India

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What's new?

Summary of updates/Changes to R&D and government incentives from 1 January 2019 through 31 October 2020

- Various production linked incentive schemes have been introduced by the government, one of the most significant of which targets the large-scale electronics sector. The scheme provides incentives of between 4% and 6% on incremental sales of goods manufactured in India from 1 August 2020 to 31 March 2025 (falling within the five financial years (FYs) 2020-21 to 2024-25). Key segments include mobile phones, and specified electronic components including assembly, testing, marking, and packaging (ATMP).
- Production linked incentive schemes also have been introduced for the pharmaceutical sector, providing incentives on incremental sales of goods manufactured in India for periods of five to six years. The schemes were notified with effect from 21 July 2020. Specified medical devices, critical key starting materials (KSMs), drug intermediaries, and active pharmaceutical ingredients (APIs) are eligible under the schemes.
- The Remission of Duties or Taxes on Export products (RoDTEP) scheme was approved by the Indian government in March 2020 and is expected to be to be notified by the end of December 2020. The scheme aims to reduce duties and taxes embedded in the cost of exported goods. This scheme likely will replace the existing Merchandise Exports from India Scheme (MEIS) by progressively expanding the category of goods covered under the scheme.
- New incentive schemes to encourage the domestic production of goods in India are expected to be announced in the period to March 2021. These new incentives will target automobiles, automotive components, textiles, food processing, battery manufacturing, and networking components.
- The super deduction of 150% of qualifying research and development (R&D) expenditure incurred no longer is available for FY 2020-21 and subsequent years. The deduction is restricted to actual expenditure in relation to in-house R&D. There are no other significant recent legislative changes relating to the R&D provisions.

Featured government incentives

Incentive name	Description	Maximum percentage	Qualification standards	Key exclusions or issues
State industrial policy	Most Indian states have industrial policies providing incentives and concessions for new or expanding industrial units. In some states, the benefits also are available to service entities Key benefits include goods and services tax (GST) reimbursements, the ability to acquire land at a subsidized price, infrastructure benefits (such as uninterrupted access to power, water, IT facilities, and roads), capital subsidies, electricity subsidies, stamp duty exemptions, government subsidies for interest payable on third party loans, "single window" clearance (allowing applications for several permits, approvals, and licenses etc. to be made to a single designated authority), employment generation subsidies, and training subsidies The nature and amount of benefits vary between states and depend on various factors such as the amount and period of the investment, level of employment generated, and location of proposed operations	Varies. Amount of benefit generally depends on the size of the project and is negotiated with the state authorities	Investment in fixed capital assets, including plant and machinery, technical know-how, R&D expenditure, captive power units, etc.	Customized packages also may be negotiated with the state authorities depending upon the fixed capital investment, product mix, sales mix, and industrial sector Various industries are excluded from the state incentive schemes (including alcoholic beverages, cement, power generation, and mining)
Production linked incentive schemes	The major national government sector specific schemes include production-linked incentives for electronics (mobile phone manufacturing, semiconductors, and ATMP units), and the pharmaceutical industry (specified medical devices, critical KSMs, drug intermediaries, and APIs) Policies for other sectors (including automobiles, textiles, food processing, and networking components) are expected to be announced in the period to March 2021	Incentives up to 20% of incremental sales of goods manufactured in India	Investment in fixed capital assets Sector-specific investment thresholds generally are prescribed	Benefits apply only to prescribed sector and products Schemes operate for a limited period

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Featured government incentives (continued)

Incentive name	Description	Maximum percentage	Qualification standards	Key exclusions or issues
Deduction for capital expenditure for specified businesses	A deduction is available for capital expenditure (excluding on land, financial instruments, and goodwill) incurred for start-up and/or operations-related costs in the year the qualified expenditure is incurred. Specified businesses include: setting up and operating cold chain and warehousing facilities; producing fertilizer; constructing and operating hospitals or hotels; laying slurry pipelines; operating semiconductor wafer fabrication units; laying and operating cross-country natural gas pipelines; and developing, operating, and maintaining infrastructure facilities, etc.	Deduction of 100% of capital expenditure in the year incurred	Both revenue and capital expenditure allowed as deductions from business profits	Deductions apply only to eligible industries Additional requirements may limit deductibility

Industries most often affected by government incentives in country

	Technology, Media & Telecom		Financial Services
●	Telecom, Media & Entertainment		Banking & Capital Markets
●	Technology		Insurance
●	**Consumer**		Investment Management
●	Consumer Products		Real Estate
●	Retail, Wholesale & Distribution		**Life Sciences & Health Care**
●	Automotive	●	Health Care
●	Transportation, Hospitality & Services	●	Life Sciences
	Energy, Resources & Industrial		**Government & Public Services**
●	Power & Utilities		Health & Social Care
●	Mining & Metals		Defense, Security & Justice
●	Oil, Gas, & Chemicals		Civil Government
	Industrial Products & Construction		International Donor Organizations
			Transport

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Type	National incentive?	State, provincial, regional or local incentives?[1]	Filing deadlines imposed?	Is the claim made in advance or arrears?[2]	Nature of incentive	Maximum benefit available to large enterprises	Maximum benefit available to small and medium-sized enterprises
Innovation							
Research & development (R&D)	LIMITED APPLICABILITY	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Arrears Local: Not applicable	Deduction for expenditure incurred on in-house R&D, and amounts paid to scientific research companies and associations, universities, etc.	100% of qualifying expenditure as from FY 2020-21, reduced from 150%	100% of qualifying expenditure as from FY 2020-21, reduced from 150%
Patent box	LIMITED APPLICABILITY	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Arrears Local: Not applicable	Reduced tax rate on royalty income of an Indian resident inventor of a patent that is developed and registered in India	10% tax rate on qualifying income	10% tax rate on qualifying income
Research & Development: R&D linked benefits under state industrial policy	NO	NEGOTIABLE	NOT APPLICABLE PERMANENT INCENTIVE	National: Not applicable Local: Arrears	Benefits linked to amount of qualifying R&D expenditure incurred by companies satisfying the investment criteria specified in respective state policy	Varies from state to state but typically involves: inclusion of R&D expenditure in eligible fixed investment, interest subsidy for R&D capital requirements, and incentives for standalone R&D centers	Varies from state to state but typically involves: inclusion of R&D expenditure in eligible fixed investment, interest subsidy for R&D capital requirements, and incentives for standalone R&D centers
Research & Development: Incentives for R&D exports under Service Export India Scheme (SEIS)	TEMPORARY INCENTIVE	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Arrears Local: Not applicable	Duty credit scrips for entities exporting services, based on net foreign exchange income	5% of net foreign exchange income	5% of net foreign exchange income
Investment							
Capex: Deduction for capital expenditure for start-ups	LIMITED APPLICABILITY	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Arrears Local: Not applicable	Deduction for capital expenditure incurred by specified businesses (excluding in respect of land, financial instruments, and goodwill) incurred for start-up and/or operational costs in the year the qualifying expenditure is incurred	Deduction of 100% of qualifying capital expenditure in year incurred	Deduction of 100% of qualifying capital expenditure in year incurred

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Notes:

1. Green means that this incentive is currently in effect. Yellow means that the incentive has limited applicability, i.e., the requirements for this incentive limit its value to most companies. Red means that there is no incentive.
2. If the response is advance, this means that the government must approve the award of the incentive prior to the commencement/completion of the project/activity. If the response is arrears, this means that the award of the incentive is determined at the end of the tax period or after the completion of the qualifying project or activity. Most tax incentives are considered to be claimed in arrears because they are reported on tax returns.

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Investment (continued)							
Employment: Tax incentive for hiring new personnel	Limited applicability	No	Permanent incentive / Not applicable	National: Arrears Local: Not applicable	Super deduction for additional wages paid to new permanent factory workers	Super deduction of 30% of additional wages for three years	Super deduction of 30% of additional wages for three years
Training: Tax incentives for expenditure incurred on skill development projects	Permanent incentive	No	Permanent incentive / Not applicable	National: Arrears Local: Not applicable	Deduction of qualifying expenditure incurred on skill development projects	100% of qualifying expenditure as from FY 2020-21, reduced from 150%	100% of qualifying expenditure as from FY 2020-21, reduced from 150%
Capex: State industrial policies	No	Negotiable	Not applicable / Permanent incentive	National: Not applicable Local: Arrears	Various benefits for companies satisfying investment criteria specified in respective state policy. Amount based on district, amount of proposed investment, number of new jobs to be created, etc	Customized benefits available for large projects Typical benefits include GST reimbursements, land at subsidized prices, infrastructure benefits, capital and electricity subsidies, stamp duty exemption, interest subsidy, single window clearance for various permits, employment generation and training subsidies	Typical benefits include GST reimbursements, land at subsidized prices, infrastructure benefits, capital and electricity subsidies, stamp duty exemption, interest subsidy, single window clearance for various permits, employment generation and training subsidies
Capex: Production linked incentive scheme for large scale electronics manufacturing	Temporary incentive	No	Permanent incentive / Not applicable	National: Arrears Local: Not applicable	Incentive in form of cash payment for companies registered in India engaged in the manufacturing of products specified in the policy, based on incremental sales	4% to 6% incentive on incremental sales of goods manufactured in India for the five years from FY 2020-21 to 2024-25	N/A
Capex: Modified Electronics Manufacturing Clusters (EMC 2.0) scheme	Temporary incentive	No	Permanent incentive / Not applicable	National: Arrears Local: Not applicable	Benefits linked to cost of qualifying investment by companies investing in development of EMC clusters and common facility centers (CFCs)	For EMC projects: 50% of project cost subject to ceiling of INR 700 million per 100 acres of land For CFCs: 75% of project cost subject to ceiling of INR 750 million	For EMC projects: 50% of project cost subject to ceiling of INR 700 million per 100 acres of land For CFCs: 75% of project cost subject to ceiling of INR 750 million

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Investment (continued)							
Capex: Scheme for Promotion of Manufacturing of Electronic Components and Semiconductors (SPECS)	TEMPORARY INCENTIVE	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Arrears Local: Not applicable	Reimbursement of part of qualifying capital expenditure of companies registered in India engaged in manufacturing products specified in the scheme	Incentive of 25% of capital expenditure available to units meeting minimum investment criteria for the prescribed goods	Incentive of 25% of capital expenditure available to units meeting minimum investment criteria for the prescribed goods
Capex: Production linked incentive scheme for KSMs, drug intermediaries, and APIs	TEMPORARY INCENTIVE	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Arrears Local: Not applicable	Incentive in form of cash payment for companies registered in India with net worth (including that of group companies) not less than 30% of total proposed investment as at date of application and engaged in manufacturing products specified in the scheme, based on incremental sales	For fermentation-based products: 20% of incremental sales for first four years (FY 2023-24 to FY 2026-27), 15% for fifth year (FY 2027-28), and 5% for sixth year (FY 2028-29) For chemically synthesized products: 10% of incremental sales for six years (FY 2022-23 to FY 2027-28)	For fermentation-based products: 20% of incremental sales for first four years (FY 2023-24 to FY 2026-27), 15% for fifth year (FY 2027-28), and 5% for sixth year (FY 2028-29) For chemically synthesized products: 10% of incremental sales for six years (FY 2022-23 to FY 2027-28)
Capex: Production linked incentive scheme for domestic manufacturing of medical devices	TEMPORARY INCENTIVE	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Arrears Local: Not applicable	Incentive for companies registered in India with net worth (including that of group companies) of not less than INR 180 million as at the date of application engaged in manufacturing products specified in the scheme, based on incremental sales	5% of incremental sales for five years (FY 2021-22 to FY 2025-26)	5% of incremental sales for five years (FY 2021-22 to FY 2025-26)
Capex: Promotion of bulk drug parks	TEMPORARY INCENTIVE	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Arrears Local: Not applicable	Financial grant linked to expenditure on specified infrastructure by companies engaged in development of bulk drug parks	Financial grant to three bulk drug parks, capped at lower of INR 10 billion or 70% of cost of common infrastructure facilities (90% for projects in hilly states and north-east region)	Financial grant to three bulk drug parks, capped at lower of INR 10 billion or 70% of cost of common infrastructure facilities (90% for projects in hilly states and north-east region)

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Investment (continued)							
Capex: Promotion of medical device parks	Temporary incentive	No	Permanent incentive Not applicable	National: Arrears Local: Not applicable	Financial grant linked to expenditure on specified infrastructure by companies engaged in development of medical drug parks	Financial grant to four medical device parks, capped at lower of INR 1 billion or 70% of cost of common infrastructure facilities (90% for projects in hilly states and north-east region)	Financial grant to four medical device parks, capped at lower of INR 1 billion or 70% of cost of common infrastructure facilities (90% for projects in hilly states and north-east region)
Capex: Project imports	Permanent incentive	No	Permanent incentive Not applicable	National: Advance Local: Not applicable	Concessional rates of duties and taxes for companies engaged in import of capital goods for setting up manufacturing units in India	Concessional rate of duties and taxes on qualifying capital expenditure	Concessional rate of duties and taxes on qualifying capital expenditure
Capex: Export Promotion Capital Goods (EPCG) scheme	Permanent incentive	No	Permanent incentive Not applicable	National: Advance Local: Not applicable	Exemption from import duty for manufacturer exporters and service providers	Exemption from customs duty subject to fulfillment of obligation to export goods to the value of at least six times duty saved on capital goods in six years from date of authorization	Exemption from customs duty subject to fulfillment of obligation to export goods to the value of at least six times duty saved on capital goods in six years from date of authorization
Capex: North-East Industrial Development Scheme (NEIDS)	Temporary incentive	No	Permanent incentive Not applicable	National: Arrears Local: Not applicable	Various benefits for companies located in north-east states (Assam, Arunachal Pradesh, Manipur, Tripura, Sikkim, Meghalaya, Mizoram, and Nagaland) establishing new industrial units in manufacturing and services sector including biotechnology and hydel power generation units up to 10 megawatts, linked to amount of expenditure incurred on eligible investment, employment generated, etc	Central capital investment incentive (CCIIAC) for access to credit, central interest incentive (CII), central comprehensive insurance incentive (CCII), GST and income tax reimbursements, transport and employment incentives	Central capital investment incentive (CCIIAC) for access to credit, central interest incentive (CII), central comprehensive insurance incentive (CCII), GST and income tax reimbursements, transport and employment incentives

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Environmental Sustainability							
Sustainability: Renewable Energy Certificate (REC)	[Temporary incentive]	[No]	[No] / [Not applicable]	National: Arrears Local: Not applicable	RECs for eligible companies generating electricity from renewable sources	RECs can be traded over specific regulatory exchanges	RECs can be traded over specific regulatory exchanges
Energy Saving Certificates (ESCerts)	[Temporary incentive]	[No]	[No] / [Not applicable]	National: Arrears Local: Not applicable	ESCerts for designated consumers, whose energy consumption (generated from renewable sources) is less than prescribed norms and standards Designated consumers whose energy consumption is more than the prescribed norms and standards may purchase ESCerts to comply with prescribed norms and standards	ESCerts are tradable at two energy exchanges, Power Exchange India and Indian Energy Exchange	ESCerts are tradable at two energy exchanges, Power Exchange India and Indian Energy Exchange
Other							
MEIS (likely to be replaced by RoDTEP)	[Temporary incentive]	[No]	[Permanent incentive] / [Not applicable]	National: Arrears Local: Not applicable	Duty credit scrips for entities engaged in export of goods, based on free on board (FOB) value of exports	2% to 7% of FOB value of exports	2% to 7% of FOB value of exports
Service Export India Scheme (SEIS)	[Temporary incentive]	[No]	[Permanent incentive] / [Not applicable]	National: Arrears Local: Not applicable	Duty credit scrips for entities engaged in export of services, based on net foreign exchange income	3% to 7% of net foreign exchange income	3% to 7% of net foreign exchange income
Faster Adoption and Manufacturing of (Hybrid and) Electric Vehicles in India scheme (FAME II)	[Temporary incentive]	[No]	[Permanent incentive] / [Not applicable]	National: Arrears Local: Not applicable	Financial subsidy for companies engaged in manufacture of (broadly) commercial electric hybrid vehicles	Financial subsidies varying from INR 13,000 to INR 5 million per vehicle	Financial subsidies varying from INR 13,000 to INR 5 million per vehicle
In-bond manufacturing	[Temporary incentive]	[No]	[Permanent incentive] / [Not applicable]	National: Advance Local: Not applicable	Deferment of import duties for companies importing raw material and capital goods for manufacturing in India	Deferment of duty payable on import of raw materials and capital goods. Import duty includes basic customs duty, social welfare cess, integrated tax, and cess (if applicable)	Deferment of duty payable on import of raw materials and capital goods. Import duty includes basic customs duty, social welfare cess, integrated tax, and cess (if applicable)

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Other (continued)							
Advance Authorization (AA)	PERMANENT INCENTIVE	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Advance Local: Not applicable	Exemption from payment of import duties for companies importing goods into India to manufacture goods for export	Imports of inputs exempt from payment of customs duties (i.e., basic customs duty (BCD), additional customs duty, anti-dumping duty, countervailing duty, etc.)	Imports of inputs exempt from payment of customs duties (i.e., basic customs duty (BCD), additional customs duty, anti-dumping duty, countervailing duty, etc.)
Units in Special Economic Zones (SEZs)/Export oriented units	PERMANENT INCENTIVE	PERMANENT INCENTIVE	PERMANENT INCENTIVE PERMANENT INCENTIVE	National: Varies Local: Varies	Exemption from payment of custom duties on import, and applicable taxes on outward supplies by units located in SEZ and 100% export oriented units	Exemption from payment of customs on goods imported by a unit in an SEZ for authorized operations GST exemption on import of goods and services Facility to procure goods and services from domestic suppliers on zero-rated basis	Exemption from payment of customs on goods imported by a unit in an SEZ for authorized operations GST exemption on import of goods and services Facility to procure goods and services from domestic suppliers on zero-rated basis
Free trade agreements (FTAs)	TEMPORARY INCENTIVE	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Advance Local: Not applicable	Customs duty concessions for companies trading with countries with whom India has entered into a FTA	Concessional customs duty rates on imports	Concessional customs duty rates on imports
GST zero-rated supply of goods and services	TEMPORARY INCENTIVE	TEMPORARY INCENTIVE	PERMANENT INCENTIVE PERMANENT INCENTIVE	National: Varies Local: Varies	Zero-rated supplies for companies exporting goods and services	Tax exemption via refund claim for taxes paid on export of goods and services, or execution of bond or letter of undertaking to export goods and services without payment of taxes. Refund of input taxes paid on inputs and services used in the course of business and for exports	Tax exemption via refund claim for taxes paid on export of goods and services, or execution of bond or letter of undertaking to export goods and services without payment of taxes. Refund of input taxes paid on inputs and services used in the course of business and for exports
Capex: Tax incentives for expenditure incurred on agriculture extension projects	LIMITED APPLICABILITY	NO	PERMANENT INCENTIVE NOT APPLICABLE	National: Arrears Local: Not applicable	Deduction for qualifying expenditure incurred on agriculture extension projects	100% of qualifying expenditure as from FY 2020-21, reduced from 150%	100% of qualifying expenditure as from FY 2020-21, reduced from 150%

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Country background

The standard corporate income tax rate is 30% for domestic companies and 40% for foreign companies and branches of foreign companies (in both case plus a surcharge and cess). Domestic companies that forego claiming certain specified tax deductions and incentives may elect for a special taxation regime with a reduced corporate income tax rate of 22% (plus any applicable surcharge and cess) for the FY ending 31 March 2020 and subsequent years, subject to certain conditions.

Certain resident manufacturing companies (incorporated on or after 1 March 2016) may elect for 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 for 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.

A 7% surcharge applies to domestic companies whose income exceeds INR 10 million (2% for foreign companies) and a 12% surcharge applies where income exceeds INR 100 million (5% for foreign companies). A 10% surcharge applies to domestic companies that elect for a special taxation regime. An additional 4% cess is payable in all cases.

A 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. The MAT does not apply to certain income of foreign companies. Any person other than a corporation (including an LLP) is liable to an 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.

India has a federal structure of governance where both the central government and state governments formulate policies to assist industry through various benefits and incentives. The central government schemes focus on promoting domestic manufacturing, encouraging Indian exports, and ensuring balanced regional development. The state governments aim to provide fiscal and non-fiscal benefits to attract investments and create employment opportunities within the relevant state.

Innovation Incentives

Research & Development (R&D)

Nature of Incentives

Incentives for conducting R&D include the following:

- Until FY 2019-20, a super deduction of 150% of in-house R&D expenditure, including capital expenditure (other than in respect of land and buildings) was available to taxpayers engaged in the business of biotechnology, or manufacturing or producing products (other than products included on the "negative list"). The Department of Scientific and Industrial Research (DSIR) was required to approve the facility where the R&D was conducted. For FY 2020–21 and subsequent years, the deduction is restricted to 100%;
- A deduction of 100% applies to specified payments made to a scientific research company or association, university or college, or other institution for scientific and statistical research;
- A 100% deduction is available for R&D expenses (other than in respect of land) that otherwise do not qualify for the above deductions; and
- A company claiming any of the above benefits is not eligible to apply the lower tax rate of either 15% or 22%.

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A number of requirements must be met for expenditure incurred on in-house R&D to qualify for the 100% deduction from FY 2020-21, including the following:

- The R&D unit must be located in a specified area;
- The R&D unit must have its own personnel;
- The qualifying R&D expenses may not be deductible under any other provision of the tax code;
- The R&D facility may not be used exclusively for market research, sales promotion, quality control, testing, commercial production, style changes, routine data collection, or similar activities;
- The company must maintain a separate account for each approved facility, which must be audited annually, and a copy of the audit report must be submitted to the secretary of the DSIR by 30 November of each year; and
- Assets acquired with respect to the development of scientific R&D facilities may not be disposed of without the approval of the secretary of the DSIR.

Eligible industries and qualifying costs

Qualifying expenditure includes wages, supplies, utilities, and other expenses directly related to R&D. Specifically excluded expenses include general and administrative costs, depreciation, overheads, and allocated expenditure.

A deduction for R&D expenditure is net of any grants or gifts, donations, payments, or gains derived from the sale of R&D assets.

Expenses incurred in clinical drug trials qualify for research tax incentives only if preapproved by the regulatory authority under a central, state, or provincial act, and a patent application is filed under the Patents Act, 1970 for a new drug or therapy developed through the clinical trials.

IP and jurisdictional restrictions

R&D activities must be conducted in India. There is no location restriction with respect to IP.

Other concerns

If the taxpayer is in a loss situation, any unused benefits may be carried forward for the following eight years, but may not be carried back.

Patent Box

There is an optional patent box regime (for which taxpayers may elect by filing Form 3CFA by the due date for filing the relevant income tax return) under which royalty income of an Indian resident that owns a patent that was developed and registered in India may be taxed at a rate of 10% (plus the applicable surcharge and cess) on a gross basis. The key features of the regime include the following:

- The patent must be registered under the provisions of the Patents Act, 1970;
- The regime applies only to income generated in the form of royalties, including on the transfer of IP or a license;
- At least 75% of the expenditure incurred on any invention in respect of which a patent is granted must be incurred in India;
- Where the taxpayer opts in to the patent box regime, other deductions provided under the Income-tax Act, 1961, that could result in a double deduction being granted for the income are specifically not available; and
- Where a taxpayer has opted for the patent box regime in AY 1, but does not opt to be taxed in accordance with the provisions of the regime for AY 2, the taxpayer also is not eligible to apply for the preferential tax treatment for the subsequent five assessment years (i.e., AYs 3-7)

Investment Incentives

State industrial policies

The state industrial policies specify the broad framework of the incentives (including certain location-specific benefits). Investors also may negotiate customized incentive packages with state governments depending on factors including the amount of the investment, and number of new jobs created. Various states offer additional benefits to specific sectors, e.g., aerospace and defense, information technology (IT) and information technology-enabled services (ITES), start-ups, telecommunications, and electronic vehicles.

Key fiscal and non-fiscal incentives offered under the state industrial policies include the following:

Fiscal incentives

- Reimbursement of state-level GST by way of a refund, exemption, or loan;
- Electricity duty and water charge concessions;
- Capital subsidies;

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- Refund or exemption of stamp duty;
- Employment generation and training subsidies;
- Ability to purchase land at a reduced or subsidized price; and
- Interest subsidies on loans procured for capital expenditure.

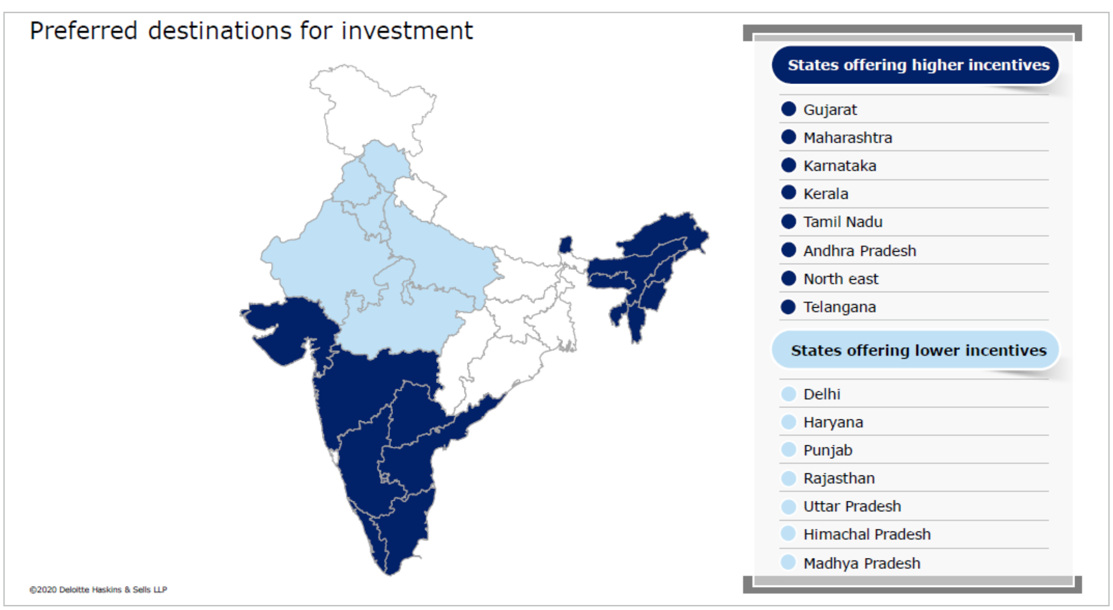
Non-fiscal incentives

- Uninterrupted water and power supplies at concessional rates;
- Enhanced rail and road connectivity;
- Dedicated port facilities;
- Most preferred status for granting various industrial licenses; and
- Single window clearance (allowing applications for several permits, approvals, and licenses etc. to be made to a single designated authority).

The specific incentives available for investing in industrial development generally are negotiated with each state. The following key factors typically are considered in determining the incentives that will be awarded:

- Benefits available under different zones categorized under the industrial policies: A comparatively higher investment is required and comparatively lower benefits are available for investment in premium zones (where the existing level of industrial activity is substantial) than "backward" zones (where the existing level of industrial activity is low);
- Benefits in the form of subsidies (e.g., capital or interest subsidies), and "soft loans" (i.e., loans on favorable terms restricted to the GST paid by the applicant on local and intrastate outward supplies. The applicant must ascertain the split between intrastate and interstate supplies of final products);
- Subsidy based on net state goods and services tax (SGST) versus gross SGST: Net SGST means that the subsidy is limited to the SGST paid in cash (i.e., after utilizing input credits); gross SGST means that the subsidy is available for SGST settled both in cash and input credits;
- Eligibility of capital expenditure having regard to the definition of fixed capital investment defined under the policy. Capital subsidies generally are limited to the investment in fixed assets but increased subsidies may be payable in backward zones;
- The investment period, expansion or diversification plans, and minimum operating period commitments under the policy;
- Employment generation often is a basis for industry or sector specific incentives, but restrictions on casual labor, and local state requirements need to be considered; and
- Other benefits and incentives for R&D expenses, intangibles (e.g., royalty payments, preoperative expenses etc.) are available in certain states,

Investors should seek to negotiate with state authorities customized packages of incentives based on the product mix, sales mix, and sector to obtain the maximum benefits.



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Production linked incentive scheme for large scale electronics manufacturing

A production linked incentive scheme was introduced as from 1 April 2020 to encourage domestic manufacturing of mobile phones and specific electronic components including ATMP units in India. The incentives, in the form of cash payments, are available to companies engaged in manufacturing in India in the target sectors, including contract manufacturers, and range from 4% to 6% on sales of the goods manufactured. The initial deadline for eligible companies to apply for the scheme was 31 July 2020, and no extension to the deadline has yet been announced. The incentives under the scheme are available for five years from FY 2020-21.

Modified Electronics Manufacturing Clusters (EMC 2.0) scheme

The EMC 2.0 scheme applies as from 1 April 2020 to stimulate the growth of the Electronics System Design and Manufacturing (ESDM) sector. Electronic manufacturing companies that commit to purchasing a minimum of 20% of land for sale to establish a manufacturing facility with a minimum investment outlay of INR 3 billion are eligible for the scheme. The remaining land remains open for sale to other investors. The scheme provides financial assistance (payable in the form of a cash subsidy in three installments as prescribed milestones are reached) for the creation of world class infrastructure, together with common facilities and amenities. The benefits are based on the total project costs and range from 50% for EMC to 75% for common facility centers. Eligible companies must apply for the scheme within three years from the date of notification of the scheme (i.e. by 31 March 2023).

Scheme for Promotion of Manufacturing of Electronic Components and Semiconductors (SPECS)

The SPECS is effective as from 1 April 2020, and is intended to strengthen India's electronics manufacturing ecosystem by offsetting the competitive disadvantages faced by domestic manufacturers of components and semiconductors. The benefits under the scheme are available to new business units, and also on the expansion, modernization, or diversification of existing units. A minimum investment ranging from INR 50 million to INR 10 billion is required, depending on the type of goods produced. Companies covered under the SPECS receive a reimbursement of up to 25% of capital expenditure in plant and machinery, equipment, associated utilities, and technology; as well as related R&D.

Production linked incentive scheme for promotion of domestic manufacturing of critical KSMs, drug intermediaries, and APIs

This scheme applies as from 21 July 2020 and is intended to boost manufacturing of critical KSMs, drug intermediaries, and APIs by attracting large-scale investment in the sector to ensure sustainable domestic supply and thereby reduce India's dependence on imports. The scheme runs from FY 2020-21 to FY 2029-30. Incentives in the form of a cash payment ranging from 5% to 20% on incremental sales are available under the scheme for six years (FY 2023-24 to FY 2028-29 for fermentation based products, and FY 2022-23 to FY 2027-28 for chemically synthesized products). Although the scheme is effective as from 21 July 2020, a "gestation period" of two years (FYs 2021-22 and 2022-23) applies for eligible products manufactured via fermentation process, and one year (FY 2021-22) for eligible products manufactured via chemical synthesis.

An eligible applicant must meet various eligibility criteria, including that the:

- Net worth of the applicant (including that of group companies) as at the date of application must not be less than 30% of the total proposed investment; and
- Proposed domestic value addition must be at least 90% for fermentation based products and at least 70% for chemically synthesized products.

Production linked incentive scheme for promotion of domestic manufacturing of medical devices

This scheme was notified on 21 July 2020, and is intended to boost domestic manufacturing of medical devices in India. The scheme runs from FY 2020-21 to FY 2026-27, and provides incentives in the form of cash payments equivalent to 5% on the incremental sale of goods manufactured in India within the targeted sectors for five years (i.e., from FY 2021-22 to FY 2025-26 with a base year of FY 2019-20). A minimum investment of INR 1.8 billion over the three years from FY 2021-22 to FY 2023-24 is required, with cumulative thresholds as follows: INR 0.6 billion as at the end of FY 2021-22, INR 1.2 billion as at the end of FY 2022-23, and INR 1.8 billion as at the end of FY 2023-34). An eligible applicant must be a company registered in India with net worth (including that of group companies) of at least INR 180 million as at the date of application.

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Project Imports (PI) scheme

The PI scheme is designed to expedite and simplify the process of determining which industrial goods fall under the various different chapters of the customs tariff. Under the scheme, favorable tariff rates are available for imported goods that are used in projects to develop India's economy, e.g., industrial plants, irrigation plants, power projects, mining projects, oil and mineral exploration projects, etc. Companies qualifying for the scheme receive a certificate from the Central Board of Indirect Taxes & Customs setting out the reduced duty and tax rates on an itemized list of imported goods for use in the registered project.

Export Promotion Capital Goods (EPCG) scheme

The EPCG scheme has been formulated under the Foreign Trade Policy 2015-20 to promote imports of capital goods intended for use in the production of goods for export. Under the scheme capital goods may be imported without payment of import duty, which helps in reducing manufacturing costs for the manufacturer, and enables exporters to sell at a competitive price in the global market without compromising on profits. To qualify for the scheme, in the first six years from the date of issuance of the EPCG license, the exporter must export goods to the value of at least six times the duty saved on the import of capital goods.

North-East Industrial Development Scheme (NEIDS)

The NEIDS was introduced in 2017 to catalyze industrial development in the north-east region (i.e. the states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, and Tripura) and expires on 31 March 2022. All new industrial units in the manufacturing and services sectors, including biotechnology and hydel power generation units up to 10 megawatts are eligible under the scheme. The following incentives are available provided specified criteria are met:

- **Central capital investment incentive for access to credit (CCIIAC):** A credit equal to 30% of the investment in plant and machinery with an upper limit on the incentive of INR 50 million;
- **Central interest incentive (CII):** An interest incentive at 3% on working capital credit advanced by a scheduled bank or central/state financial institution for the first five years from the date of commencement of commercial production or operations. The working capital requirement is capped at 25% of annual turnover;
- **Central comprehensive insurance incentive (CCII):** Reimbursement of 100% of the insurance premium for buildings and plant and machinery for up to five years from the date of commencement of commercial production or operations;
- **GST:** Reimbursement of GST paid on finished products manufactured in the north-east region up to the extent of the central share (i.e., the share paid to the central government, currently 58%) of central goods and services tax (CGST) and integrated goods and services tax (IGST) for five years from the date of commencement of commercial production. The reimbursement applies only to the net GST paid (i.e. the GST actually paid after offsetting the input tax credit);
- **Income tax:** Reimbursement of the central share of income tax for the first five years of commercial production;
- **Transport incentive:** Reimbursement of a proportion of the cost of transport of finished goods by rail (up to 20%), inland waterways (20%), or scheduled airline services (33% of the air freight cost for perishable items) for five years from the date of commencement of commercial production or operations subject to the production of actual receipts; and
- **Employment incentive:** The Department for Promotion of Industry and Internal Trade pays 3.67% of the employer's contribution to the Employees' Provident Fund in addition to the government bearing 8.33% of the employer's contribution to the Employee Pension Scheme under the Pradhan Mantri Rojgar Protsahan Yojana scheme.

Employment—Tax incentive for hiring new personnel

To encourage the hiring of new employees, a deduction of 30% of additional wages paid to new permanent employees in a factory is granted for three years. This super deduction applies to taxpayers in all sectors (that are subject to tax audit) to the extent that the costs are incurred on an employee with monthly remuneration of up to INR 25,000, and who has been employed for at least 240 days.

Training—Tax incentives for expenditure incurred on skill development projects

Until 31 March 2020, (i.e., until FY 2019-20) companies engaged in manufacturing and production (other than the production of alcoholic beverages and tobacco products), or providing specific services (such as construction, healthcare, market research, etc.), are allowed a weighted deduction of 150% of qualifying expenditure (other than expenditure incurred on land and buildings) incurred on skills development projects, provided certain conditions are met. The deduction is reduced to 100% for FY 2020-21 and subsequent years.

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Environmental sustainability initiatives

Renewable Energy Certificates (RECs)

The REC is a market-based instrument issued by the Central Electricity Regulatory Commission to promote renewable sources of energy, and the development of the market in electricity. The mechanism helps state-owned companies and other electricity generators to meet their regulatory requirements (such as renewable purchase obligations), by overcoming the geographical constraints on existing renewable energy potential in different states across India. Certificates are issued to eligible companies generating electricity from renewable sources which can be traded on specific regulatory exchanges. Companies are required to adhere to certain specifications and conditions for generating renewable energy.

Energy Savings Certificates (ESCerts)

ESCerts are issued by the central government under the Energy Conservation Act, 2001 in accordance with the Perform, Achieve, and Trade Scheme formulated by the Bureau of Energy Efficiency. Certificates are issued to "designated consumers," whose energy consumption (generated from renewable sources) is less than the prescribed norms and standards. ESCerts are tradable at two energy exchanges, Power Exchange India and Indian Energy Exchange. Designated consumers whose energy consumption is more than the prescribed norms and standards also may purchase ESCerts to comply with the prescribed norms and standards.

Other Incentives

Background

The central government has formulated various policies and schemes providing benefits to encourage domestic manufacturing and boost exports of locally produced merchandise. To attract investment, develop infrastructure, and promote industries, India offers various incentives such as tax holidays, investment allowances, rebates, etc. Incentives generally fall into the following categories:

Merchandise Exports from India Scheme (MEIS)

The MEIS is formulated under the Foreign Trade Policy of 2015-20. Under this scheme, the exporter of goods is provided with incentives in the form of duty credit scrips, which are freely transferable, and also may be used in payment of custom duties in relation to imports (basic customs duty (BCD), safeguard duty, and anti-dumping duty). The value of the scrips ranges from 2% to 7% of the free on board value of exports of specified goods to notified countries.

This scheme likely will be phased out and replaced by the RoDTEP scheme.

Service Exports from India Scheme (SEIS)

The SEIS also is formulated under the Foreign Trade Policy of 2015-20 to encourage the export of certain specified services from India. To participate in this scheme, the exporter must earn at least USD 15,000 net foreign exchange from exports of such services during the year in which the application is submitted. The incentives are provided in the form of duty credit scrips, which are freely transferable, and also may be used in payment of customs duties in relation to imports. The value of the scrips ranges from 3% to 7% of the net foreign exchange earned. Specified services include R&D services; professional services such as legal, accounting, auditing, and book-keeping services; advertising, market research, and public opinion survey services; communication services; education services; environmental services etc.

Faster Adoption and Manufacturing of (Hybrid and) Electric Vehicles in India scheme (FAME-II)

Following on from the earlier FAME–I scheme, the government introduced FAME–II as from 1 April 2019 for a period of up to three years to promote faster adoption of electric mobility and development of its manufacturing ecosystem in India. Incentives are available under the scheme for commercial vehicles and, with respect to two-wheelers, the benefits also are available for vehicles intended for private use. This scheme also covers the development of infrastructure, including the installation of at least 2,700 charging stations across India. The approximate incentives available for different types of vehicle are as follows:

Vehicle type	Incentive per vehicle
Four wheeler strong hybrid vehicle	INR 13,000
Registered e-two wheeler	INR 20,000
Registered e-three wheeler(including e-rickshaw)	INR 50,000
Electric four wheeler	INR 150,000
Electric bus	INR 5,000,000

In-bond manufacturing (or manufacturing in a customs bonded warehouse)

India allows the deferral of duty payable on the import of raw materials and capital goods procured for manufacturing and other operations in a bonded manufacturing facility. Deferred import duty comprises of the BCD, social welfare surcharge, integrated tax, and cess (where appropriate). When the raw materials or capital goods are imported, the import duty payable is deferred until the goods are cleared from the bonded facility. Where the imported inputs are utilized for exports, payment of the deferred duty is not required. Where the finished goods are cleared to the domestic market, the

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import duty on the imported raw materials used in the production of the finished goods is payable at the time the goods are cleared. Import duty on capital goods is paid when the capital goods are cleared to the domestic market. The scheme is extremely useful for exporters as they can optimize their working capital investment in payment of duties on import of goods intended for export operations.

Advance Authorization (AA) scheme

Under the AA scheme, importers apply to have import duties waived with respect to imports used in manufacturing goods intended for export. To qualify for the scheme, the importer must export goods with a value of at least 15% of the import duty saved under the AA, within 12 months from the date of filing the application with the Regional Authority.

Schemes for promotion of bulk drug parks and medical device parks

Schemes for promoting bulk drug parks and medical device parks are intended to strengthen the existing infrastructure and provide easy access to industrial units by developing common infrastructure facilities across identified parks in the country. The schemes offer financial incentives to eligible companies in the form of financial grants linked to the expenditure incurred by the companies on specified infrastructure as follows:

- **Promotion of bulk drug parks:** Financial grants to three bulk drug parks, capped at the lower of INR 10 billion, or 70 % of the project cost of common infrastructure facilities (90% for investments in the hilly states and north-east region); and
- **Promotion of medical device parks:** Financial grants to four medical device parks, capped at the lower of INR 1 billion or 70 % of the project cost of common infrastructure facilities (90% for investments in the hilly states and north-east region.

Special Economic Zones (SEZs)

SEZs have been established across India to house export focused manufacturing and service sector units. A unit located in an SEZ must comply with positive net foreign exchange earnings requirements to remain eligible for benefits under the scheme.

Provided certain conditions are met, 100% of the export profits earned from a new undertaking established and operating on or before 31 March 2020 in an SEZ are exempt from corporate income tax for the first five years, starting from the year in which manufacturing commences, followed by a 50% tax exemption for the following five years. A further 50% five-year tax exemption is available provided that 50% of the business profits of the SEZ unit are retained and transferred to a special reserve. The MAT must be paid during the exemption period, but a credit is available against corporate income tax liabilities exceeding the MAT in future years.

Other concessions available under the scheme include:

- Exemption from payment of customs duty on goods imported for authorized operations;
- GST exemption on the import of both goods and services for authorized operations; and
- An option for an upfront exemption from GST on the domestic procurement of goods and services, subject to the execution of a bond or letter of undertaking by the supplier.

Free trade agreements (FTAs)

India has negotiated FTAs with various countries including members of the Association of Southeast Asian Nations (ASEAN), Japan, Singapore, and members of the South Asian Association for Regional Cooperation (SAARC). FTAs provide concessional customs duty rates for imports from such countries. The importer company must comply with the rule of origin and value addition norms stated in the respective agreements to benefit from the concessionary rates. The rates of custom duty are revised periodically as required under the relevant FTA.

Capex—Tax incentives for expenditure incurred on agriculture extension projects

Until 31 March 2020 (i.e., until FY 2019-20), a 150% deduction is available for expenditure incurred by a taxpayer on agricultural extension projects where certain conditions are met. The deduction is reduced to 100% for FY 2020-21 and subsequent years.

Deduction for capital expenditure incurred on certain specified business

A 100% deduction is available for capital expenditure (excluding on land, financial instruments, and goodwill) incurred to set up and operate specified businesses, provided certain conditions are met. The deduction is available in the year in which the expenditure is incurred, and any excess may be carried forward and offset against future profits from the same business. Specified businesses include: setting up and operating cold chain or warehousing facilities; producing fertilizer; constructing and operating hospitals or hotels; laying slurry pipelines; operating semiconductor wafer fabrication units; laying and operating cross-country natural gas pipelines; and developing, operating, and maintaining infrastructure facilities, etc.

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Additional requirements may limit deductibility (e.g., the requirement to obtain approval from the relevant authority, or that the business cannot be established by a spin-off or transfer from an existing business, etc.).

Upcoming proposed incentives

Remission of Duties or Taxes on Export Products (RoDTEP) scheme
The MEIS likely will be discontinued in a phased manner and replaced by the RoDTEP scheme. The RoDTEP scheme aims to provide reimbursement of taxes, duties, and levies at the central, state, and local level in the form of transferable duty credits and electronic scrips. Industry consultations currently are ongoing to determine the rates of reimbursement.

Maintenance Repair and Overhaul (MRO) industry

The 2019-20 union budget focused on the MRO industry with a view to initiate a specific policy to incentivize the MRO sector in India. The stimulus package of USD 266 billion announced to combat the economic effects of COVID-19 contained measures to promote setting up of MRO facilities in India to assist the aviation sector. Regulatory changes are anticipated to further strengthen India's position, including customs duty concessions on the import of parts, etc.

Production-linked incentives schemes for various sectors

Similar to the electronics and pharmaceutical sector, the government is planning to announce incentives schemes to promote domestic manufacturing. The key targeted sectors include automobiles, automotive components, textiles, food processing, battery manufacturing, telecom and networking components. The objective of these proposals is to make India a global hub of manufacturing in these sectors for both domestic supplies and exports from the country.