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International Tax
India Highlights 2021

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Recent developments

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Investment basics

Currency: Indian Rupee (INR)

Foreign exchange control: There is a simplified regulatory regime for foreign exchange transactions and liberalized capital account transactions. Current account transactions are permitted unless specifically prohibited and are monitored by the Reserve Bank of India (RBI), the central bank. Foreign investment is permitted in most industries, although sector-specific caps apply to foreign investment in certain sectors, including defense, civil aviation, telecommunications, banking, insurance, pensions, and retail. The External Commercial Borrowing (ECB) framework permits all entities eligible to receive foreign direct investment to raise ECB.

The government has issued a list of various instruments classified either as debt or non-debt. The RBI is responsible for regulating debt instruments, and the Ministry of Finance for regulating non-debt instruments in accordance with the rules and regulations governing both types of instrument.

To regulate opportunistic takeovers and acquisitions of Indian companies by foreign investors as a consequence of the COVID-19 pandemic, prior government approval is required for investment from entities based in countries that share a land border with India or where the beneficial owner of an investing entity is situated in, or a citizen of, such a country.

Accounting principles/financial statements: India has initiated steps toward the convergence of its accounting standards with IFRS (subject to a few exceptions); these standards are called Indian Accounting Standards (Ind AS). Ind AS are mandatory for listed and unlisted companies with a net worth of at least INR 2.5 billion. The implementation schedule for banks has been deferred by the RBI until further notice.

Principal business entities: These are the public/private limited liability company; one-person company (owned by an Indian citizen who also is resident in India); partnership firm; limited liability partnership (LLP); sole proprietorship; trust established as a regulated investment vehicle; or branch office, liaison office, project office, or site office of a foreign corporation.

Corporate taxation

Rates	
Corporate income tax rate	15%/22%/25%/30% (domestic companies, maximum 34.944%, including surcharge and cess)/40% (foreign companies, maximum 43.68%, including surcharge and cess)
Branch tax rate	40% (maximum 43.68%, including surcharge and cess)
Capital gains tax rate	0%/10%/15%/20% (plus surcharge and cess in certain cases)

Residence: A corporation is resident if it is incorporated in India or if its place of effective management in that year is in India.

A partnership firm, LLP, or other nonindividual entity is considered resident in India if any part of the control and management of its affairs takes place in India.

Basis: Residents are taxed on worldwide income; nonresidents are taxed only on Indian-source income. Indian-source income may include capital gains arising from the transfer of any share or interest in a company or entity registered or incorporated outside India if the share or interest directly or indirectly derives its substantial value from assets located in India. Foreign-source income derived by a resident company is subject to corporate income tax in the same way as Indian-source income. A branch of a foreign corporation is taxed as a foreign corporation.

Taxable income: Tax is imposed on a company's profits, which consist of business/trading income, passive income, and capital gains. Income resulting from the indirect transfer of assets located in India is included. Normal business expenses, as well as other specified items, may be deducted in computing taxable income.

Rate: The standard corporate income tax rate is 30% for domestic companies and 40% for foreign companies and branches of foreign companies. Taking into account any applicable surcharge and cess, the highest effective rate is 34.944% for domestic companies and 43.68% for foreign companies.

Domestic companies that forgo claiming certain specified tax deductions and incentives may elect a special taxation regime with a reduced corporate income tax rate of 22% (plus any applicable surcharge and cess) for the financial year (FY) ending 31 March 2020 (assessment year (AY) 2020-21) and subsequent years, subject to certain conditions.

Certain resident manufacturing companies (incorporated on or after 1 March 2016), may elect a 25% rate (plus any applicable surcharge and cess) where the company does not claim certain specified tax deductions and incentives. A 25% rate (plus any applicable surcharge and cess) also applies for FY 2020-21 (i.e., 1 April 2020 to 31 March 2021) to domestic companies with total turnover or gross receipts of up to INR 4 billion in FY 2018-19 (for FY 2019-20, the 25% rate applied to domestic companies with total turnover or gross receipts of up to INR 2.5 billion in FY 2017-18).

Domestic manufacturing companies incorporated on or after 1 October 2019 that commence manufacturing activities on or before 31 March 2023 may elect a reduced 15% corporate income tax rate (plus any applicable surcharge and cess) on income derived from or incidental to manufacturing or production activities, provided certain conditions are fulfilled. Other income is subject to corporate income tax at 22% or 25% (plus any applicable surcharge and cess), depending on the relevant tax regime.

Surtax: A 7% surcharge applies to domestic companies with income exceeding INR 10 million and a 12% surcharge applies where income exceeds INR 100 million. For foreign companies, the corresponding rates are 2% and 5%, respectively. A 10% surcharge applies to domestic companies that elect a special taxation regime. An additional 4% cess is payable in all cases.

Alternative minimum tax: Minimum Alternate Tax (MAT) is imposed at a rate of 15% (plus any applicable surcharge and cess) on the adjusted book profits of corporations whose tax liability is less than 15% of their book profits. MAT does not apply to certain income of foreign companies, including capital gains on transactions involving securities, interest, royalties, and fees for technical services. Domestic companies that elect a special taxation regime also are exempt from MAT. A credit is available for MAT paid against tax payable on normal income, which may be carried forward for offset against corporate income tax payable in subsequent years for up to 15 years.

Any person other than a corporation (including an LLP) is subject to alternate minimum tax (AMT) at 18.5% (plus any applicable surcharge and cess) of the adjusted total income where the normal income tax payable is less than the AMT. AMT also is imposed on a person eligible for investment-linked incentives. The adjusted total income is the total income before giving effect to the AMT provisions, as increased by certain deductions claimed in computing the total income, including the tax holiday claimed by units in a Special Economic Zone (SEZ). A tax credit is allowed for AMT paid against the tax payable on normal income and may be carried forward for up to 15 years.

Taxation of dividends: As from 1 April 2020, dividends paid by domestic companies no longer are subject to dividend distribution tax (DDT) in the hands of the company but are taxed at the shareholder level.

Prior to 1 April 2020, Indian companies were required to pay DDT at a rate of 15% (an effective rate of approximately 20.56%, including a 12% surcharge, and a 4% health and education cess (subsequently referred to as cess)) on dividends declared, distributed, or paid to shareholders, and the dividend income was exempt from tax in the hands of the shareholders.

Dividends received from a foreign company generally are subject to corporate income tax, with a credit for any foreign tax paid. However, dividends received by an Indian company from a foreign company in which the Indian company holds at least 26% of the equity shares are subject to tax at a reduced base rate of 15% on the gross income (plus any applicable surcharge and cess).

Capital gains: The tax treatment of capital gains depends on whether the gains are long- or short-term. Gains are long-term where the asset is held for more than three years (one year for listed shares and specified securities, and two years for unlisted shares and immovable property (land, buildings, or both)).

The first INR 100,000 of long-term gains on listed shares and specified securities is exempt if the transaction is subject to securities transaction tax (STT). The exemption generally is not available where the equity shares were acquired on or after 1 October 2004 and the acquisition was not chargeable to STT; however, the Central Board of Direct Taxes has clarified that the exemption is available in specified cases (such as acquisitions under preferential allotment, off-market acquisitions, acquisitions during a delisted period, etc.). Any gain in excess of INR 100,000 is chargeable to tax at the rate of 10% (plus any applicable surcharge and cess).

The cost of acquisition (i.e., the tax basis) of long-term capital assets acquired on or before 31 January 2018 is the higher of the actual cost or the fair market value on 31 January 2018. Where the full value of the consideration on a transfer is less than the fair market value, the higher of the full value of the consideration or the actual cost is deemed to be the cost of acquisition.

Where gains on listed shares and specified securities are not subject to STT, a 10% tax applies (without the benefit of an inflation adjustment). The applicable tax rate on long-term capital gains derived by a nonresident from the sale of unlisted securities is 10% (without the benefit of foreign currency conversion or an inflation adjustment). Gains on other long-term assets are taxed at 20% (plus any applicable surcharge and cess), but with the benefit of an inflation adjustment.

Short-term gains on listed shares and specified securities that are subject to STT are taxed at 15% (plus any applicable surcharge and cess); gains from other short-term assets are taxed at the normal tax rates (plus any applicable surcharge and cess).

An unlisted domestic company is liable to pay an additional tax of 20% (plus surcharge and cess) on income distributed to a shareholder on account of a buyback of the company's shares.

Losses: Business losses and capital losses may be carried forward for eight years, with short-term capital losses offsetting capital gains on both long- and short-term assets, and long-term capital losses offsetting only long-term capital gains. Other than unabsorbed depreciation (which may be carried forward indefinitely), losses may be carried forward only if the tax return is filed by the due date. Unabsorbed depreciation may be offset against any income, whereas business losses may be offset only against business profits in subsequent years.

Losses incurred from domestic property rentals may be offset against other heads (categories) of income up to INR 200,000, and any remaining losses carried forward for up to eight years for offset against income from domestic property rentals in subsequent years.

Foreign tax relief: Foreign tax paid may be credited against Indian tax on the same profits, but the credit is limited to the amount of Indian tax payable on the foreign income. Specific rules have been introduced regarding the mechanism for granting a foreign tax credit.

Participation exemption: There is no participation exemption.

Holding company regime: There is no holding company regime.

Incentives: A deduction of up to 100% (reduced from 150% as from FY 2020-21) is available in respect of capital and revenue expenditure (other than expenditure on land or buildings) on scientific research conducted in-house by specified industries, and for payments made to specified organizations for scientific research.

A 100% deduction is allowed for amounts paid to a company registered in India that is carrying on scientific research activities; to a research association; or to a university, college, or other institution engaged in research in social science or statistical research.

Investment-linked incentives (a 100% deduction for capital expenditure other than expenditure incurred on the acquisition of land, goodwill, or financial instruments) are available for specified activities.

An investment-linked incentive in the form of 100% deduction is available for developing and/or maintaining and operating an infrastructure facility (i.e., a road, highway project, water-supply project, port, etc.), subject to specified conditions.

A deduction of up to 100% (reduced from 150% as from FY 2020-21) is available for expenditure incurred on a "notified" agricultural extension or skill development project.

Certain capital expenditure for the right to use spectrum for telecommunication services is allowed as a deduction over the period of the right to use the spectrum.

A taxpayer that is an eligible start-up may elect a deduction of 100% of the profits derived from an eligible business for any three consecutive assessment years out of the ten years beginning from the year of incorporation (for companies/LLPs set up on or after 1 April 2016 and before 1 April 2021).

A concessional tax rate of 10% (plus any applicable surcharge and cess) applies on gross income arising from royalties in respect of a patent developed and registered in India by a person resident in India. No deduction is allowed for expenditure or for an allowance in respect of such royalty income.

Income from dividends, interest, and long-term capital gains of sovereign wealth funds, foreign pension funds, and entities wholly owned by the Abu Dhabi Investment Authority from investments in Indian infrastructure enterprises is exempt from tax where the investment is made between 1 April 2020 and 31 March 2024, and held for at least three years.

Units established in SEZs that commence manufacturing activities on or before 30 June 2020 are exempt from tax on their export profits, subject to compliance with other conditions. Other tax holidays are available based on industry and region.

Compliance for corporations

Tax year: The tax year is the year from 1 April to the following 31 March.

Consolidated returns: Consolidated returns are not permitted; each company must file a separate return.

Filing and payment: Taxes on income in a tax year usually are paid in the next tax year ("assessment" year). The filing deadline for all returns of income for FY 2019-20 has been extended in response to the COVID-19 pandemic. All companies and all other taxpayers who are required to have their accounts audited or are required to file a certificate on international transactions must submit a final return by 15 February 2021. The due date for noncorporate taxpayers who are not required to have their accounts audited and not required to file a certificate on international transactions is 10 January 2021. All taxpayers must provide details of income, expenses, tax due, and tax paid. Other required details will depend on the applicable income tax return form. Generally, for years other than FY 2019-20, companies must submit a final return by 31 October (30 November for companies required to file a certificate on international transactions (see "Transfer pricing," below)) of the assessment year. Returns for noncorporate taxpayers that are required by law to have their accounts audited generally also are due on 31 October (30 November for taxpayers required to file a certificate on international transactions (see "Transfer pricing," below)). All other taxpayers who are not required to have their accounts audited generally must submit a return by 30 July. Taxpayers claiming tax holidays or carrying forward tax losses must file their return of income on or before the due date.

Taxpayers must make four advance payments of their income tax liabilities during the tax year, on 15 June (15% of total tax payable); 15 September (30% of total tax payable); 15 December (30% of total tax payable); and 15 March (25% of total tax payable).

The government has introduced rules such as the mandatory filing of Know Your Customer (KYC) documentation for directors of companies, KYC requirements for foreign portfolio investors, and the mandatory dematerialization (i.e., conversion of physical share certificates into electronic format) of shares for public companies. Companies incorporated before December 2017 must file a form to verify that they are active.

Penalties: Penalties apply for failure to file a return, tax audit report, or certificate of international transactions; failure to comply with withholding tax obligations; and under reporting and misreporting of income. Criminal proceedings also may be initiated for failure to file an income tax return.

Rulings: The Authority for Advance Rulings (AAR) issues rulings on the tax consequences of transactions or proposed transactions with nonresidents. It also can issue rulings in relation to the tax liability of residents in prescribed cases, and on whether an arrangement is an impermissible avoidance arrangement. Rulings are binding on the applicant and the tax authorities for the specific transaction(s). Advance pricing agreements (APAs) also are possible.

Individual taxation

Rates			
Individual income tax rate	**Taxable income**	**Rate (standard regime)***	**Rate (optional simplified regime)***
	Up to INR 250,000	0%	0%
	INR 250,001-INR 500,000	5%	5%
	INR 500,001-INR 750,000	20%	10%
	INR 750,001-INR 1,000,000	20%	15%
	INR 1,000,001-INR 1,250,000	30%	20%
	INR 1,250,001- INR 1,500,000	30%	25%
	Over INR 1,500,000	30%	30%
Capital gains tax rate		0%/10%/15%/20% (plus surcharge and cess in certain cases)	

* All rates are subject to the 4% cess and, where income exceeds the relevant threshold, a surcharge will apply.

Residence: Individuals are resident in India if they spend at least 182 days in the country in a given year, or at least 60 days provided they have spent at least 365 days in India in the preceding four years. For an Indian citizen leaving India for the purpose of employment or as a member of the crew of an Indian ship, and for an Indian citizen/person of Indian origin (PIO) working abroad who visits India while on vacation, the threshold of 182 days applies, instead of 60 days. Individuals who do not fulfill the above conditions are regarded as nonresident in India. Resident individuals are further classified as ordinarily resident or not ordinarily resident. Individuals are not ordinarily resident if they have been nonresident for nine out of the 10 preceding years or have been in India for less than 730 days during the preceding seven years. Individuals who do not fulfill the above two conditions are considered ordinarily resident.

An Indian citizen, or PIO whose total income (excluding income from foreign sources) exceeds INR 1.5 million, and who is present in India for at least 120 days but less than 182 days during a year, qualifies as not ordinarily resident for that year.

The residency conditions were relaxed for FY 2019-20 for individuals stranded in India as a result of the COVID-19 pandemic related travel restrictions.

Basis: An individual who is resident and ordinarily resident in India generally is taxed on worldwide income, subject to the provisions of a relevant tax treaty. A person who is not ordinarily resident generally does not pay tax on income earned outside India, other than income (i) derived from a business controlled in India or a profession exercised in India, or (ii) income accrued or received in India, or deemed to have accrued or been received in India. A nonresident is subject to tax only on Indian-source income.

Taxable income: Income from employment, including most employment benefits, is fully taxable after applicable deductions (including a standard deduction of INR 50,000) and exemptions. Profits derived by an individual from carrying on a trade or profession generally are taxed in the hands of the individual, after applying available tax exemptions and tax-free thresholds (see "Rates," below). See under "Corporate taxation," above, regarding the taxation of dividends.

Mortgage interest of up to INR 200,000 per year is deductible. An individual owning more than two self-occupied properties will be taxed on a notional rent from the third and any subsequent residential properties.

As from 1 April 2020, individuals may opt to compute their total income in accordance with a simplified tax regime (see "Rates," below). Most of the exemptions or deductions generally available in calculating total income are not permitted under the optional simplified regime.

Rates: Rates are progressive up to 30%, plus a 4% cess. A surcharge of 10%, 15%, 25%, or 37% applies under both regimes where income exceeds INR 5 million, INR 10 million, INR 20 million, or INR 50 million, respectively (subject to applicable marginal relief). The first INR 300,000 is exempt for resident senior citizens (aged 60 years or above, but under 80 years), and INR 500,000 is exempt for very senior citizens (at least 80 years of age); for all others, the first INR 250,000 is exempt. A tax rebate up to INR 12,500 is allowed for resident individuals with taxable income up to INR 500,000.

Capital gains: See under "Corporate taxation," above.

Deductions and allowances: Deductions are available in respect of certain payments and investments, such as contributions to the provident fund, pension funds, medical or life insurance policies, and some savings schemes, etc., subject to applicable limits. Most of these deductions are not available where an individual opts for the simplified regime.

Foreign tax relief: A resident individual who has paid tax outside India may claim credit for the foreign tax paid against the tax payable in India. The credit is limited to the lesser of the tax payable on the relevant income under Indian tax legislation, or the actual foreign tax paid. Relief also may be available under the terms of a relevant tax treaty. To obtain credit for foreign tax, the details must be provided electronically on Form 67, together with supporting documentation, prior to filing the tax return.

Other: See under "Corporate taxation," above, regarding AMT. AMT does not apply to individuals, associations of persons, and bodies of individuals whose adjusted total income does not exceed INR 2 million.

Compliance for individuals

Tax year: The tax year is the year from 1 April to the following 31 March.

Filing status: Each taxpayer must file a return; the concept of joint filing does not exist in India.

Filing and payment: All individual taxpayers are required to file a tax return. The employer withholds tax on salary income.

Individuals must prepay 100% of the final tax due by the end of the tax year, either via withholding at source or by making advance payments in four installments (with interest payable on underpayments). Individuals generally must submit a final return by 31 July of the assessment year. The filing deadline for returns of income for FY 2019-20 is extended to 10 January 2021 in response to the COVID-19 pandemic. Electronic filing of tax returns is mandatory where (i) taxable income exceeds INR 500,000, (ii) the individual has foreign assets (including a financial interest in any entity or signing authority for any account), (iii) the individual is claiming any relief for foreign taxes, or (iv) any refund is claimed in the return.

Penalties: Penalties apply for failure to file a return, failure to comply with withholding tax obligations, and concealment of income.

Rulings: The AAR issues rulings on the tax consequences of transactions or proposed transactions. It may issue rulings on whether an arrangement is an impermissible avoidance arrangement. Rulings are binding on the applicant and the tax authorities for the specific transaction(s).

Withholding tax

Rates				
Type of payment	**Residents**		**Nonresidents**	
	Company	**Individual**	**Company**	**Individual**
Dividends	10%/7.5%	10%/7.5%	10%/20% (plus surcharge and cess)	10%/20% (plus surcharge and cess)
Interest	10%/7.5%	10%/7.5%	5%/20%/40% (plus surcharge and cess)	5%/20%/30% (plus surcharge and cess)
Royalties	2%/1.5%/10%/7.5%	2%/1.5%10%/7.5%	10%/20% (plus surcharge and cess)	10%/20% (plus surcharge and cess)
Fees for technical services	2%/1.5%	2%/1.5%	10%/20% (plus surcharge and cess)	10%/20% (plus surcharge and cess)

Dividends: Dividends paid to an Indian resident generally are subject to withholding tax at 10%; the rate is temporarily reduced to 7.5% for dividends paid as from 14 May 2020 through 31 March 2021.

As from 1 April 2020, dividends paid to a nonresident generally are subject to withholding tax at 20%. The rate is 10% for dividends paid on foreign currency bonds or global depository receipts. The withholding tax rates on dividends paid to nonresidents are subject to any applicable surcharge and cess and may be reduced under a tax treaty.

Prior to 1 April 2020, Indian companies were required to pay DDT at a rate of 15% (an effective rate of approximately 20.56%, including a 12% surcharge, and a 4% cess) on dividends declared, distributed, or paid to shareholders, and the dividend income was exempt from tax in the hands of the shareholders.

Interest: Interest paid to an Indian resident generally is subject to withholding tax at 10%; the rate is temporarily reduced to 7.5% for interest paid as from 14 May 2020 through 31 March 2021.

Interest paid to a nonresident on a foreign currency borrowing or debt generally is subject to a 20% withholding tax (plus any applicable surcharge and cess). A 5% withholding tax (plus any applicable surcharge and cess) applies to certain types of interest paid to a nonresident, including (i) interest paid on specific borrowings made before 1 July 2023 in foreign currency, and (ii) interest on investments made before 1 July 2023 by a foreign institutional investor or a qualified foreign investor in a rupee-denominated bond of an Indian company, a government security, or a municipal debt security. The rates may be reduced under a tax treaty. Where a treaty applies, but the nonresident does not have a permanent account number (PAN) (i.e., a tax registration number), tax must be withheld at the higher of the applicable tax treaty rate or 20%; however, this does not apply if the payments are in the nature of interest and the foreign taxpayer provides the required documents to the payer. Where the interest income derived by a nonresident does not fulfill certain prescribed conditions for concessional withholding tax rates, a withholding tax rate of 30% (for individuals and entities other than a foreign company) or 40% (for a foreign company) applies (plus any applicable surcharge and cess). The rates may be reduced under a tax treaty.

Royalties: Royalties paid to an Indian resident generally are subject to withholding tax at 2% where the royalty is in the nature of consideration for the sale, distribution, or exhibition of cinematographic films; otherwise, the rate is 10%. The rates are temporarily reduced to 1.5% and 7.5%, respectively, for royalties paid as from 14 May 2020 through 31 March

2021. Royalties paid to a nonresident are subject to a 10% withholding tax (plus any applicable surcharge and cess). The rate may be reduced under a tax treaty. Where a treaty applies, but the nonresident does not have a PAN, tax must be withheld at the higher of the applicable tax treaty rate or 20%; however, this does not apply if the payments are in the nature of royalties and the foreign taxpayer provides the required documents to the payer.

Fees for technical services: Technical service fees paid to an Indian resident generally are subject to withholding tax at 2%; the rate is temporarily reduced to 7.5% for fees paid as from 14 May 2020 through 31 March 2021.

Technical service fees paid to a nonresident generally are subject to withholding tax at 10% (plus any applicable surcharge and cess). The rate may be reduced under a tax treaty. Where a treaty applies, but the nonresident does not have a PAN, tax must be withheld at the higher of the applicable tax treaty rate or 20%; however, this does not apply if the payments are in the nature of technical service fees and the foreign taxpayer provides the required documents to the payer.

Branch remittance tax: There is no branch remittance tax.

Anti-avoidance rules

Transfer pricing: The transfer pricing regime is influenced by OECD norms, although the penalty provisions in India are stringent compared to those in many other countries. The definition of "associated enterprise" extends beyond a shareholding or management relationship since it includes some deeming clauses. The transfer pricing provisions also cover specified domestic transactions with related parties where the aggregate value of those transactions exceeds INR 200 million in one year.

The pricing of these transactions must be determined with regard to arm's length principles, using methods prescribed under India's transfer pricing rules, which are similar to the methods prescribed in the OECD guidelines, with an additional sixth method (i.e., an "other method"). The arm's length price is determined based on multiple-year data, and based on a range (between the 35th and the 65th percentile of the data distribution) or the arithmetic mean (depending on certain prescribed conditions).

The taxpayer is required to maintain detailed information and transfer pricing documentation substantiating the arm's length nature of related party transactions. Companies also are required to submit a certificate to the tax authorities (in a prescribed format) from a practicing chartered accountant that sets out the details of associated enterprises, international transactions, etc., along with the methods used to determine an arm's length price. The certificate generally must be filed one month prior to the due date of filing the annual tax return, i.e., by 31 October of the assessment year. The filing deadline for the certificate for FY 2019-20 is extended to 15 January 2021.

The Indian transfer pricing documentation requirements have been updated to incorporate the specific reporting regime in respect of country-by-country reporting and the master file provided for under the OECD/G20 BEPS project.

Where the application of the arm's length price would reduce the income chargeable to tax in India or increase a loss, no adjustment will be made to the income or loss.

Secondary adjustments apply to transfer pricing adjustments relating to tax year 2016-17 and subsequent years. The taxpayer is required to repatriate cash to India within a prescribed time to the extent of a transfer pricing adjustment. If not repatriated, the amount of the adjustment is treated as an advance to the associated enterprise, and subject to notional interest taxable in India. The taxpayer has the option to pay additional tax of 20% on the value of the transfer pricing adjustment that is not repatriated to India, in which case notional interest will not be charged.

If a taxpayer that benefits from a tax holiday is subject to a transfer pricing adjustment, the benefit is denied to the extent of the adjustment.

Safe harbor rules provide for the automatic acceptance of a taxpayer's transfer price that equals or exceeds the safe harbors.

A taxpayer also may enter into a unilateral, bilateral, or multilateral APA.

The Indian safe harbor rules and APAs also cover profit attribution.

Interest deduction limitations: There are no interest deduction limitation rules.

Controlled foreign companies: There are no CFC rules.

Hybrids: There is no anti-hybrid legislation.

Economic substance requirements: These are relevant in the context of the general anti-avoidance rule (see "General anti-avoidance rule," below). An arrangement is deemed to lack commercial substance where any one of the following criteria is met:

- The arrangement in its entirety differs significantly from the individual steps;
- The arrangement involves back-to-back financing, an accommodating party, or offsetting or cancelling transactions, intended to disguise the true nature of the transaction;
- The location of an asset, transaction, or place of residence is determined solely for the purpose of obtaining a tax benefit; or
- The arrangement has no significant effect on the business risks or net cash flows of any party to the arrangement, other than any effect attributable to the tax benefit.

Disclosure requirements: A foreign company with a liaison office, branch office, or project office in India is required to prepare financial statements and annual activity certificates on its activities and submit this information to the authorized dealer bank. Liaison and branch offices also must submit an annual activity certificate to the Director General of Income Tax.

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 exercises significant influence over the company, etc., is considered an SBO. There are detailed rules for determining an SBO and indirect holdings must be taken into account. 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.

Exit tax: There is no exit tax.

General anti-avoidance rule: The general anti-avoidance rule (GAAR) provisions empower the tax authorities to declare an arrangement as an impermissible avoidance arrangement if it was entered into with the main purpose of obtaining a tax benefit, and it:

- Creates rights or obligations that normally would not be created between persons dealing at arm's length;
- Results, directly or indirectly, in the misuse or abuse of the Income-tax Act, 1961;
- Lacks commercial substance or is deemed to lack commercial substance; and
- Is carried out in a manner that would not be used for bona fide purposes.

The GAAR applies to arrangements where the tax benefit exceeds INR 30 million. Once the GAAR is invoked, tax treaty benefits may be denied for the arrangement.

Other: To discourage transactions with persons located in jurisdictions that do not effectively exchange information with India, transactions with persons situated in certain jurisdictions designated by the government are subject to the Indian transfer pricing rules, and income paid to persons in those jurisdictions is subject to a minimum withholding tax of 30%.

Goods and services tax

Rates	
General rate	0%/5%/12%/18%/28%
Special rate	0.1%/0.25%/3%

Taxable transactions: Goods and services tax (GST) is a destination-based consumption tax applicable to the supply of goods or services. GST also is a part of the aggregate customs duty imposed on imports. Exports and supplies to SEZs are zero-rated for GST purposes.

Central GST (CGST) and state GST (SGST) are imposed simultaneously on a common tax base on all intrastate transactions. In the case of interstate supplies of goods and services, integrated GST (IGST) applies at a rate that is an aggregate of CGST and SGST.

GST applies to all goods and services other than alcoholic liquor for human consumption and certain petroleum products (see “Other,” below).

Rates: Goods and services are categorized under a structure with five different rates: 0%, 5%, 12%, 18%, and 28%. There is no standard rate per se, but the rate for most services is 18%. Special rates of 0.1%, 0.25%, and 3% apply on supplies to merchant exporters, rough precious and semi-precious stones, and gold, respectively.

In addition to GST, a GST compensation cess primarily in the range of 12% to 96% applies to a few “demerit” and luxury items such as pan masala, coal, sparkling water, cars, and tobacco products.

Registration: Registration is state-specific. Two threshold limits of aggregate turnover (INR 4 million and INR 2 million) have been prescribed for exemption from registration and payment of GST for suppliers of goods and states may choose their own threshold limits.

Service providers continue to be governed by the originally prescribed threshold limits of aggregate turnover of INR 2 million (INR 1 million in certain special category states). The threshold exemption does not apply in specific cases, such as in the case of interstate taxable supplies (other than to persons making interstate supplies of services with aggregate turnover of less than INR 2 million (INR 1 million for special category states)), persons who are required to pay tax under the reverse-charge mechanism, electronic commerce operators required to collect tax at source, etc.

Filing and payment: GST compliance is an electronic process. Specific returns, filing obligations, and the time of payment are prescribed for different types of taxpayers, with most taxpayers being required to file monthly returns plus an annual return.

The monthly return in respect of outward supplies generally is due by the 11th day of the following month, with consolidated monthly returns (including information relating both to inward and outward supplies) and tax payments due by the 20th day of the following month.

Annual returns also must be filed by GST registered persons on or before 31 December following the relevant financial year. GST registered persons with aggregate turnover exceeding INR 20 million also must provide as a minimum a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the returns submitted for the financial year with the audited annual financial statements.

Other than for a limited number of notified exceptions, e–invoicing (i.e., the generation of electronically authenticated invoices to effect GST supplies) is compulsory as from 1 January 2021 for taxpayers with turnover exceeding INR 1 billion in the three preceding financial years. E-invoicing was compulsory for taxpayers with turnover exceeding INR 5 billion in the three preceding financial years as from 1 October 2020.

A mandatory e-way bill system applies for the interstate and intrastate movement of goods above a certain value (except under certain specified circumstances).

Other: Alcohol for human consumption and certain petroleum products (petroleum crude, motor spirit (petrol), high speed diesel, natural gas, and aviation turbine fuel) continue to be taxed under the VAT regime (one of several indirect taxes replaced by GST in 2017). Interstate sales of these goods continue to be liable to central sales tax. Alcohol for human consumption also is liable to state excise duty, while the above petroleum products continue to be liable to central excise duty. The standard rates for VAT, central sales tax, and state excise duty on these products vary between states, while the standard rate for central excise duty depends on the nature of the petroleum product.

Registration for VAT and central sales tax is mandatory for taxpayers dealing in the relevant goods if the business's sales turnover exceeds a threshold (INR 500,000 in most states), although certain state VAT laws also specify monetary limits of sales and/or purchases.

VAT, central sales tax, and state excise duty returns and payments generally are due either monthly or quarterly, based on the amount of the tax liability.

GST paid on procurements of goods and services cannot be offset against a VAT or state excise duty liability. Similarly, a VAT or state excise duty credit cannot be offset against a GST liability.

Other taxes on corporations and individuals

Unless otherwise stated, the taxes in this section apply both to companies and individuals and are imposed at the national level.

Social security contributions: The employer generally contributes 12% of eligible wages per month to the provident fund—8.33% of the wages (up to INR 15,000) is applied to the pension fund, with the balance paid to the provident fund (except in the case of "international workers," where the pension contribution by the employer is 8.33% of the wages). For employees joining the provident fund on or after 1 September 2014, the entire employer contribution (12% of wages) is applied to the provident fund.

All employees (including "international workers" but not "excluded employees," as defined in the Provident Fund Act) contribute 12% of eligible wages per month to the provident fund. However, where India has entered into a social security agreement (SSA) with the relevant foreign country, an inbound international worker (subject to certain conditions) is not liable to contribute to the provident fund in India upon obtaining a certificate of coverage (CoC). An international worker may be either (i) a foreign employee working for an establishment in India to which the Provident Fund Act applies, or (ii) an Indian employee seconded to a country with which India has entered into an SSA, who has not obtained a CoC, and is/will be eligible for benefits under the host country's social security program.

The aggregate employer contribution to the provident fund, national pension scheme, and superannuation fund in excess of INR 750,000, as well as any annual accretion on the excess contributions (in the form of dividends, interest, etc.), is a taxable perquisite for the employee.

Payroll tax: There is no payroll tax but the employer is responsible for withholding tax on salary income.

Capital duty: India does not impose capital duty.

Real property tax: Municipalities impose property taxes (based on assessed value) and states impose land-revenue taxes.

Transfer tax: STT is payable by the purchaser at the time of purchase, or on the seller at the time of sale of equity shares, derivatives, units in an equity-oriented fund, or units of a business trust listed on a recognized stock exchange in India.

Stamp duty: Transactions involving real estate and other specified transactions (including financial instruments and tribunal orders for amalgamation/demerger) in India attract stamp duty levied under the Indian Stamp Act and the stamp acts of the various states (with rates varying between the states).

As from 1 July 2020, stamp duty on securities market instruments is imposed at uniform rates across India.

Net wealth/worth tax: India does not impose a net wealth tax or net worth tax.

Inheritance/estate tax: India does not impose an inheritance tax or an estate tax.

Other: An equalization levy of 6% on the amount of consideration in excess of INR 100,000 for specified services received by a nonresident without a permanent establishment (PE) in India must be withheld by a resident payer or a nonresident payer with a PE in India. The "specified services" include online advertising or the provision of digital advertising space, other related facilities or services, or any other service that may be notified by the central government.

An equalization levy of 2% applies as from 1 April 2020 on the consideration from e-commerce supply and services (other than specified services within the scope of the 6% levy) made or provided by an e-commerce operator without a PE in India, and whose sales, turnover, or gross receipts from the e-commerce supply and services are at least INR 20 million during the tax year.

Income subject to the 6% equalization levy is not taxed in the hands of the recipient. Income arising from e-commerce supply or services made, provided, or facilitated on or after 1 April 2020 and subject to the equalization levy at 2%, is exempt from income tax only as from 1 April 2021. Therefore, for FY 2020-21, both equalization levy and withholding tax potentially may apply. Clarification from the government is expected.

Sale of goods or provision of services by an e-commerce operator to an e-commerce participant is subject to a 1% withholding tax.

Customs duties are imposed by the central government, generally on the import of goods into India, although certain exported goods also are liable to customs duties.

Tax treaties: India has comprehensive tax treaties with almost 100 countries. The OECD multilateral instrument (MLI) entered into force for India on 1 October 2019. For information on India's tax treaty network, visit Deloitte International Tax Source.

Tax authorities: Income Tax Department, Authority for Advance Rulings