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INDIA

Legal Provisions

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GENERAL REMARKS

In recent years, India has emerged as a growing economic powerhouse, making it an increasingly enticing destination for global corporations. The country has actively pushed to develop a variety of businesses, including manufacturing, information technology (IT), energy, electric vehicles (EVs), fintech and others. The Indian government has created key programmes such as 'Made in India' and 'Digital India' to encourage investment, creativity, and entrepreneurship in the country.

The International Monetary Fund (IMF) released its latest World Economic Outlook report, projecting that the Indian economy will grow by 6.2 per cent in the current fiscal year, making it the fastest-growing economy in the world.

India's demographic dividend has been a crucial driver in the country's economic success, with a young population and a middle class estimated to reach 500 million by 2025.

Furthermore, with over 900 million internet users in India by 2025, digital technology has improved consumer access in India. The government's recent emphasis on business-friendliness, FDI liberalisation and structural changes such as the Goods and Services Tax (GST) and an updated Insolvency and Bankruptcy Code (IBC) have also assisted India's economic progress. India's market potential is enormous and there are several opportunities for international enterprises to participate in the country's expanding market.

The Indian foreign trade is mainly regulated by the Foreign Trade Policy framed by the Ministry of Commerce and Industry (Directorate General of Foreign Trade). Apart from being a critical driver of economic growth, Foreign Direct Investment (FDI) has been a major non-debt financial resource for the economic development of India. Foreign companies invest in India to take advantage of relatively lower wages, and special investment privileges like tax exemptions, etc. For a country where foreign investment is being made, it also means achieving technical know-how and generating employment.

The Indian Government’s favorable policy regime and robust business environment have ensured that foreign capital keeps flowing into the country. The Government has taken many initiatives in recent years such as relaxing FDI norms across sectors such as defence, PSU oil refineries, telecom, power exchanges and stock exchanges, among others.

As one of the largest economies, India's growth and performance have a significant impact on the global economy. Its trade policies, domestic consumption, and investment climate influence international markets and investors' decisions.

For a Swiss exporter, it may be worthwhile to note that the Indian market has, like many other countries, some unique features, e.g., there is a ‘cultural gap’ concerning many business practices, such as a pragmatic approach towards administrative procedures, importance of “unwritten” information etc.

The Swiss Business Hub India is at the disposal of Swiss companies which are intending to do business in India or already doing business in India, for all possible assistance and guidance to help promote their business activities.

The Trade and Economic Partnership Agreement (TEPA) between Switzerland and India represents a pivotal advancement in the economic relations between the two countries. This comprehensive report, titled “Impact and Opportunities for Switzerland: Trade and Economic Partnership Agreement,” explores the diverse impacts and opportunities stemming from this landmark agreement.

Signed on March 10, 2024 and came into force on 1st October 2025, after more than a decade of negotiations, the TEPA is India’s inaugural Free Trade Agreement with a European trading bloc. It aims to promote sustainable development, enhance trade diversification and create favorable conditions for

investment between the European Free Trade Association (EFTA) states—Switzerland, Iceland, Norway and Liechtenstein—and India. This agreement is anticipated to significantly enhance bilateral trade, offering Swiss companies improved market access and competitive advantages in one of the world's most dynamic economies.

CUSTOMS LAW AND DUTIES

Though India has brought down its import duties since the gradual opening of its economy from 1991 onwards, the same is still high as compared to import duties levied, for example, in other emerging economies of Asia. By gradually modifying the import tariff wall, India is not only fulfilling its obligations under the WTO but is pushing its export industries to be competitive in the international market and preparing its local industries to face foreign competition. The import duty structure in the country remains a complex one. In general, the following four duties/cess are levied on imports (for more information, visit Central Board of Indirect Taxes and Customs: http://www.cbec.gov.in/)

a) Basic Customs Duty (BCD): The peak rate is fixed at 10% for most of the non-agriculture items, however, goods such as food products, liquor, automobiles etc. attract higher duties up to 125%. On the other hand, there are many products (e.g., machinery and equipment) which attract lower duty of 7.5%. BCD is calculated on assessable value (CIF value)

b) Social Welfare Surcharge (SWS): 0-10%. This surcharge applies to BCD.

c) Integrated Goods and Services Tax (IGST): 5% to 28% - Luxury items such as consumer durables like AC and Refrigerators, premium cars, cigarettes, aerated drinks, High-end motorcycles, etc. to be levied at the GST rate of 28%. IGST is calculated on CIF+BCD+SWS

India imposes anti-dumping duties in those cases wherein the domestic industry would be adversely affected owing to unfair trade from abroad.

The import of certain goods is subject to, in addition to Customs formalities, clearance from other government departments, e.g., import of primary agricultural products, food items, medical drugs & implants, secondhand machines etc. In such cases, the Customs authorities would clear the import shipment only after the submission of a 'clearance certificate' from the concerned department.

The government has laid down various schemes for import duty exemptions/concessions, e.g., for notified life-saving drugs, import of machinery at zero duty under the Export Promotion Capital Goods Scheme etc. Some schemes facilitate import of not only the capital goods but also the raw materials and consumables for units operating from the notified export promotion zones. There are also duty exemptions/concessions available under various bilateral/regional/international trade agreements subject to meeting the prescribed rules of origin.

IMPORT REGULATIONS / NON-TARIFF RESTRICTIONS

The external trade of India is regulated by the Foreign Trade Policy framed by the Government every five years. Though this policy is announced for five years, the government reviews it every year and makes amendments/new announcements, if considered necessary. This process of revision sometimes causes inconsistency in a policy matter that could impact the business plan of a company, including the one that is already operating in the country. Presently, the said Policy is mainly focused on the promotion of Indian exports. For details, please see the website: http://dgft.gov.in/.

Any Indian resident person/entity who intends to export from or import into India needs to obtain an Importer-Exporter Code (IEC) from the Directorate General of Foreign Trade. The imported goods need compliance with domestic laws, regulations, technical specifications, and environmental and safety norms wherever prescribed and as applicable to locally produced goods.

To promote foreign trade, mainly export from India, there are several schemes run by the government. For example, Special Economic Zones (http://sezindia.nic.in), offer several incentives, including tax incentives, for setting up export units.

The Free Trade & Warehousing Zones (FTWZ) is a special category of Special Economic Zones with a focus on trading and warehousing. The scheme envisages duty-free import of all goods (except prohibited items etc.). Such goods are permitted to be re-sold/re-invoiced or re-exported. Re-export is permitted without any restrictions. These goods are also permitted to be sold in the domestic market on payment of customs duties as applicable on the date of such sale. Packing or re-packing without processing and labelling as per customer or marketing requirements could be undertaken within the FTWZ.

Regulations that are closely monitored by Indian customs:

a) EPR (Extended Producer Responsibility)

Extended Producer Responsibility (EPR) relates to the commitment which the manufacturer or producer gives for reverse collection of their non-useable goods. It's the producer's responsibility to initiate the process of recycling such goods. This applies to electronic products, plastics including but not limited to the packaging material and any other item that may be added to the list. In the case of imports, the responsibility of disposal of such waste falls under the purview of the importer and customs seek the EPR status at the time of clearance. As far as the operational requirement is concerned, the waste generators such as brand owners/producers/importers are required to collect back the end-of-life waste generated through their business. This responsibility is met through waste collection agencies who are recognised as a Producer Responsibility Organisation (PRO).

Registration with EPR PROs is mandatory from the 1st of April 2023, as customs won't clear goods without the mention of EPR registration or applying for status on the customs bills of entry.

b) LMA (Legal Metrology Act) – Labelling requirements

Legal Metrology Act which was popularly known as Weights and Measures Act before 2009, is an act which establishes and enforces standards of weights, and measures and provides guidelines that need to be met for product labelling. Articles and devices used in measuring, weighing or wherever labels are mandatorily required to be affixed on the product, need to be registered with the Legal Metrology Act (LMA). This registration is granted for the product which will be stored in a particular warehouse or factory premises. Product labelling requirements need to be complied with per the statutory requirements as laid down for that product (Drugs, Foods, etc). Additionally, the labelling requirements as prescribed by the LMA need to be in place, as where customs is interested in the registration certificate of the product with the address details of the importing premises, LMA officers are always in the market looking for non-compliant labels and enforce correction with penalties.

c) Steel Import Monitoring System (SIMS)

To import goods under chapter IDs 72, 73 and 86, the importer needs to compulsorily apply for online registration under the Steel Import Monitoring System, not earlier than the 60th day and not later than the 15th day before the expected date of arrival of import consignment. The automatic Registration Number thus granted shall remain valid for 75 days. Without this registration prior, import in India won't be possible. Most of the Steel items are now coming under mandatory registration with the Bureau of Indian Standards

d) Foods Safety and Standards Authority of India (FSSAI) provisions

For importing food products, mandatory registration with the Foods Safety and Standard Authority of India (FSSAI) is required. This registration is granted either as a new food product or an existing food product, which is completely based upon the status of registration of food formulation in India. In the case of a new food product, it takes at least one year to get the registration, otherwise FSSAI department takes 3 months to register the existing food product. The product can be registered for 3 years or more and based upon this tenure the Government fee needs to be paid.

e) Sanitary Import Permit (SIP) from Animal Husbandry

Import of Dairy food products or animal livestock are allowed only at the sea including Inland Container Depot (ICD)/airports of Delhi, Chennai, Mumbai, Hyderabad, and Kolkata. At these ports animal quarantine and certification facilities are available. This permit needs to be taken before or

at the time of arrival of goods at the respective port, which is purely dependent upon the import risk analysis which is conducted by the Department of Animal Husbandry and Dairying. SIP is valid for one year or six months depending upon the nature of the product and once issued may be utilised for more than one consignment.

f) Manufacturing and Other Operations in Warehouse (MOOWR) scheme

It is a duty deferment scheme from the Government of India, on the import of capital goods and raw materials without any export obligation. This scheme allows an unlimited period of deferment of payment of import duty including IGST for an unlimited time. In the case of the export of goods, import duties are not supposed to be paid at all, whereas, in the case of sales in the Domestic Tariff Area (DTA), duty on the respective portion of import needs to be paid, without any interest. As the scheme allows both export and DTA circulation of finished goods under the condition of non-payment of duty (in case of exports) and payment of duty (in case of DTA sales); the importer is required to maintain electronic records, as post audits will be conducted by the customs/GST.

g) While exporting goods, registration of IEC with the AD Code is necessary. Earlier, the manual connection between the IEC and authorised dealer (AD) Code was possible, which has now been removed from all ports PAN INDIA. As part of automation and faceless assessments, the Government of India has made it mandatory for exporters to register (attach) AD Codes with their respective IEC.

This registration also helps the importer, who at the time of filing the Bill of Entry mentions the AD Code manually. This manual insertion of the AD Code at the time of filing the import Bill of Entry causes issues of foreign remittances.

PRODUCT REGISTRATION AND TECHNICAL STANDARDS

The Bureau of Indian Standards (BIS) is the central organization responsible for ensuring the compliance of various products to the prescribed quality standards. There are some products for which it is mandatory to obtain BIS registration/ certification before these can be marketed in India. More information is given in the following paragraph. More here: http://www.bis.gov.in/

Standards, Technical Rules, Labelling regulations

BIS operates a product certification scheme for foreign manufacturers. In this scheme, a licence can be granted for any product against an Indian Standard specifying product characteristics, which is amenable to certification. Licence is granted to a foreign manufacturer if the applicant has requisite manufacturing & testing facilities and competent testing personnel, results of preliminary inspection(s) and testing conducted at the manufacturer's premises are satisfactory and it agrees to comply with the Scheme of Testing & Inspection (STI) and to pay BIS licence fee as applicable.

There are two important registrations with BIS for foreign manufacturers. One is under the Compulsory Registration Scheme (CRS) and another is under the ISI Marks Scheme. CRS applies to products related to electronics, information technology and renewal energy. There are various kinds of products covered under the ISI Scheme such as Cement, Electrical Goods, Food and Related Products, Auto Accessories, Medical Equipment, Cylinders, Steel & Iron Products, Chemicals & Fertilizers, Cables, AC, Toys, Footwear etc.

For products covered under CRS, the initial license is granted for 2 years, which is subject to renewal for 2 to 5 years. Initial license for products covered under the ISI Marks Scheme is granted for 1 year, which is subject to renewal for 1 to 5 years.

Every foreign manufacturing applicant needs to nominate an Authorised Indian Representative (AIR) at the time of filing an application for product registration with BIS. A liaison office/branch office/subsidiary company/group company of foreign applicants can be appointed as AIR. However, in the absence of any such arrangement an Indian individual holding an Indian passport can also be appointed as AIR by a foreign manufacturer. However, one Indian individual can represent only one foreign applicant. AIR can be changed by the foreign applicant by making written communication with BIS.

The entire process of BIS registration for products covered under CRS takes approximately 2 to 3 months. Whereas the time to complete the product registration under the ISI scheme of BIS takes approximately 8 to 10 months.

The BIS maintains, through its surveillance operations, a close vigil on the quality of goods certified. Some important links are given below to collect information regarding product registration with BIS:

Website of Bureau of Indian Standard https://bis.gov.in/

Link to see the list of products under mandatory registration (ISI)
https://bis.gov.in/index.php/product-certification/products-under-compulsory-certification/scheme-i-mark-scheme/

Link to see the list of products under CRS https://bis.gov.in/index.php/product-certification/products-under-compulsory-certification/scheme-ii-registration-scheme/

The Legal Metrology (Packaged Commodities) Rules, 2011 in India have provisions for labelling the packages of the products covered under these rules. Any of the products covered under these rules, when imported into India, shall be subject to compliance with the said provisions before the same is cleared by Customs for home consumption.

In particular, all pre-packaged commodities, which are imported into India and are meant for retail sale, shall carry, inter alia, the following declarations on the packages:

- Name and address of the manufacturer and/or importer.
- Generic or common name of the commodity packed.
- Net quantity in terms of standard units of weights and measures. If the net quantity in the imported package is given in any other unit, its equivalent in terms of standard units shall be declared by the importer.
- Month and year of packing in which the commodity is manufactured packed or imported.
- Maximum retail sale price at which the commodity in packaged form may be sold to the ultimate consumer.
- Customer Care Number with name, address, and Telephone No. of the person/office which can be contacted in case of consumer complaints.

Moreover, on the packed food products, the manufacturer must also specify whether it is vegetarian or non-vegetarian in compliance with the provisions under the Prevention of Food Adulteration Rules. Additionally, the ingredients of a food product, its nutritional values, as well as country of origin shall also be mentioned on the packaging label. The import of food products into India is subjected to sanitary and phytosanitary regulations. The customs clearance of such products takes relatively more time.

Further information can be obtained from the Department of Consumer Affairs of the Government of India (More here: http://fcamin.nic.in/).

CURRENCY REGULATIONS AND OTHER TRANSFER RESTRICTIONS

A visitor to India is allowed to bring in foreign exchange without any upper limit by declaring to Customs authorities on his/her arrival the relevant particulars in the Currency Declaration Form (CDF). The visitor need not give any declaration in the CDF if the aggregate value of the foreign exchange brought in by him/her in the form of currency notes, bank notes or traveller's cheques does not exceed US$ 10,000 or its equivalent, and/or the value of foreign currency notes does not exceed US$ 5,000 or its equivalent. Such visitor will be permitted by Customs to take out his/her unspent foreign currency provided (i) the amount being taken out does not exceed the amount that he/she had declared to the Customs authorities, in form CDF, on arrival in India, or (ii) the amount being taken out of India in foreign exchange is less than the amount for which a declaration in CDF is required to be made at the time of arrival in India to the Customs authorities.

An Indian resident going abroad can obtain foreign exchange up to USD 2,50,000 in a financial year for a business trip. For private visits, e.g., for tourism purposes etc., foreign exchange up to an aggregate amount of USD 2,50,000 in any one financial year, irrespective of the number of visits undertaken during the year can be obtained by an Indian resident for visiting abroad, other than to Nepal and Bhutan. Release of foreign exchange exceeding USD 2,50,000 requires prior permission from the Reserve Bank of India (RBI).

Additionally, all resident individuals in India have been permitted under the Liberalised Remittance Scheme (LRS) to freely remit up to US$ 250,000 per financial year for any permitted current or capital account transaction subject to restrictions as specified under the regulations.

Permissible current account transactions

The limit of USD 2,50,000 per Financial Year (FY) for current account transactions includes (viz. private visit; gift/donation; going abroad on employment; emigration; maintenance of close relatives abroad; business trip; medical treatment abroad; studies abroad).

Permissible capital account transactions

The permissible capital account transactions by an individual under LRS are:

- opening of foreign currency account abroad with a bank
- acquisition of immovable property abroad, Overseas Direct Investment (ODI) and Overseas Portfolio Investment (OPI), by the provisions contained in Foreign Exchange Management (Overseas Investment) Rules, 2022, Foreign Exchange Management (Overseas Investment) Regulations, 2022 and Foreign Exchange Management (Overseas Investment) Directions, 2022.
- extending loans including loans in Indian Rupees to Non-resident Indians (NRIs) who are relatives as defined in the Companies Act, 2013

The Indian rupee is fully convertible on the current account, therefore the regulatory framework for foreign trade transactions is very open and the authorised dealers (including authorised banks) for foreign exchange are generally permitted to conduct the business with minimum interface with the RBI. The Indian rupee is also fully convertible on the capital account for foreign investors (e.g., FDIs). The repatriation of the investment capital is permissible, except where the original investment was allowed on the specific condition that it would not be repatriated. Furthermore, the repatriation of business profits (dividend/interest) and royalty is also permissible. In the case of the sale of shares by a foreigner/non-resident Indian to a resident Indian, the amount can be repatriated subject to the fulfilment of certain conditions.

The dissolution/winding up of a company may be either voluntary or at the instance of the National Company Law Tribunal (NCLT). In such cases, the RBI considers the remittance of net proceeds to foreign partners of a dissolved company on a case-by-case basis.

LEGAL FORMS OF COMPANIES

Foreign companies have several entry possibilities depending on the activities they intend to pursue.

Branch Office

Foreign manufacturing and trading companies that are not incorporated in India, but have an India branch office can carry out the following activities:

a) represents the parent company in India and acts as buying/selling agent
b) conducts research in which the parent company is engaged
c) undertakes export/import-trading activities
d) promotes technical and financial collaborations between Indian and foreign companies.
e) renders professional or consultancy services
f) renders services in Information technology and development of software in India.
g) render technical support to the products supplied by the parent/ Group companies.
h) Representing a foreign airline/shipping.

A branch office is not allowed to carry out manufacturing activities on its own but is permitted to subcontract these to an Indian manufacturer. A branch office established with the approval of RBI, may remit outside India the profit of the branch, net of applicable Indian taxes.

Liaison or Representative Office

Foreign companies can also set up a representative office to establish a liaison between Indian businesspeople and the overseas parent company. Its role is limited to collecting information about possible market opportunities and providing information about the company and its products to prospective Indian customers. A liaison office can not undertake any commercial activity directly or indirectly and therefore, cannot earn any income in India.

Foreign companies incorporated outside of India but conducting business in India through a branch or a liaison office also fall within the purview of the Indian Companies Act.

Permitted activities for a liaison office in India:

- Representing parent/group company in India
- Promoting export/import from/ to India
- Acting as a communication channel between the parent company and Indian companies
- Promoting technical/ financial collaborations between parent/ group companies and companies in India

Project Office

Foreign companies can operate through project offices for undertaking specific contracts or activities such as turnkey projects or installation projects. For the execution of the contract so taken, a project office is allowed to enter into sub-contracts.

The RBI has granted general permission to a foreign entity to set up a Project Office in India subject to the following conditions:

a) It has secured from an Indian company a contract to execute a project in India, and

b) The project is funded by inward remittance from abroad; or is funded by a bilateral or multilateral international finance agency; or has been cleared by an appropriate authority; or a company or entity in India awarding the contract has been granted term loan by a public financial institution or a bank in India for the project.

c) The foreign company is required to furnish a report to the concerned Regional Office of the RBI under whose jurisdiction the Project Office is set up, comprising the required details about the company and the project.

Foreign companies intending to open branches, liaison or project offices first need to apply to the AD Bank through an Authorized Indian Representative having a valid PAN and Indian passport in the prescribed format (form FNC). The AD Bank will, thereafter, scrutinize all the documents and will forward the application to the Reserve Bank of India (RBI). The RBI in turn will grant its approval subject to the fulfilment of the conditions as may be prescribed in FEMA guidelines. For more details, please refer to RBI's master direction at https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=10404&fn=5&Mode=0. The government has recently relaxed the approval process for setting up the branch, liaison, and project offices of foreign companies in India.

However, approval of the Govt of India is required in the following cases:

- The applicant is a citizen of or is registered/incorporated in Pakistan.
- 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, Northeast region and Andaman and Nicobar Islands.
- The principal business of the applicant falls in the four sectors namely Defence, Telecom, Private Security and Information and Broadcasting. However, prior approval of the Reserve Bank of India shall not be required in cases where Government approval or license/permission by the concerned Ministry/Regulator has already been granted.
- The applicant is a Non-Government Organisation (NGO), Non-Profit Organisation, or Body/ Agency/ Department of a foreign government. However, if such entity is engaged, partly or wholly, in any of the activities covered under the Foreign Contribution (Regulation) Act, 2010 (FCRA), they shall obtain a certificate of registration under the said Act and shall not seek permission under FEMA 22(R)

Franchising solution

A growing number of foreign companies, particularly from the hospitality industry, have started operations in India through the franchise route. To evaluate prospective franchisees, foreign firms should use several criteria such as the financial soundness of the party; the ability to see through initial teething problems together; and similarity of values; as well as protection of intellectual property.

Wholly Owned Subsidiary

For foreign investors, there are currently two routes for getting the required permission to set up a wholly owned subsidiary in India, namely the “automatic route” or “Government approval route”. Over the past more than a decade, the Indian government has been gradually liberalising the norms for foreign direct investments, and consequently, such investments are now allowed in almost all industries through the “automatic route”, with some exceptions.

The new entity needs to be registered with the office of the Registrar of Companies in India, which will issue the certificate of incorporation. A company may either be a private limited company or a public limited company. Private companies are preferred for small groups of businesspeople.

A Company shall not commence any business or exercise any borrowing powers unless:

- A declaration in e-form 20A is filed by a director within 182 days of the date of incorporation of the company,
- The company has filed with the Registrar a verification of its registered office.

For information about the procedure for the incorporation of a company in India, please browse the following web link to the Ministry of Corporate Affairs: http://www.mca.gov.in/.

India has passed the legislation to facilitate the establishment of Limited Liability Partnerships. This new business form is a hybrid of partnership firm and company and is a separate legal entity with liability being limited to the extent of stake held by a partner. This is quite suitable for professional service providers such as CA/CS firms, legal and advisory firms etc.

Joint Venture

India does not have a separate law for foreign investment, but it is the stated objective of the Consolidated FDI Policy to invite and facilitate foreign investments. Foreign investments and returns on them are, in general, fully repatriable. Since the economic reform started in India in 1991, the volume of foreign investments in the country has increased substantially. The government, to further promote investment, both domestic and foreign, in the country, has initiated many steps to simplify procedures, rationalise various policies and set up regulatory frameworks, and has offered several incentives, especially to the firms engaged in the export business. Consequently, considerable investments have flown into many sectors, e.g., telecommunication, transportation, electrical equipment, information technology, chemicals & pharmaceuticals, and services.

Automatic Route

Foreign investment is ‘automatically’ allowed in almost all industries, with some exceptions and subject to the notified sectoral policy and foreign equity caps. For investments under this route, the companies do not require any prior approval from the Government.

However, the companies are required to notify the regional office of the RBI as per the following:

- In case of receipt of share application money towards allotment of shares in a Company: Reporting in form FCGPR needs to be done within 30 days of allotment of shares.

- In case of transfer of shares of a Company: Reporting in form FCTRS needs to be done within 60 days of receipt of consideration.
- In case of receipt of consideration by an LLP: Reporting in form FDI LLP(I) needs to be done within 30 days of receipt of consideration.
- In case of transfer of capital contribution of an LLP: Reporting in form FDI LLP(II) needs to be done within 60 days of receipt of capital contribution.
- In case of External Commercial Borrowings (ECB): Reporting in form ECB 2 needs to be done every month within 7 days after the closure of the month.

Annual Return on Foreign Liabilities and Assets: An Indian company which has received FDI or an LLP which has received investment by way of capital contribution needs to submit form FLA to the Reserve Bank on or before the 15th day of July of each year.

Government Approval Route

Foreign investments that do not qualify under the Automatic route require prior permission from the Govt of India.

The applicant company needs to apply for approval through the Foreign Investment Facilitation Portal (FIFP), to the Department for Promotion of Industry and Internal Trade, Ministry of Commerce, and Industry (DPIIT). After a proposal is filed online, DPIIT will identify the concerned Administrative Ministry/Department and e-transfer the proposal within two (02) days to the concerned Administrative Ministry/Department (Competent Authority) for processing and disposal of the case.

Following are some of the competent authorities for granting approval for foreign investment for sectors/activities requiring govt approval.

S. No.	Activity / Sector	Administrative Ministry/ Department
1	Mining	Ministry of Mines
2	Civil Aviation	Ministry of Civil Aviation
3	Telecommunication	Department of Telecommunications
4	Trading (Multi Brand Retail Trading and Food Product retail trading)	Department for Promotion of Industry and Internal Trade

Please refer to https://dipp.gov.in/policies-rules-and-acts/policies/foreign-direct-investment-policy for consolidated FDI Policy 2020 as introduced by the Govt of India having details of all sectors/activities requiring govt approval.

Further, applications involving investments from an entity of a country, which shares a land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country {as required in terms of Press Note 3 of 2020 read with Foreign Exchange Management (Non-debt Instruments) Amendment Rules, 2020 dated 22.04.2020} also requires approval from the Govt of India

The booklet “Consolidated FDI Policy 2020” available at the website of the Department of Industrial Policy and Promotion: https://dipp.gov.in/policies-rules-and-acts/policies/foreign-direct-investment-policy contains detailed information for foreign investors, including sector-wise guidelines for the foreign direct investments in India.

The potential investors intending to use the automatic approval route can access the relevant information and application forms (FCGPR or FCTRS) from the website of the Reserve Bank of India: https://rbi.org.in/Scripts/femaview.aspx?femaid=65.

100% of foreign-owned companies are allowed in many areas/sectors. Furthermore, wholly-owned subsidiaries are also allowed in setting up 100% export-oriented units -EOUs, units in Special Economic Zones (SEZs), companies where proprietary technology is sought to be protected or sophisticated technology is proposed to be brought in. Several Swiss companies now have 100%-owned companies in India. For information about Swiss companies operating in India, please refer to the Embassy’s publication “Swiss-Indian Trade and Investment Relations 2016”, available on the Embassy’s website: https://www.eda.admin.ch/content/dam/countries/countries-content/india/en/Swiss-Indian%20Trade%20%26%20Invest%20Relations_2016.pdf.

Recent approval records show that the Indian Government is also willing to give approvals, on a case-to-case basis, to foreign partners who decide to enhance their equity participation later in the existing Indian ventures within the FDI ceiling, if any (the pre-condition is the submission of an agreement with the Indian promoter(s)/ shareholders as well as a board resolution).

To further liberalise the FDI regime in the country, the government permits the issue of equity shares to a person resident outside India against lumpsum fee and royalty due for payment, and external commercial borrowing, subject to meeting all applicable tax liabilities and procedures. Furthermore, an Indian company may be permitted to issue equity shares to non-residents against the import of capital goods, subject to the fulfilment of certain conditions.

Technical Collaborations

Foreign technology/licensing agreements are granted automatic approval under the current Indian policy, i.e., lumpsum payment and/or Royalties on sales in domestic market, foreign markets, as well as royalties on the use of trademark and brand name do not need any approval of the Government of India. However, such payments are subject to Foreign Exchange Management (Current Account Transactions) Rules 2000, as amended from time to time.

Furthermore, foreign investment through fully convertible preference shares is treated as foreign direct shareholding for sectoral caps on foreign investment. The maximum dividend rate on preference shares shall be within the limit prescribed by the Ministry of Finance.

TAXES

Taxation in India is governed by an intricate system of laws, regulations, and procedures. The Indian tax system is a mix of direct and indirect taxes, with taxes levied at both the central and state levels. The primary direct taxes in India are income tax and corporate tax while the indirect taxes are primarily constituted by goods and services tax (GST) with excise duty, customs duty, and other sales tax completing the mix.

India follows a fiscal year that runs from April 1 to March 31. The Indian government reviews and amends tax rates on an annual basis during the budget process which typically occurs in February and March before the beginning of a fiscal year. Moving forward we provide an overview of the Direct and Indirect Tax regimes in India.

A summary of India's taxation system is given herein below.

Direct Taxes

In India, direct taxes are levied by the Central Government and are managed by the Central Board of Direct Taxes (CBDT). The two main types of direct taxes in India are **income tax** and **corporate tax**. **Income tax** is a tax that is levied on the income of persons like individuals, Firms, Association of Persons (AOPs), and Body of Individuals (BOIs). The tax rate varies and is determined considering the nature of the assessee and the income levels. **Corporate tax** is the tax levied on the profits earned by companies in India and its rate varies depending on the nature, size, and level of profitability of the company.

While the Income Tax Act, 1961 (IT Act or the Act) is the main legislation that governs the levying of direct taxes in India, the country also has a vast network of tax agreements with different countries that require due consideration in cases of international transactions. According to the IT Act, these tax agreements take precedence over the provisions of the Act to the extent they are more favourable to the taxpayer. Albeit, to take such an advantage the taxpayer must be a tax resident of the treaty country and should be able to produce the prescribed documentation to that effect.

Levy Mechanism

Direct taxes as such are levied on the income, profits, and gains of taxpayers. While the levy of direct taxes in India works similarly, it is structured to be progressive. The precursor to the determination of tax liability is the computation of taxable income or profit by subtracting the available deductions and exemptions from the total income or turnover. Subsequently, tax liability is determined using applicable tax rates on the taxable income so determined.

The **"charging section" of** the IT Act establishes the foundation for imposing income tax for different types of taxpayers and lays down that the total income of any person is subject to income tax. This concept of the total income of a person is further explained based on residential status wherein:

Residents are liable to pay taxes on their global income, while **Non-Residents** are only taxable on income sourced in India. Moving ahead an overview of the corporate tax and income tax arrangements in place has been provided.

Corporate Tax

In India, companies are classified into two categories for corporate taxation:

1. Domestic companies: those that are registered in India and are subject to tax on their global income.

2. Foreign companies: those that are not registered in India but have a permanent establishment in India and are taxed only on the income accruing from India.

In certain situations, Indian and certain foreign companies are required to pay a tax called Minimum Alternate Tax (MAT) as corporate tax. This situation arises when companies show a book profit but have not paid any tax, due to exemptions or deductions availed under tax law. With this backdrop, the tax rates applicable to corporates for FY 25-26 are as follows:

No.	Particulars	Basic tax rates		Surcharge		
		Turnover of Fiscal year 22-23 <= INR 4000 mn	Turnover of Fiscal year 22-23 > INR 4000 mn	Total Income up to INR 10 mn	Total Income above INR 10 mn & up to INR 100 mn	Total Income above INR 100 mn
1	Domestic Company					
	- Normal tax rate	25%	30%	Nil	7%	12%
	- Minimum Alternate tax*	15%	15%	Nil	7%	12%
2	Foreign Company					
	- Normal tax rate**	35%	35%	NIL	2%	5%
	- Minimum Alternate tax*	15%	15%	Nil	2%	5%

A Health and Education Cess is levied @ 4% in all cases and is computed as a % of the total tax and surcharge (wherever applicable). The Total Tax Liability accordingly is the aggregate of Tax, Surcharge, and cess.

* MAT is applicable in the case of foreign companies only in circumstances where such company has a permanent establishment situated in India or when it is required to seek registration in India under any other law for the time being in force.

**While the aforementioned tax rates for Foreign Companies apply to their earnings in India, the act regarding certain special incomes of such entities which includes incomes of Royalties, Fees for Technical Services, Interest, and Dividends among others, specifies special tax rates ranging between 5% to 20% depending on the nature of the income and the foreign entity's residential status. Further, in comparison to the rate prescribed by the act, any lower tax rate under a tax treaty in effect between India and a foreign entity’s home country shall be available. However, if such lower tax treaty rates are opted for, foreign entities are required to undertake prescribed tax compliance in India which includes seeking India Tax registration and submission of Annual Return of Income disclosing details of Indian revenue accruals.

Moving forward while taking note of these taxation rates, a welcoming act of the government of India through taxation amendment acts of recent years has been to provide **domestic companies** with an option to be taxed at certain concessional rates on fulfilment of prescribed conditions. The details of these reduced tax rates are as follows:

No.	Particulars	Basic tax rates		Surcharge (Flat rate irrespective of income level)
		All companies (Section 115BAA)	New manufacturing domestic companies (Section 115BAB)	
1	Domestic Company			
	- Normal tax rate	22%	15%	10%
	- Minimum Alternate tax	NA	NA	NA

Health and Education Cess shall continue to be levied @ 4% on the tax computed inclusive of surcharge (wherever applicable) in all the above cases as well.

Once the company opts for the concessional tax rate under Section 115BAA, it cannot withdraw the option for subsequent assessment years. Further to claim this lower tax rate u/s 115BAA certain condition needs to be fulfilled and are briefly stated below:

- The company needs to exercise the option on or before the due date of filing the income tax return.
- The company cannot claim certain deductions and incentives that are otherwise available under the IT Act when the normal scheme of taxation is opted.
- The company must not have any brought forward losses or unabsorbed depreciation.
- The company must not have any income from a business that has availed of any tax incentive or deduction.
- The company must not be a company formed by splitting up or reconstructing an already existing business.

As far as the lower rate of tax under Section 115BAB is concerned, a similar restriction regarding withdrawing from the regime exists. Moreover, certain conditions regarding availing this have also been prescribed and they are briefly stated below:

- The company needs to exercise the option on or before the due date of filing the income tax return.
- The company should have been incorporated on or after October 1, 2019, and should be engaged in the manufacturing or production of any article or thing and should not engage in any other business. Such manufacturing operations should commence on or before the extended deadline of March 31, 2026 and no further extension has been announced as yet. Any company seeking this 15% rate must have commenced manufacturing by March 31, 2026The company should not have been formed by splitting up, or the reconstruction of a business already in existence.
- The company should not use any plant or machinery previously used for any purpose.
- The company should not claim certain deductions or exemptions under the Income Tax Act as provided.

Income Tax– Individual Taxation

Personal income tax in India is again based on the concept of residential status. The difference in tax rates for residents and non-residents as observed in the case of corporates is absent when assessing taxes of individuals. The residential status in these cases primarily defines the quantum of income that will be subjected to tax – Global income in the case of residents and only Indian-sourced income in the case of non-residents.

The individual income tax rates vary based on the income slab and are influenced by the scheme of taxation opted by the taxpayer. The individual tax framework in India offers two primary regimes: the **old tax regime** and the **new tax regime**, with the new regime serving as the default from FY 2023-24 onwards. Additionally, a **presumptive tax regime** is available for small taxpayers with business income, and a **senior citizen tax regime** offers additional benefits for resident senior citizens.

Old Tax Regime The old tax regime follows the traditional slab structure and allows a wide range of deductions and exemptions (such as HRA, Section 80C, 80D, etc.). Under this regime, the highest rate of **30%** applies to annual income exceeding **INR 1,000,000** (approx. CHF 11,000).

New Tax Regime (Default — FY 2025-26) The Union Budget 2025-26 introduced significant enhancements to the new tax regime. It is now the default regime and offers reduced tax rates in exchange for foregoing most deductions and exemptions. The revised tax slabs effective for FY 2025-26 are as follows:

Firms

Partnerships and LLPs (Limited Liability Partnerships) are taxed as separate entities under the Income Tax Act in India. The income earned by these entities is taxed at the applicable rate of tax based on their legal form. The tax liability is calculated based on the entity's income after deducting expenses and allowances.

The tax rate on Partnership firms (including LLP) is 30% on the whole of the Income earned by them. A surcharge shall be levied @ 12% where the taxable income exceeds INR 10 million. Health and Education Cess shall continue to be levied @ 4% on the tax computed inclusive of surcharge (wherever applicable) in all cases.

Indian Capital Gains

Capital gain taxation is an important aspect of the Indian tax system that applies to the sale of various assets such as property, shares, mutual funds, and other investments. Capital gains are categorized as either short-term or long-term based on the holding period of the asset.

Short-term capital gains are generally taxed at the applicable tax rates although a rate of 15% / 20% (depending upon the date of transfer of capital asset) has been prescribed in the case of short-term capital gains arising on specified listed securities.

The long-term capital gains are taxed at a lower rate, ranging from 10% to 20% with a general rate of 12.5% and Indexation benefits being available depending on the nature of the transaction. Indexation allows for adjustments in the purchase price of the asset for inflation, reducing the tax liability on the gains. However, this benefit has been restricted going forward on transfers taking place on or after 23rd July 2024 and will only be available in case of transfer of properties that were acquired before the aforesaid date.

Various exemptions and deductions are also available under the Income Tax Act, such as exemptions for gains from the sale of a residential property, agricultural land, or a small business among others. Additionally, taxpayers can invest in specific tax-saving instruments like tax-saving mutual funds or bonds to save on their capital gains tax liability.

Avoiding Double Taxation – Double Tax Avoidance Agreements

Double Taxation Avoidance Agreements (DTAA) also known as Tax treaties, play an important role in the Indian taxation system. These treaties are agreements between two countries aimed at avoiding double taxation of income earned by a taxpayer in both countries. India has signed tax treaties with over 100 countries to ensure that taxpayers are taxed fairly. As referenced earlier, the tax treaty provisions override the provisions of the Indian Income Tax Act to the extent they are more favourable to the taxpayer. Taxpayers can claim this relief under the tax treaty provisions by submitting relevant documents and certificates to the tax authorities which are as under:

- Tax Residency certificate
- Self-declaration for No permanent establishment in India
- Form 10F

However, as aforesaid in case of special incomes like Royalties, Fees for Technical Services, Interest, Dividend, etc. accrued from India in the hands of non-residents, choosing the favorable tax treaty rates over the Income Tax Act rate entails fulfilling necessary India Income Tax compliance by the non-resident which includes seeking Indian Tax registration and submitting the annual tax return detailing India sourced income.

The Swiss Indian Double Taxation Avoidance Agreement (DTAA) defines the tax competencies of the contracting states and specifies the tax rates applicable to Swiss residents doing business in India and vice-versa to Indian residents in Switzerland. The provisions contained therein provide for the following withholding tax rate on the below-ascribed incomes earned by Swiss residents in India:

- Dividend 10%
- Interest 10%
- Royalty 10%
- Fee for Technical Service 10%

These rates are subject to furnishing of the aforesaid documentation and in absences thereof, the tax rates as per the Indian Income Tax Act prevail which varies from 10 to 30% plus surcharge (wherever applicable) and cess.

Taxes applicable to expatriates in India – As per the IT Act, a foreign national in regular employment with an Indian company is liable to pay tax on his/her earnings, wherever received. Any other income is taxable only if received in India. However, By the Swiss-Indian Double Taxation Avoidance Agreement, the remuneration derived by a Swiss resident in respect of employment, services or activities performed in India shall be taxable in Switzerland only, if the Swiss is present in India for a period or periods not exceeding 183 days in the aggregate in any 12 months, and the remuneration is paid by, or on behalf of an employer who is not resident in India and it is not borne by a permanent establishment which the employer has in India. Thus, for an expatriate in India, it makes a lot of sense to ask the advice of an Indian tax expert to structure his/her earnings in such a way that tax benefits/rebates can be fully availed of.

The Compliance Framework

The objective of the compliance framework is to ensure that taxpayers comply with the provisions of the Act and pay the correct amount of tax on time.

The first step in the compliance framework in India involves **seeking registration** and requires every person who is liable to pay income tax in India to get themselves registered with the Income Tax Department. The online registration process requires taxpayers to provide their personal and financial information after which they are issued their identification number called Permanent Account Number (PAN Number).

Further, the Indian tax law requires every recipient including a non-resident/foreign company, to furnish a Permanent Account Number (PAN) to the payer in India. If the recipient fails to furnish, the withholding tax rate on these payments increases from prescribed rates (usually between 1% to 10% depending on the nature of the transaction) to 20% and even 30% in certain cases. By obtaining a PAN, Swiss residents can even enjoy lower withholding tax rates compared to IT Act rates (if available) specified in the bilateral treaty. However, an exception to this PAN furnishing requirement is carved out in cases when payment is being made to a non-resident, in respect of

- payment of interest on long-term bonds as referred to in section 194LC.
- Interest;
- Royalty;
- Fees for Technical Services and
- Payment on Transfer of any Capital Asset.

The non-possession of PAN with the Non-Resident taxpayer is obliged in the above cases if they can furnish the documents set as specified in the tax treaty section. If these documents are also not available, the higher rates of income tax again become applicable.

The next step in the compliance framework is the **filing of tax returns and audit forms** where the requirement of the latter arises on breach of certain turnover thresholds. Timely filing of these returns and forms while taking care that particulars furnished are complete and accurate is to be ensured.

The compliance framework in India also includes provisions for:

Tax collection: done by the government through various modes such as withholding tax, advance tax, and self-assessment tax payments.

Tax assessment: done by the assessing officer, who verifies the tax returns filed by the taxpayers and assesses their liability.

Tax evasion detection: through measures such as tax audits, search and seizure operations, and information gathering from third-party sources.

Penalties and Prosecution: wherein a failure on the part of the taxpayer to comply with the provisions of the Act gives the tax authorities power to impose penalties and initiate prosecution proceedings.

Dispute resolution: Taxpayers disagreeing with the tax assessment can file an appeal with the appropriate appellate authority which can either confirm, modify, or reverse the tax assessment.

Indirect Taxes

India's indirect tax framework comprises various taxes levied on the sale and consumption of goods and services. The government collects these taxes from the manufacturer or seller, who ultimately passes on the burden of tax to the end consumer. The indirect tax basket is primarily constituted by the Goods and Service Tax (GST) that was introduced back in 2017.

Simply put, The intent was to maximise economic gain and minimise compliance pain. This tax system effectively combines the various sales taxes previously levied at the national and state levels and has resulted in a single tax system, which is uniform throughout the country across states and union territories.

Apart from the GST law, the other taxes filling the basket are:

Customs Duty: Customs duty is levied on the import of goods into India. The duty is based on the value of goods, and the rate varies depending on the product.

Central Excise Duty: Excise duty is levied on the production or manufacture of goods in India and is levied on the value of the produce manufactured. Although the GST has sub-assumed the majority of the levy of excise duties within itself still it is levied on certain items.

Miscellaneous State-level Taxes: Apart from these central-level taxes, some state-level taxes such as VAT, entry tax, and entertainment tax are also levied by the jurisdictional governments.

Moving ahead we elaborate on the framework of Goods and Services tax operating in India.

Goods and Services Tax

The GST framework has streamlined the indirect tax structure in India, reducing the cascading effect of taxes and making it easier to do business across state borders. The GST framework is administered by the GST Council, which is a constitutional body comprising the Union Finance Minister and the Finance Ministers of all the states. This Council is responsible for deciding the tax rates, implementing any changes to the tax system, and resolving any disputes that may arise between the Centre and the States.

GST has a dual model, which reflects the federal structure of the country. Both the Central and State governments are empowered to levy GST on taxable supplies of goods or services within a state or union territory. This destination-based tax applies to all transactions involving the supply of goods and services, subject to some exceptions. The act defines clearly what constitutes supply and also the scope of words goods and services. The GST system in India comprises four tax rates - 5%, 12%, 18%, and 28%.

Having stated the tax rates this tax system is primarily made up of three components: Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST)/ Union Territory Goods and Services Tax (UTGST) and Integrated Goods and Service Tax (IGST). CGST is levied and collected by the Central Government, while SGST is levied and collected by State Governments. UTGST is levied and collected by Union Territories without State Legislatures. These taxes apply to intra-state supplies of taxable goods and services. Inter-state supplies of taxable goods and services are subject to IGST, which is the total of CGST and SGST/UTGST and is levied by the Centre on all inter-state supplies. Certain products such as alcohol for human consumption, petroleum products (crude oil, petrol, diesel, natural gas, ATF), tobacco, and entertainment tax levied by local bodies are not included under the GST ambit yet.

Collection mechanism

GST at its core is a tax that is levied on the value-added at each stage of the supply chain. The GST is collected by the businesses that make taxable supplies of goods and services and deposited to the government’s account.

The GST collection mechanism involves the following steps:

GST Registration: Businesses that have a turnover exceeding a certain threshold (currently Rs. 20 lakhs for most businesses) are required to register for GST. Once registered, they are provided with a unique Goods and Services Tax Identification Number (GSTIN).

Issuance of Tax Invoice: When a registered supplier makes a taxable supply of goods or services, they must issue a tax invoice to the recipient. The tax invoice must contain details such as the GSTIN of the supplier and the recipient, the value of the goods or services supplied, the GST rate applicable, and the amount of GST charged.

Collection of GST: The supplier must collect GST from the recipient at the applicable rate and deposit it with the government. The GST collected is known as the output tax.

Input Tax Credit: The recipient of the goods or services can claim credit for the GST paid on their purchases, known as input tax credit. They can set off the input tax credit against their output tax liability.

Filing of GST Returns: Registered businesses are required to file monthly or quarterly GST returns, depending on their turnover. The GST returns contain details of the taxable supplies made, the GST collected and paid, and the input tax credit claimed.

Considerations for International Transactions

The GST (Goods and Services Tax) framework related to international transactions in India is governed by the Integrated Goods and Services Tax (IGST) Act, 2017. Under the IGST Act, any supply of goods or services or both in the course of import into India or export from India is treated as an inter-state supply and is subject to IGST. The IGST is levied on the value of the imported or exported goods or services or both, along with any applicable customs duty.

In the case of Goods -

For imports into India, IGST is payable at the time of clearance of goods from customs. The IGST paid on imports can be claimed as input tax credit (ITC) by registered persons under GST.

For exports from India, IGST is not applicable as these supplies are zero-rated. This means that the exporter is not required to pay any GST on the goods exported. The exporter can claim a refund of any GST paid on the input goods and services used in the manufacture or supply of the exported goods.

In the case of Services -

In case of import of services – IGST is to be discharged by the recipient of services on a reverse charge basis.

For the export of services from India, IGST is again not applicable as these supplies are considered as a zero-rated supply. The exporter can again claim a refund of any GST paid on the input goods and services used in the provision of the exported services.

In essence, the GST system has been offering several benefits, including a reduction in purchase prices for consumer products, the free flow of goods and services between different regions across India, a simplified tax regime, the creation of a common national market, and a decrease in illegal transactions.

Major changes in the Indian taxation framework in recent years

There have been several significant changes in the taxation environment in India concerning international businesses in recent years. Here are some of the major ones:

Withdrawal of Equalization Levy on E-commerce Operators: In 2020, India expanded the scope of its equalization levy which initially applied only to online advertising services provided by non-residents by covering non-resident e-commerce operators within its ambit. This new levy was charged at a rate of 2% on the consideration received by e-commerce operators for specified services. From August 2024, this levy on e-commerce operators has been withdrawn.

Sunset of Angel Tax Provisions: The income tax act taxed the excess consideration received by a privately held company for issuing shares where such consideration exceeded the fair market value of the shares of the company. However, in the interest of investment and trade, this provision has been abolished from financial year 24-25 onwards.

Amendments to the Transfer Pricing Regulations: In 2020, India amended its transfer pricing regulations to incorporate the Base Erosion and Profit Shifting (BEPS) framework. The amendments include changes to the definition of "international transaction," new documentation requirements, and an expanded definition of "associated enterprises."

Introduction of the Significant Economic Presence (SEP) concept: India has introduced the concept of "significant economic presence" (SEP) in its Income Tax Act. SEP is intended to capture the profits of non-resident businesses that have a significant economic presence in India, even if they do not have a physical presence in the country. The rules for determining SEP were introduced in April 2021.

E-invoicing: In 2020, India introduced the mandatory use of electronic invoices for businesses with an annual turnover of more than Rs. 500 crores. From August 2023, this requirement was extended to businesses with a turnover of more than Rs. 5 crores. The move aims to reduce tax evasion and streamline the invoicing process.

Customs Duty Changes: In recent years, India has also made several changes to its customs duty rates. This includes increasing the customs duty on several items to boost domestic manufacturing and reducing the customs duty on certain raw materials and inputs to reduce the cost of production.

Production Linked Incentive Schemes

Production Linked Incentive schemes announced across 13 sectors to boost the manufacturing industry.

Production Linked Incentive (PLI) Scheme is an incentivization measure promulgated to boost investment in targeted sectors and increase production in those targeted sectors. Initially, the large-scale electronic manufacturers identified pharma Key Starting Materials (KSMs), Drug Intermediates (Dis), Active Pharmaceutical Ingredients (APIs), and bulk drugs were brought within the purview of PLI, later on however the budgetary allocation was approved for the following sectors also:

a) Advanced chemistry Cell (ACC) Battery
b) Electronic/Technology Products
c) Automobiles & Auto Components
d) Pharmaceuticals drugs
e) Telecom & Networking Products
f) Textile Products: MMF segment and technical textiles
g) Food Products
h) High-Efficiency Solar PV Modules
i) White Goods (ACs & LED)
j) Speciality Steel

The scheme envisages direct incentives between a defined percentage of the incremental sales depending upon the nature of products.

The PLI scheme would be implemented by the concerned ministries/departments and will be within the overall financial limits prescribed. The final proposals of PLI for individual sectors will be appraised by the Expenditure Finance Committee and approved by the Cabinet. Savings, if any, from one PLI scheme of an approved sector can be utilized to fund that of another approved sector by the Empowered Group of Secretaries.

The PLI scheme for the specific sectors attempts to make Indian manufacturers globally competitive, attract investment in the areas of core competency and cutting-edge technology; ensure efficiencies; create economies of scale; enhance exports and make India an integral part of the global supply chain.

The tenure of this scheme is from financial year 2020-21 to Financial Year 2029-30

Authorized economic operator scheme

An AEO is a business entity involved in the international movement of goods requiring compliance with provisions of the National Customs law and is approved by or on behalf of the national administration in compliance with World Customs Organization (WCO) or equivalent supply chain security standards. The security standards are detailed in the World Customs Organisation Safe framework of standards [WCO SAFE FoS], which is the basis of the Indian AEO program.

AEO Program is a status granted by Customs to reliable/trusted traders who comply with pre-determined criteria offering a high degree of –

- Trade compliance and/or
- Supply chain Security

concerning their role in the supply chain. The status may entitle them to a higher level of facilitation.

AEO Strategic Objective:

- Effective Risk Management at the entity level
- Improving trade facilitation
- improving supply chain security
- Optimizing revenue collections
- Promoting voluntary compliance
- Effective across the supply chain (Transnational)

Structure of the Indian AEO Program and its benefits:

There is a three-tier program for importers and exporters i.e., AEO-T1, AEO-T2, and AEO-T3 in the increasing degree of benefits accorded and compliance requirements.

Furthermore, there is a single-tier AEO Program for Logistics Providers, Custodians or Terminal Operators, Customs Brokers, and Warehouse Operators who are granted AEO-LO certificates.

The validity of the AEO certificate is three years for AEO-T1 and AEO-T2 and five years for AEO-T3 and AEO-LO.

The benefits of AEO Certificates are as under:

- Recognition worldwide as safe, secure, and compliant business partners in international trade and get trade facilitation by a foreign Customs administration with whom India enters a Mutual Recognition Agreement/Arrangement.
- Facility of Direct Port Delivery (DPD) of their import Containers and/ or Direct Port Entry (DPE) of their Export Containers
- Waiver of full or part of the Bank Guarantee requirements, Waiver of Merchant overtime fees.
- Deferred payment of duties;
- Waiver from transactional PCA. Instead, Onsite PCA has been provided, and the selection of the same shall be based on the risk assessment of AEOs.
- Waiver of solvency certification for Customs Brokers.
- A lower risk score in risk analysis systems when profiling.
- Faster disbursal of drawback amount through process eased out vide Circular 18/2017 Customs dated 29.05.2017.
- Fast tracking of refunds and adjudications.

Employment Linked incentive

Three schemes have been introduced in the Union Budget of 2024 as part of the Prime Minister's package to facilitate employment, skilling and other opportunities for the Indian youth over 5 years. These schemes will be integrated with the Employee Provident Fund Organization (the social security contribution regulatory authority in India) and will focus on recognizing first-time employees while offering support to both employers and employees. The 3 schemes under this are:

Scheme 1: First Timers

- It is for the person newly entering the workforce in all sectors.
- One month's wage as a subsidy will be paid to the employee in 3 instalments with a wage ceiling of a maximum of INR 15,000.
- Subsidy is to assist employers and employees in hiring first-timers.
- Compulsory for employees to attend an online financial literacy course before claiming 2nd instalment.
- The scheme will be for 2 years and will cover 1 crore people per annum.

Scheme 2: Job Creation in Manufacturing

- It is linked to hiring of first-time employees in the manufacturing sector with wages of up to INR 1 Lakh and working for the entity directly paying the wages
- Corporate entities with a 3-year track record of EPFO are eligible.
- Employer must maintain the prescribed threshold level of employment throughout.
- Subsidy is additional to benefit under Scheme 1 above and this scheme is for 2 years.
- Subsidy will be paid as a prescribed % of salary for 4 Years, to be shared equally between employer and employee

Scheme 3: Support to Employers

- Applicable to employers who have increased a specified number of EPFO employees from previous years.
- Govt. will reimburse EPFO employer contributions up to 3000/month the employer.
- Subsidy will be an additional benefit under Scheme 1 but not applicable for those employees covered under Scheme 2.
- The scheme will be for 2 years.

Concluding Note on Taxes

Taxation is a complex area that requires careful consideration to achieve efficient tax structures. Navigating the tax environment in India requires a good understanding of the nuances associated with the tax system. A sound understanding of the tax laws, regulations and incentives goes a long way in ensuring that taxpayers make informed decisions and effectively manage their tax obligations to avoid unnecessary penalties. Seeking professional advice from tax experts and consultants can be of great benefit in this process.

ENTRY CONDITIONS, WORK PERMITS, RESIDENCE PERMITS, LABOUR LAW

Swiss nationals travelling to India on business must obtain a business visa valid for the duration of their stay in India. Longer term business visas valid for up to 5 years with multiple entries can also be granted to frequent travellers. As per new visa guidelines issued by the Government of India recently, foreign engineers/technicians travelling to India to implement projects/contracts, including installation or repair of machinery, would require an employment visa from the Indian diplomatic representations abroad. Indian diplomatic representations can also grant employment visas based on a contract between the applicant and the employer and the corresponding appointment letter from India. Generally, all foreign nationals who have visas of duration of more than 6 months and also intending to stay for more than six months have to register themselves with the concerned Foreigners Regional Registration Officer (FRRO)/District Foreigners Registration Officer within 14 days of their first arrival in India. Upon this registration, the FRRO/District Foreigners Registration Officer issues the residence permit to a foreign national. The FRRO/District Foreigners Registration Office grants to a foreign national, who resides in India on the basis of employment/business visa, a residence-cum-work permit after the registration formalities are completed.

Labour Law Framework

The employment of labour in the organised sector in India has traditionally been governed by a complex web of central and state legislation, including the Industrial Disputes Act, 1947; the Factories Act, 1948; the Minimum Wages Act, 1948; the Workmen's Compensation Act, 1923; the Contract Labour (Regulation and Abolition) Act, 1970; and the Trade Unions Act, 1926, among others.

Indian labour laws have historically been regarded as rigid, making it difficult for employers to restructure workforces or close even loss-making operations without significant procedural and legal hurdles. Recognising this as a constraint on investment and ease of doing business, the Government of India has undertaken a landmark consolidation of its labour legislation.

The Four Labour Codes — A Major Reform in Progress

Parliament has enacted four comprehensive Labour Codes that consolidate 29 central labour laws into a single, modernised framework:

Labour Code	Laws Consolidated	Key Relevance
Code on Wages, 2019	4 laws incl. Minimum Wages Act & Payment of Wages Act	Uniform wage definitions; impacts salary structuring
Industrial Relations Code, 2020	3 laws incl. Industrial Disputes Act & Trade Unions Act	Eases hire-and-fire norms; raises threshold for retrenchment approval to 300 workers
Code on Social Security, 2020	9 laws incl. EPF & ESI Acts	Extends social security to gig and platform workers
Occupational Safety, Health and Working Conditions Code, 2020	13 laws incl. Factories Act	Unified safety standards; single licence for establishments

Implementation Status (as of April 2026): All four Codes have received Presidential assent and the central government has drafted rules under each. However, **implementation remains pending** as labour is a concurrent subject under the Indian Constitution, requiring most states to also notify their own rules before the Codes can come into force. The majority of states are at varying stages of rule-making. Foreign businesses operating in India should monitor the implementation timeline in their specific state(s) of operation, as the Codes — once in effect — will significantly alter hiring, termination, compliance, and social security obligations.

In the interim, the existing legacy labour laws continue to apply in full. The government has, however, already eased the administrative burden on companies by simplifying the filing of returns and registers under several of these laws, including through a unified online portal.

NAVIGATING INDIA'S COMMERCIAL LEGAL LANDSCAPE: KEY LAWS AND CONSIDERATIONS

India has a well-established legal system to regulate commercial activities, both in the domestic market and in foreign markets. Some of the currently enforced commercial laws (many of these have been amended from time to time) are as follows:

Trade & Foreign Exchange

- Foreign Trade (Development and Regulation) Act, 1992
- Foreign Exchange Management Act, 1999

General Commercial & Contract Law

- Indian Contract Act, 1872
- Sale of Goods Act, 1930
- Negotiable Instruments Act, 1881
- Indian Partnership Act, 1932

Corporate & Insolvency

- Companies Act, 2013
- Insolvency and Bankruptcy Code, 2016, read with Insolvency and Bankruptcy Board (Voluntary Liquidation Process) Regulation, 2017

Competition & Consumer

- Competition Act, 2002

Dispute Resolution

- Arbitration and Conciliation Act, 1996

Labour

- The Industrial Disputes Act, 1947
- The Contract Labour (Regulation and Abolition) Act, 1970

Product Regulation & Standards

- Drugs and Cosmetics Act, 1940

- Food Safety and Standards Act, 2006 *(replaced the Prevention of Food Adulteration Act, 1954)*
- The Legal Metrology Act, 2009

Recent & Significant Legislation — Foreign Businesses Should Note

- **Digital Personal Data Protection Act, 2023 (DPDP Act):** Enacted in August 2023, this is India's first comprehensive data protection legislation. It governs the collection, processing, and storage of personal data of individuals in India, including by foreign entities processing data of Indian residents. Non-compliance can attract penalties of up to INR 250 crore per instance. Foreign companies doing business in India — particularly in e-commerce, technology, healthcare, and financial services — must review their data processing practices for compliance.
- **Telecommunications Act, 2023:** This landmark legislation replaces the Indian Telegraph Act of 1885 and the Wireless Telegraphy Act of 1933. It modernises the regulatory framework for the telecom sector, introduces a new licensing regime, and has significant implications for companies operating in or using telecommunications infrastructure in India.
- **Jan Vishwas (Amendment of Provisions) Act, 2023:** This business-friendly reform decriminalises 183 provisions across 42 central laws, converting criminal penalties into civil fines across a range of regulatory statutes. This substantially reduces compliance risk and litigation exposure for businesses operating in India.
- **New Income Tax Bill, 2025:** Introduced in the Lok Sabha in February 2025, this Bill proposes to replace the Income Tax Act of 1961 in its entirety. It aims to simplify and consolidate India's direct tax law. As of April 2026, the Bill is under Parliamentary review. Foreign businesses and investors should monitor its progress closely, as it will eventually reshape the entire direct tax framework in India.

In addition, various laws protect intellectual property rights, including the Patents Act, 1970, the Trade Marks Act, 1999, the Copyright Act, 1957, and the Designs Act, 2000.

However, the legal procedures in the country are very time-consuming and a court case could drag on for several years before a final judgement is delivered.

PROCEDURES FOR COLLECTING PAYMENT

The foreign exchange transactions are regulated under the Foreign Exchange Management Act 1999. Though the Indian rupee is fully convertible on the current account transactions, the Central Government has imposed certain restrictions for these transactions in the public interest and consultation with the Reserve Bank of India.

Import Shipments

The authorised dealers are permitted to open letters of credit on behalf of their customers who are known to be participating in the trade. While doing so, they follow normal banking procedures. The letter of credit, in particular, stipulates a condition requiring that the bill of lading should indicate the name and address of the importer in India as well as the authorised dealer opening the credit. Remittances for imports under letters of credit or

Time Limit for Normal Import Payments

Further, given the disruptions due to the outbreak of the COVID-19 pandemic, with effect from May 22, 2020, the period for completion of remittances against normal imports (except in cases where amounts are withheld towards guarantee of performance etc.) has been extended from six months to twelve months from the date of shipment for such imports made on or before July 31, 2020.

Authorised dealers can consider granting an extension of time for settlement of import dues up to six months at a time (maximum up to three years) irrespective of the invoice value for delays on account of disputes about quantity or quality or non-fulfilment of terms of the contract; financial difficulties and cases where the importer has filed suit against the seller. In cases where sector-specific guidelines have been issued by the Reserve Bank of India for extension of time (i.e., rough, cut and polished diamonds), the same will be applicable.

Advance Remittances

The Authorised dealers may allow advance remittances for the import of goods without any ceiling subject to the following conditions:

(a) The importer should hold the EC copy of a valid import licence if the goods to be imported are those included in the negative list of imports given in the Foreign Trade Policy.

(b) Remittance is made directly to the supplier.

(c) If the amount of advance remittance exceeds U.S.$ 200,000 or its equivalent, a guarantee from an international bank of repute situated outside India or a guarantee of an authorised dealer in India, if such a guarantee is issued against the counter-guarantee of an international bank of repute situated outside India, should be obtained. An unconditional standby L/C from an international bank of repute situated outside India may be accepted instead of a bank guarantee provided it is irrevocable, non-transferable and lists out full particulars of the transactions and there is a clear provision for prompt payment being received in convertible currency in an approved manner. The validity of the guarantee/letter of credit should cover adequately the period to enforce payment.

(d) Physical import of goods into India should be made within six months (three years in case of capital goods) from the date of remittance and the importer should give an undertaking to furnish documentary evidence of import within fifteen days from the close of the relevant period.

(e) Authorised dealer should ensure that in the event of non-import of goods, the amount of advance remittance is repatriated to India or is utilised for any other purposes for which release of exchange is permissible under the Act, to the satisfaction of the authorised dealer.

The government has liberalised the regulations concerning advanced remittances. In cases where the importer is unable to obtain bank guarantee from overseas suppliers and the authorised dealer (Category-I bank) is satisfied with the track record and bonafide of the importer, the requirement of the bank guarantee/standby letter of credit may not be insisted upon for advance remittance up to US$ 5 million. The government has also authorised the dealers to make such remittances for all admissible current account transactions for the import of services up to US$ 500,000, without a bank guarantee.

Third-Party Payment for Import Transactions

Authorized dealers are allowed to make payments to a third party for the import of goods, subject to the following conditions:

a) Firm irrevocable purchase order / tripartite agreement should be in place. However, this requirement may not be insisted upon in cases where documentary evidence for circumstances leading to third-party payments/name of the third party being mentioned in the irrevocable order/invoice has been produced.
b) Authorized dealers should be satisfied with the bonafide of the transactions and should consider the Financial Action Task Force (FATF) Statement before handling the transactions.
c) The Invoice should contain a narration that the related payment has to be made to the (named) third party.
d) The Bill of Entry should mention the name of the shipper as well as the narration that the related payment has to be made to the (named) third party.
e) Importers should comply with the extant instructions relating to imports including those on advance payment being made for the import of goods.

Postal Imports

Remittances against bills received for collection in respect of imports by post parcel may be made by authorised dealers, provided the goods imported are such as are normally dispatched by post parcel. In these cases, the relative parcel receipts must be produced as evidence of dispatch through the post and an undertaking to submit post parcel wrappers within three months from the date of remittance should be furnished by importers. If the parcel has already been received in India, the parcel wrapper should be produced in support of the remittance application. Where goods to be imported are not of a kind normally imported by post parcel or where the authorised dealer is not satisfied with the bona fides of the application, the case should be referred to the Reserve Bank for prior approval with full particulars together with relative parcel receipt/s (or wrapper/s).

Handling of Import Bills

As a general rule import bills and documents should be received from the banker of the seller by the banker of the buyer in India. Authorised dealers should not, therefore, make remittances where import bills are received directly by the importers from the overseas seller, except in the following cases:

- Where the value of the import bill does not exceed U.S.$ 300,000/-
- Import bills received by wholly-owned Indian subsidiaries of foreign companies from their principals.
- Import bills received by Status Holder Exporters as defined in the Foreign Trade Policy.
- Import bills received by all limited companies viz. public limited, deemed public limited and private limited companies.

At the request of an importer, the authorised dealer may receive bills directly from the overseas seller, provided the authorised dealer is fully satisfied with the financial standing/status and track record of the importer. Before extending the facility, the authorised dealer should obtain a report on the overseas seller from the overseas banker or reputed credit agency.

Export Shipments

The amount representing the full export value of the goods exported shall be received through an authorised dealer in the manner specified in the Foreign Exchange Management (Manner of Receipt & Payment) Regulations 2000. Payment for exports could also be received by the exporter, e.g., in the form of a bank draft, pay order, banker's or personal cheques, or foreign currency notes/foreign currency travellers' cheques from the buyer during his/her visit to India. Currently, an exporter has 12 months to realise the export shipment. However, the period may be extended on some valid grounds.

Advance Payments

Exporters may receive advance payments from their overseas buyers. It should, however, be ensured that the shipments made against the advance payments are monitored by the authorised dealer through whom the advance payment is received. The appropriations made against every shipment must be endorsed on the original copy of the inward remittance certificate issued for advance remittance.

Handling of Export Documents

Authorised dealers should normally despatch shipping documents to their overseas branches/ correspondents as expeditiously as possible. Authorised dealers may despatch shipping documents directly to the consignees or their agent's resident in the country of final destination of goods in cases where advance payment or an irrevocable letter of credit has been received for the full value of the export shipment and the underlying sale contract/letter of credit provides for despatch of documents direct to the consignee or his agent resident in the country of final destination of goods. Furthermore, an authorised dealer may accede to the request of the exporter, for dispatch of documents by the authorised dealer, for whatever reason, directly to the consignee/agent provided the concerned exporter's track record is good to the satisfaction of the authorised dealer.

The documents may be directly sent by the exporter to the consignee (i) in respect of goods exported against 100 per cent advance remittance, in terms of aforesaid paragraph 'Advance Payments', or (ii) in respect of goods or software the documents of which are accompanied with a declaration by the exporter that they are not more than INR 25,000 and not declared on GR/SDF/PP/SOFTEX (export declaration forms).

Third-Party Payment Exports

The RBI has liberalised the procedure relating to payment of export and import considering the evolving international trade practices. Concerning export payments, the banks may now allow payment to be received from a third party subject to certain conditions, including a firm's irrevocable order backed by a tripartite agreement and the exporter should mention the third-party remittance in the Export Declaration Form. About the import of goods, among other conditions, it shall be required to provide in the narration of the invoice that the related payment has to be made to the third party whose name is also provided in the invoice.

The rules and regulations for foreign exchange transactions have been simplified over the years and are now more relaxed to provide a better foreign exchange management structure in the country.

PROMOTION OF INVESTMENT

To promote foreign direct investments (FDI) in the country, the Indian government has initiated several measures to facilitate the smooth entry of FDI. The Indian government has set up the Foreign Investment Implementation Authority (FIIA) in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion DPIIT) to facilitate quick implementation of FDI approvals. The FIIA takes, among other measures, initiatives to conduct multi-agency consultations to find solutions to problems faced by foreign investors.

Besides FDI, Foreign Portfolio Investor (FPI), Non-Resident Indians (NRIs), and Persons of Indian Origin (PIOs) are allowed to invest in the primary and secondary capital markets in India through the portfolio investment scheme (PIS). Under this scheme, FPIs/NRIs can acquire shares/debentures of Indian companies through the stock exchanges in India.

The ceiling for overall investment for FIIs is 24 per cent of the paid-up capital of the Indian company and 10 per cent for NRIs/PIOs. The limit is 20 per cent of the paid-up capital in the case of public sector banks, including the State Bank of India.

The ceiling of 24 per cent for FPI investment can be raised to a sectoral cap/statutory ceiling, subject to the approval of the board and the general body of the company passing a special resolution to that effect. The ceiling of 10 per cent for NRIs/PIOs can be raised to 24 per cent subject to the approval of the general body of the company passing a resolution to that effect.

The ceiling for FPIs is independent of the ceiling of 10/24 per cent for NRIs/PIOs.

SOURCES OF INFORMATION AND REFERENCES

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Date	April 1, 2026
Author:	Swiss Business Hub India
Author's address:	102 Maker Chamber 4, 10th Floor, 222 Jamnalal Bajaj Marg, Nariman Point, Mumbai 400021, Maharashtra, India