Deloitte.

ER&I connect: Make in India – Some regulatory and tax aspects

13 July 2023

Topics for discussion

Make in India Policy – Regulatory considerations

Make in India policy – Indirect tax consideration

Make in India Policy – Direct tax consideration

Q&A

Polling question 1

Are you considering manufacturing / assembling products in India?

- Yes
- No
- Evaluating
- Undecided

Make in India Policy

Regulatory Considerations

India Economic Snapshot

A growing powerhouse – one of the best manufacturing destinations

- 5th largest Economy – US$ 3.5 trillion
- FDI – US$ 46 bn (FY 22-23)
- 6.5% expected growth rate FY 23
- Reserves – US$ 595 billion in Jan 2023
- 2nd largest working population – 522 mn = 29 yrs

- Single window clearance
- India stack
- Free Trade Agreements
- EODB – repeal, reduce, decriminalize
- Make in India

Make in India

Four reasons for manufacturing India

Public Procurement (Make in India) Policy

Production Linked Incentives

State Incentives

One of the lowest corporate tax rates

Public Procurement (Make in India) Policy

Some important features

What does it mean

A **Local content**

Minimum '*Local content of 20% or 50%*

B **Applicability**

Products, services, software, work contracts

C **Procurement agencies**

Central Government / Public Sector Undertakings and projects funded by Central Govt for tender value up to INR 200 cr (USD 24.39 mn)

D **Compliance**

Auditor/ cost accountant certificate > INR 10 crores

Formula

Total value of item procured excluding taxes – Value of imported content in the item including all customs duties) / Total value of item*100

How does it apply

PPO Applicability

→ Government

Global Procuring Agency → Reseller entity → Government

→ OEM → Manufacturer → Govt

Mandate of the Order

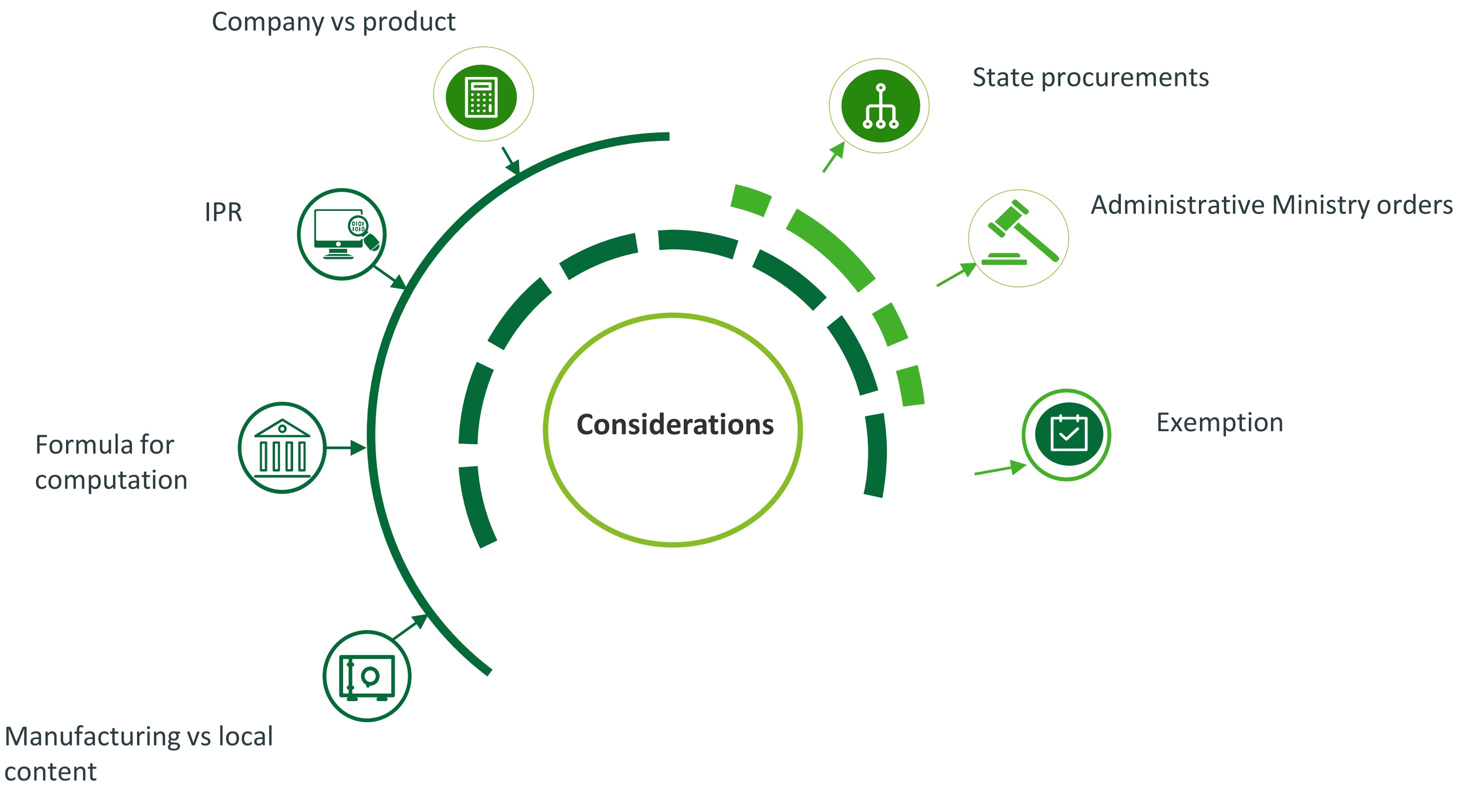
Class-I local supplier	Local content equal to or more than 50%	100% if L1 or match L1 (if no split), else 50% (split)
Class-II local supplier	Local content more than 20%, but less than 50%	Class I not there
Non-local supplier	Local content less than or equal to 20%	Not eligible, unless GTE

Public Procurement (Make in India) Policy…contd

Some important features

Some important notifications

- Cost of transportation, insurance, installation, commissioning, training and after sales service support like AMC/CMC etc not to be counted in local content
- Registration for bordering country companies in sensitive sectors involved in transfer of technology
- Restrictive and discriminatory practices flagged in procurement



State Incentives

Some additional benefits

- Lower land acquisition cost
- State GST remission
- State PLI
- Lower cost of power, water & local charges
- Sector specific policy initiatives

- Amount of investment
- Jobs being created
- Exports
- Technology transfer

Polling question 2

What Government support you require for manufacturing / assembling products in India?

- Fiscal and tax incentives
- Infrastructure support
- Simpler licensing process
- Easier compliances

Production Linked Incentive Schemes – making India a favorite manufacturing destination

Production Linked Incentives (PLI) Scheme - Features

Objective

Improve domestic manufacturing footprint

Incentives

Cash subsidy as prescribed

WTO Compliant

Compatible with the WTO as the quantum of support is not linked to the export

Activity profile

Manufacturing – domestic and exports; does not cover services

Flexibility

Combine several project sites; apply for State incentives

Mechanism

Largely application based, bid based in some cases

In Union Budget 2021-22, the Govt. announced an outlay of USD 26 billion for the Production Linked Incentive (PLI) Schemes across 14 key sectors

PLI Scheme – 14 Sectors (1/2)

Sector	Ministry	Incentives Outlay (USD billion)	Status
Advance Chemistry Cell (ACC) Battery	Department of Heavy Industry	2.41	Application window was open until 14 January 2022
Specialty Steel	Ministry of Steel	0.84	Application window was open until 15 September 2022
Food Products	Ministry of Food Processing Industries	1.45	Application window was open until June 24, 2021
Pharmaceuticals drugs	Department of Pharmaceuticals	1.99	For Phase 2.0 Application window was open until 31 August 2021
Electronic/Technology Products	Ministry of Electronics and Information Technology	0.67 + 2.17 (v 2.0)	For Phase 2.0, Guidelines are awaited
Telecom & Networking Products	Department of Telecommunications	1.63	Application window was open until 3 July 2021
Drone and Drone Components	Department of Civil Aviation	0.17	Application window was open until 20 May 2022

Closed Guidelines awaited

PLI Scheme – 14 Sectors (2/2)

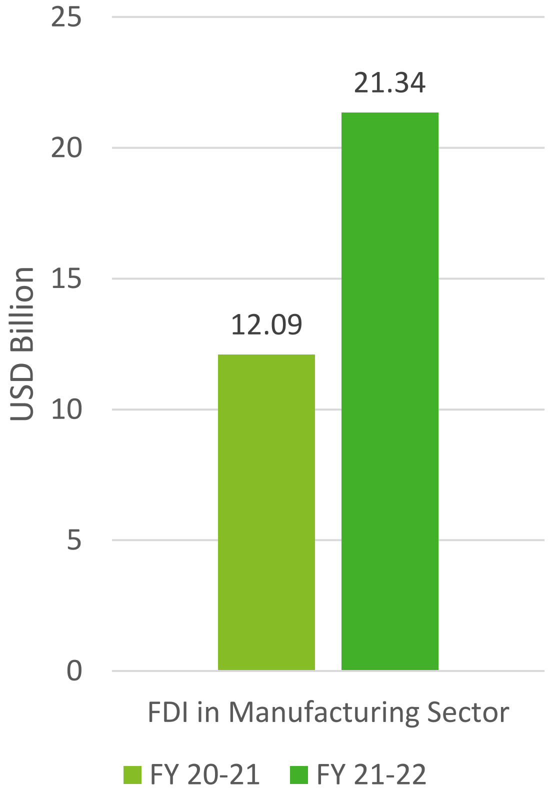
Sector	Ministry	Incentives Outlay (USD billion)	Status
High Efficiency Solar PV Modules	Ministry of New and Renewable Energy	0.59	🔴 Application window was open until Sep 15, 2021
Automobiles & Auto Components	Department of Heavy Industry	7.60	🔴 Application window was open until 9 January 2022
Textiles	Ministry of Textiles	1.42	🔴 Guidelines issued, application window open until 31 January 2022
White Goods (ACs & LED)	Department for Promotion of Industry and Internal Trade	0.83	🔴 Application window was open until 15 September 2021
Mobile phones and electronic components	Ministry of Electronics and Information Technology	5.46	🔴 Application window was open till March 31, 2021
Medical devices	Department of Pharmaceuticals	0.46	🔴 Application window was open until 31 August 2021
Key Starting Materials (KSMs) / Drug Intermediates (DIs) and Active Pharmaceutical Ingredients (APIs)	Department of Pharmaceuticals	0.93	🔴 Application window was open until 31 August 2021

🔴 Closed 🟡 Guidelines awaited

PLI Scheme – Results – *As per Press Release dated 13 Jun 2023*

Led to a significant increase in production, employment generation, economic growth and exports in the country

FDI in Manufacturing Sector



Significant increase of 76% in FDI in the Manufacturing sector in FY 2021-22 compared to previous FY 2020-21 owing to PLI

Some of other key results

- Approval of **733 applications across 14 Sectors** with expected **investment of approx. USD 47 billion** ... *173 applicants are MSMEs*
- **Actual investment of USD 8 billion** already realized till March 2023, resulting in –
  - Incremental production / sales over USD 86 billion
  - Employment generation of around 0.32 million
  - Boost in exports by around USD 33 billion till FY 22-23
- **Disbursement of incentive** of around **USD 372 million** in FY 22-23 under PLI across 8 sectors
- **Shifting of suppliers** by major **smartphone companies to India**, e.g., Foxconn, Wistron and Pegatron.
- **Increase in value addition in mobile manufacturing** to 20% within 3 years, as compared to Vietnam (achieved 18% value addition over 15 years) and China (achieved 49% value addition over 25 years)
- **Achievement of import substitution** of 60% in the Telecom sector
- **Increase in turnover** by 7 times in Drones sector due to PLI scheme
- **Significant reduction in imports of raw materials** in the Pharma sector and Food Processing sector

PLI / Financial Incentive Scheme – **Semiconductor and Display Fab**

Over USD 10 billion approved by Govt. for development of semiconductors and display manufacturing ecosystem in India

*Under the vision of "Aatmanirbhar Bharat" and positioning India as the global hub for Electronics System Design & Manufacturing (ESDM), the Govt. of India has approved a **comprehensive program for the development of semiconductors and display manufacturing ecosystem**, which offers following schemes -*

A. Scheme for Setting up of Semiconductor Fabs –

- Provides a **fiscal support of 50% of project cost** on *pari-passu* basis to eligible applicants
- Window for accepting application is **open** since 1st Jun 2023 till further notice
- Nodal Agency - "India Semiconductor Mission" (ISM) within MeitY

B. Scheme for Setting up of Display Fabs –

- Provides a **fiscal support of 50% of project cost** on *pari-passu* basis to eligible applicants
- Window for accepting application is **open** since 1st Jun 2023 till further notice
- Nodal Agency - "India Semiconductor Mission" (ISM) within MeitY

C. Scheme for Setting up of Compound Semiconductors / Silicon Photonics / Sensors Fab and Semiconductor Assembly, Testing, Marking and Packaging (ATMP) / OSAT facilities –

- Provides a **fiscal support of 30% of capital expenditure** to eligible applicants
- Window for accepting application is **open** since 1st Jan 2022 for a period of 3 years
- Nodal Agency - "India Semiconductor Mission" (ISM) within MeitY

Note: Reference to be made to detailed guidelines of the respective scheme(s) for making the applications

D. Design Linked Incentives Scheme –

- **Product Design Linked Incentive** – Reimbursement of up to 50% of eligible expenditure with ceiling of INR 15 crores (~ USD 1.9 million) per application
- **Deployment Linked Incentive** – Incentive of 6% to 4% of net sales turnover over 5 years with ceiling of INR 30 crores (~ USD 3.8 million) per application
- Window for accepting application is **open** since 1st Jan 2022 for a period of 3 years
- Nodal Agency – "Centre for Development of Advanced Computing" (C-DAC) within MeitY

PLI / Financial Incentive Scheme – **Green Hydrogen and Electrolysers**

Introduction of Schemes to incentivise manufacturing of Electrolyser and Green Hydrogen with outlay of over USD 2 billion under the National Green Hydrogen Mission's flagship project "SIGHT"

A. Incentive Scheme for Electrolyser Manufacturing –

- Launched for the period FY 25-26 till FY 29-20, with outlay of **USD 0.58 billion**
- **Objective** is to maximize domestic manufacturing of electrolyzer and achieve lower cost of hydrogen production
- Incentive amount is dependent upon following parameters –
  - a. **Specific Energy Consumption** – Lower the SEC, higher would be the incentive
  - b. **Local Value Addition Factor** – Minimum LVA to be 40% or 30% depending upon the type of electrolyzer. Higher the LVA, higher would be incentive.
  - c. **Annual Manufacturing Capacity**
- Selection process would be based on **bidding process conducted by SECI** -> Bidders to be ranked in decreasing order for allocation of admissible bid capacity -> Max. capacity to be allocated per bidder is 300 MW
- ***Fiscal incentive =***

  Lower of Allocated capacity or Net Sales (in KW)

  (x) Base Support rate (ranging from INR 4,440 in 1st yr to INR 1480 in 5th yr)

  (x) Performance multiplier based on energy consumption **(x)** LVA factor
- Window for submission of bid is **open** till **5th Sep 2023**

B. Incentive Scheme for Green Hydrogen Manufacturing –

- Launched for the period FY 25-26 till FY 29-20, with outlay of **USD 1.67 billion**
- **Objective** is to maximize production of Green Hydrogen in India, enhance its cost-effective and encourage large scale utilization of same
- Direct **incentive** in terms of INR/kg of Green Hydrogen to be provided for **3 years** from date of commencement of production, with capping of -

  1st year – INR 50/kg

  2nd year – INR 40/kg

  3rd year – INR 30/kg
- Also, incentivize production of **derivatives of GH**, such as Green Ammonia which would be 0.1765 kg of Green Hydrogen per kg of Green Ammonia. Factor for other derivatives to be declared by MNRE.
- Selection process would be based on **bidding process conducted by SECI** -> Bidders to be ranked in order of "Least Avg. Incentive" demanded
- Incentive payout in a year = Lower of Allocated capacity or Actual Production **(x)** Incentive quoted for that year
- Window for submission of bid is **open** till **7th Sep 2023**

Note:

- *SECI has been appointed as Nodal Agency for both these schemes*
- *Reference to be made to detailed guidelines of the respective scheme(s) for making the applications*

Polling question 3

Are you aware of the various incentive schemes available in India for setting up of manufacturing?

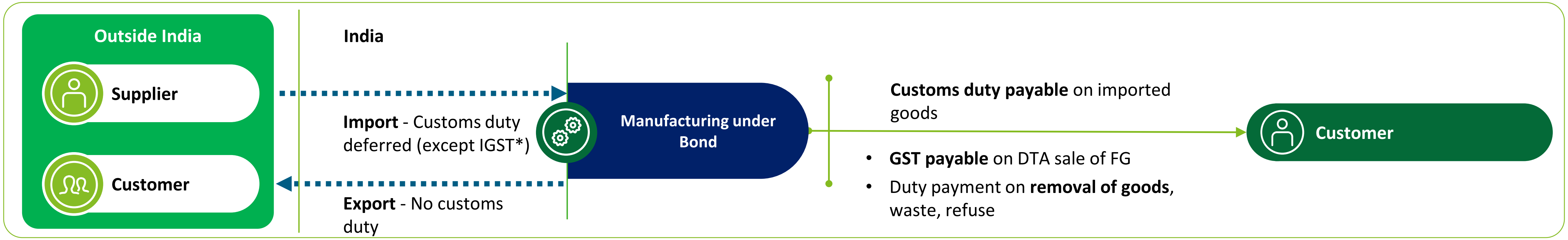
- Yes, and we are already availing benefits under the applicable schemes for our existing projects
- No, but we are reviewing the schemes to check availability for our existing / planned operations in India
- So far not aware of any incentive schemes prevalent in India
- Don’t know / not applicable

Supply Chain Structuring – Options available in India for manufacturing set-up

Manufacturing in India – Indirect Tax incentives (1/4)

Duty deferral scheme under customs for manufacturing operations

Planning opportunity for consumer industries with significant import content



Key benefits

- Unlocks working capital from imported inventory & asset
- No forex earning condition
- No export obligation
- No restriction on DTA supply

Purpose

- Alternative to duty exemption schemes under FTP
- Compliant with WTO agreement on Subsidies
- Reduced regulatory interface
- Supports "Make in India"

Potential beneficiaries

- Significant imported raw material
- High raw material holding period
- Fluctuating, seasonal demand
- Job work, Contract manufacturing

** Yet to be notified*

Manufacturing in India – Indirect Tax incentives (2/4)

Authorized Economic Operator (AEO)

Features

- Customs organizations all over the world are tasked with the twin challenge of securing the borders from unlawful trade and at the same time facilitating the legitimate trade
- Globally, AEO certification is gradually evolving into an industry standard for claiming eligibility to any administrative and governmental discretions, priority and facilitation. India is also moving along on the same path
- AEO is a certification issued by Central Board of Indirect tax and Customs (CBIC) for Importers, Exporters and Logistic service providers involved in the international Supply Chain who demonstrate high standards of compliance and security

Key Drivers for AEO Certification

Financial Benefits

- Duty deferment
- Faster disbursement of refunds and duty drawback claims
- Exemption from requirement of bank guarantee

Facilitation at Customs

- Direct Port Delivery
- Self-certification of origin certificate
- Process based controls and exception monitoring
- More facilitation measures like E-wallet under way

International Trade Practice

- Standardized and automated business operations in line with international practices
- Globally accredited programme- leading to faster clearances/additional benefits in MRA countries

Manufacturing in India – Indirect Tax incentives (3/4)

Export Promotion Schemes

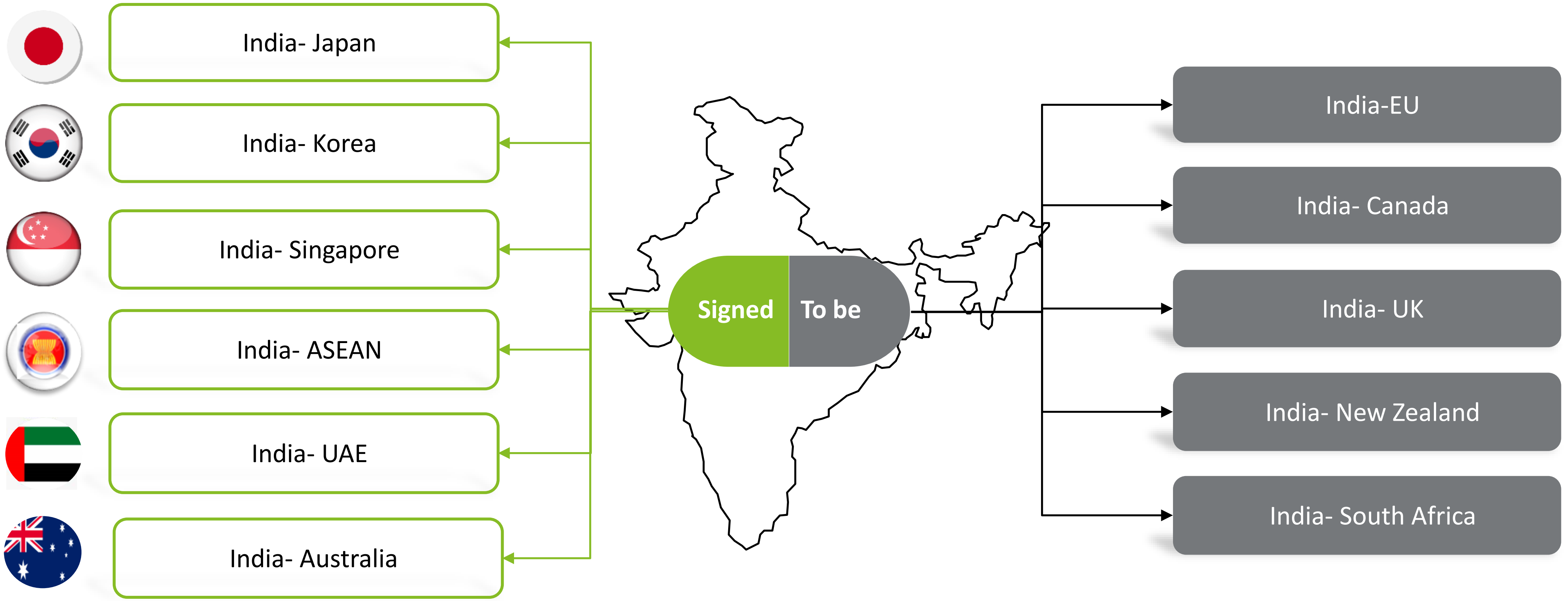
	Scheme	Description
1	Duty Drawback	**Rebate of customs duty** paid on inputs used in export products
2	Advance Authorization	Duty free import of **inputs / raw materials**
3	Special Economic Zone	**Duty free import** for use in export of goods and services
4	Export Promotion Capital Goods	Duty free import of **capital goods**
5	Export Oriented Unit	**Duty free import** for use in export of goods and services
6	Remission of Duties or Taxes on Export Products Scheme	**Incentive** for export of goods
	Emerging schemes/incentives	
7	Refund of state levies	Refund of indirect taxes levied by states
8	Manufacturing under Customs Bond	Working capital optimization through duty deferral

Government has announced new FTP 2023 effective from April 1, 2023, and will remain in operation unless otherwise specified or amended

Manufacturing in India – Indirect Tax incentives (4/4)

Free Trade Agreements – India

- India has negotiated FTAs with various countries to allow trade-partner countries to enjoy concessional duty rates on import and export transactions.
- FTAs are key planning tools, especially while considering India as a manufacturing location for the following reasons:
  - Benefits of concessional / reduced rate of duty on import of inputs, capital goods etc.;
  - Access to markets in FTA countries at competitive rates.
- We have highlighted below key FTAs which have been signed by India and those which are yet to be signed by India.



Make in India
Corporate Tax considerations

Corporate tax rates

Type of company*	Income up to INR 10 million (~ USD 0.12 million)		Income above INR 10 million up to INR 100 million (~ USD 0.12 million up to USD 1.22 million)		Income above INR 100 million (~ USD 1.22 million)	
	Normal provisions	MAT	Normal provisions	MAT	Normal provisions	MAT
Domestic company: normal rate	31.2%	15.6%	33.38%	16.69%	34.94%	17.47%
Domestic company: turnover up to INR 4 billion (~ USD 53.33 million in FY19-20)	26%	15.6%	27.82%	16.69%	29.12%	17.47%
Domestic company: does not avail tax incentives or exemptions	25.17%	Not applicable	25.17%	Not applicable	25.17%	Not applicable
Domestic company: new manufacturing company (set up on or after 1 March 2016)	26%	15.6%	27.82%	16.69%	29.12%	17.47%
Domestic company: new manufacturing company (set up on or after 1 October 2019)	17.16%	Not applicable	17.16%	Not applicable	17.16%	Not applicable
Foreign company	41.6%	15.6%	42.43%	15.91%	43.68%	16.38%

*Tax rates are subject to prescribed conditions to be met by the company

Corporate tax benefits | Tax regime for new manufacturing companies

- **Tax rate of 15%** plus surcharge and cess [i.e. **effective rate of 17.16%**]
- No Minimum Alternate Tax (MAT)

Lower tax rate vis-à-vis many other jurisdictions

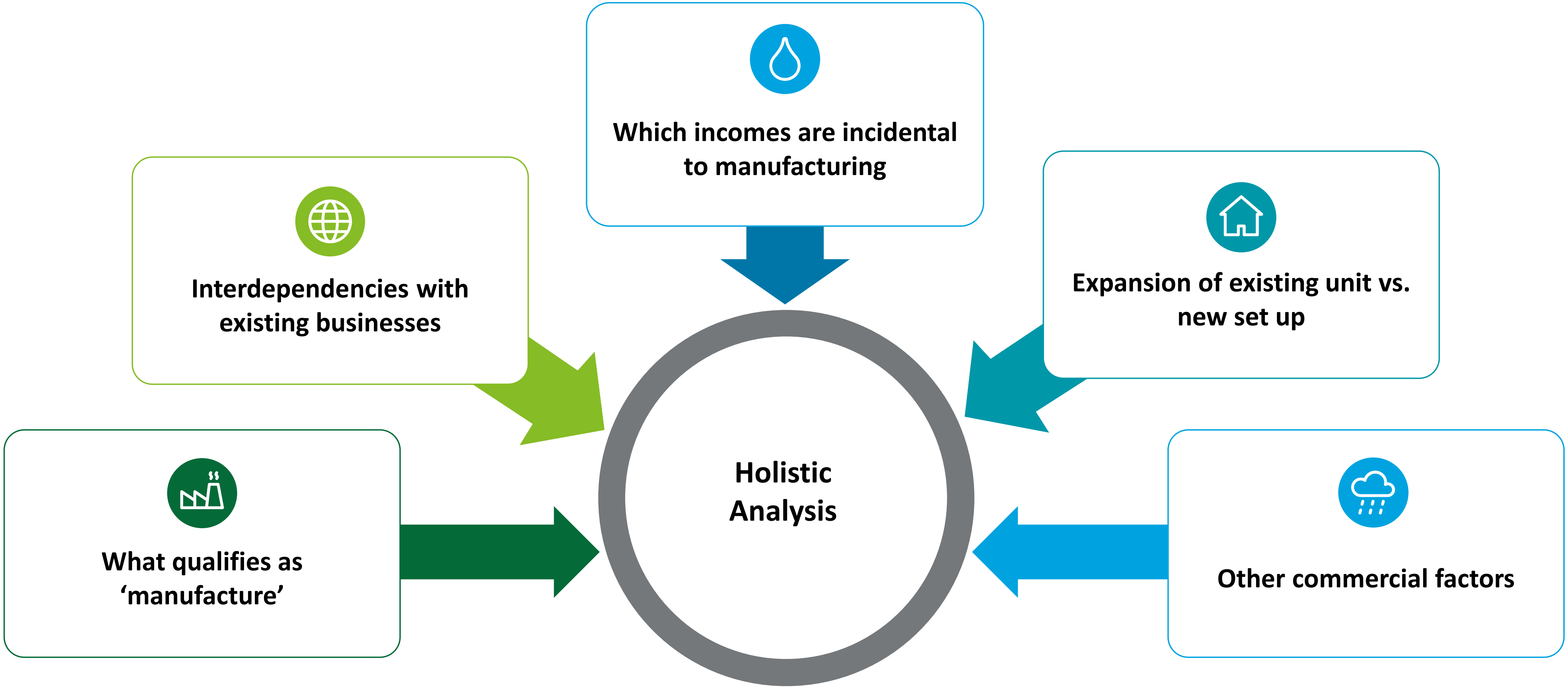
Attractive tax regime for

- New manufacturing companies in India
- Incorporated on or after 1 October 2019

- Company engaged only in **manufacture** of any article or thing and **research** in relation to, or **distribution** of, such article or thing manufactured by it
- **Commencing manufacture on or before 31 March 2024**
- Not formed by splitting up or reconstruction of an existing business; and company does not use any machinery or plant previously used for any purpose

- Certain incentives not to be claimed (e.g. additional depreciation)
- Regime to be chosen at the time of filing the first tax return; cannot be withdrawn subsequently for any year
- Domestic transfer pricing provisions to apply

Corporate tax benefits | Tax regime for new manufacturing companies



Manufacturing in India
Corporate tax benefit on generation of employment

Considerations

- Deduction allowed for 30% of additional employee cost (total emoluments paid to additional employees) for 3 years*
- In the first year of a new business, emoluments paid or payable to employees employed during that previous year shall be deemed to be the additional employee cost
- Emoluments per month to be <=INR 25,000 per month
- Employees to be employed >240 days (150 in case of manufacturing of apparel 91[or footwear or leather products)
- Employees should participate in the recognized provident fund

Illustration

FYE	No of employees joining	Number of employees leaving	Additional employees	Whether eligible for deduction	Deduction
2021	200	100	100	✔	30% of additional (100) employee cost for FYE21
2022	100	200	-100	✕	30% of additional (100) employee cost for FYE21
2023	150	100	50	✔	30% of additional (100) employee cost for FYE21 + 30% of additional (50) employee cost for FYE23
2024	100	100	0	✕	30% of additional (50) employee cost for FYE23

Corporate tax benefits | Beneficial tax framework

- **Abolition of dividend distribution tax** – Dividend taxable for the shareholder
- **No cascading effect** – Dividends received not taxable for an Indian company, if it onward pays dividend in prescribed time

- Access to **lower dividend tax rates** under the treaty (**as low as 5% / 10%**)
- Ease of **tax credit** in parent company jurisdiction
- Reduction of group tax cost

- **Dividend received from foreign subsidiaries** is taxable at a **concessional rate of 15%***

- **Special tax rate of 5%*** in case of foreign lenders, for **interest** on monies borrowed before 1 July 2023 (subject to conditions)

Long term capital gains taxable at a **reduced rate of 10%***, in case of non-resident shareholders (subject conditions and treaty benefit, if any)

- No obligation to file an income-tax return by non-resident companies in case of royalty, technical service fee, dividend or interest income, if it has been subjected to WHT as per domestic tax law

India – a destination of choice for setting up manufacturing operations

**plus applicable surcharge and cess*

Corporate tax benefits | Beneficial tax framework

- **No retrospective amendments** in the tax law since last eight years

- Introduction of **dispute resolution mechanism** to reduce pending litigation incl. provisions for **Advance Pricing Agreements**

- **Employment generation benefit**: Additional deduction @ 30% for additional cost of new employees (3 years) – subject to prescribed conditions

- **Alignment** of tax and transfer pricing provisions with **OECD's BEPS initiative**

- **Multiple cash repatriation options** (dividend payout, management fee, royalty, buyback, capital reduction, restructuring)

- **Substantive tax treaty network with approximately 94 nations**

India – a destination of choice for setting up manufacturing operations

Manufacturing in India
Exit and cash repatriation options from India

Transfer of shares

- Capital gains computed by reducing sale consideration from cost basis
- Minimum sale consideration of Indian company to be fair market value (failing which, deemed sale consideration shall be FMV)
- Capital gains arising to seller shall be taxable in India, subject to tax treaty provisions
- India's tax treaties with some countries allow taxation rights on capital gains to resident jurisdiction
- Short term capital gains taxable @ 40%*
- Long term capital gains taxable @ 10%*

Profit repatriation through dividend

- Dividend Distribution Tax has been abolished
- Dividends subject to tax in the hands of shareholder
- Dividends to non-residents subject to withholding tax @ 20%* by Indian company (subject to favorable tax treaty rates)

Excess cash repatriation through capital restructuring

- **Capital reduction**
  - Court approved process
  - Proceeds to the extent of accumulated profits taxable as dividend
  - Excess proceeds taxable as capital gains
- **Buy-back**
  - Proceeds subject to a buy-back tax @ 20%*
  - Capital gains arising to shareholders is not taxable in India

Royalty payments/ Payment for services

- Royalty and fees for technical services is subject to tax @ 20%* under the domestic tax law (subject to favorable tax treaty scope of income and rates)
- To be computed as arm's length in accordance with transfer pricing regulations

India as a Hold Co

- Indian exchange control regulations permit outbound investment via equity and debt of up to 400% of the Indian company's net worth
- Dividend received from foreign subsidiaries is taxable at a concessional rate of 15%*/ shall not be taxable if the Indian company repatriates dividend within prescribed time limits

*plus applicable surcharge and cess

Polling question 4

What is the current effective corporate tax rate that you are paying in India?

- Less than 20 percent
- 20 percent to 30 percent
- Above 30 percent
- Not taxable in India
- Don’t know/not applicable

Thank you!

Kindly spare a minute to help us with your feedback for today’s session…

For any queries, please feel free to write to us at intax@deloitte.com