diacron?**

- Team of professionals with in-depth knowledge of tax systems and corporate regulations, locally and internationally
- Consolidated collaboration with local partners
- Strategic global presence

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