Doing business in India

1. Foreign investment policy
2. Regulatory Environment
3. Business Presence in India - Form of Entities
4. Tax Environment
5. International arrangements
6. Recent tax and regulatory updates
Historically, foreign investment was restricted in India.

The economic reforms initiated in 1991, stimulated FDI into India when the new industrial policy provided, inter alia, automatic approval for projects with foreign equity participation up to 51 per cent in high priority areas.

The policy of liberalization continued and currently India welcomes FDI under an Automatic Route into most sectors.

FDI caps/approval/condition apply for certain sectors – defence (26%), petroleum & gas (49%), banking (74%), airline (49% to 74%), telecom (100%), single brand retail (100%), multi brand retail (51%), etc.

FDI is not permitted in certain sector such as real estate, lottery, gambling, atomic energy, etc.
Regulatory Environment

Exchange control

- The Indian exchange control regulations contained in the Foreign Exchange Management Act, 1999 govern cross-border transactions involving movement of foreign exchange into and out of India.
- While Current account transactions are freely permitted unless restricted, Capital account transactions are generally restricted in India unless specified.

Illustrative Current A/c transaction

- Payment of consultancy fees, royalty etc
- Remittance of dividend to foreign parent
- Interest on loan

Illustrative Capital A/c transaction

- Purchase and sale of equity shares of Indian Companies [other than those on the negative list] subject to pricing guidelines
- Acquisition of land for purpose of business of a branch/ office of a foreign company in India

Other Key Industry/ Activity specific Regulations

- Foreign investment promotion board
- Department of Industrial Policy and Promotion
- Reserve Bank of India
Regulatory Environment

Companies Law

The Indian Companies Law is an Act of the Parliament of India, enacted in 1956, which enables companies to be formed by registration, regulates and set out the responsibilities of companies, their directors and secretaries.

Recently, new corporate law legislation viz. Companies Act 2013 has been enacted and few provisions has been notified, though other provisions are yet to be notified for its commencement – Has multiple implications for private & public companies operating in India

Stock Exchange Board of India (‘SEBI’)

The SEBI is the regulator for the securities market in India. SEBI to protect interests of investors and to promote the development of securities market

Competition Commission of India (‘CCI’)

Competition Commission of India is a body of the Government of India responsible for enforcing The Competition Act, 2002 throughout India and to prevent activities that have an adverse effect on competition in India. CCI to promote and sustain an enabling competition culture that would inspire businesses to be fair, competitive and innovative; enhance consumer welfare; and support economic growth
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Doing Business in India
Business Presence in India - Form of entities

Foreign Company

- Operates as a foreign company
  - Liaison Office
  - Project Office
  - Branch Office

- Establishes an Indian company
  - Joint Ventures
  - Limited Liability Partnership
  - Wholly Owned Subsidiary

Other forms of business
- Franchisee and distributor arrangements (no direct presence)
- Foreign technology collaborations (no direct presence)
Tax Environment

► Constitutional Provisions:
  ► The Constitution of India establishes a partly federal and partly unitary form of governance
  ► The right to tax subjects are distributed between the Union and the State Government

► Tax legislations:
  ► India has a wide gamut of taxing legislations that cover direct, indirect, transaction and other taxes
  ► While taxes on income, corporations, services, manufacturing, import, wealth etc are levied by the Central Government, taxes on sale of goods, stamp duties etc are levied by the state governments

► Moving towards simplification:- There are recent initiatives on the part of the Government to move towards a simplified tax regime. The Direct Taxes Code has been pending before the parliament and a Unified Goods and Services Tax is in the anvil

A list of gamut of taxes (illustrative) is provided in next slides
Gamut of Taxes in India

**Direct tax***
- Income Tax
- Wealth Tax
- Dividend Distribution Tax
- Minimum Alternate Tax (MAT)
- Share buy-back tax

**Indirect tax***
- VAT/CST
- Service Tax
- Excise duty
- Customs duty
- Entry tax
- R & D cess

**Levies on transactions**
- Stamp Duty
- Securities Transaction Tax
- Commodity Transaction Tax
Corporate Tax Rates

- India has a federal level Income tax structure - governed by the provisions of Income tax Act, 1961 (‘Act’);
- Scope of total income
  - Resident in India is liable to pay taxes on its worldwide income.
  - Non-resident in India is liable to tax on income received or deemed to be received in India or any income accrued or arising or deemed to be accrue or arise in India.
  (A foreign company is considered as a non-resident and an Indian company will be considered a resident)
- India has a comprehensive Transfer Pricing regulations encompassing International and Domestic transactions
- Following is a snapshot of the corporate tax rates:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Taxrate1</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic company</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Income &lt; 10 million</td>
<td>30.90%</td>
<td></td>
</tr>
<tr>
<td>Income &gt; 10 million, but &lt;100 million</td>
<td>32.45%</td>
<td></td>
</tr>
<tr>
<td>Income &gt; 100 million</td>
<td>33.99%</td>
<td></td>
</tr>
<tr>
<td>Foreign Companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Income &lt; 10 million</td>
<td>41.20%</td>
<td></td>
</tr>
<tr>
<td>Income &gt; 10 million, but &lt;100 million</td>
<td>42.02%</td>
<td></td>
</tr>
<tr>
<td>Income &gt; 100 million</td>
<td>43.26%</td>
<td></td>
</tr>
<tr>
<td>MAT rate for domestic companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Income &lt; 10 million</td>
<td>19.06%</td>
<td></td>
</tr>
<tr>
<td>Income &gt; 10 million, but &lt;100 million</td>
<td>20.01%</td>
<td></td>
</tr>
<tr>
<td>Income &gt; 100 million</td>
<td>20.96%</td>
<td></td>
</tr>
<tr>
<td>Dividend Distribution Tax</td>
<td></td>
<td>16.995%</td>
</tr>
<tr>
<td>Buy back tax</td>
<td></td>
<td>22.66%</td>
</tr>
</tbody>
</table>

1 Note: The above tax rates are inclusive of applicable surcharge and cess
At a very broad level, the following are the major Indirect taxes applicable in India:

<table>
<thead>
<tr>
<th>Tax</th>
<th>Taxing Authority</th>
<th>Applicable on</th>
<th>Headline tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs duty</td>
<td>Central Government</td>
<td>Import of goods in India</td>
<td>Effective Customs duty - 28.85%*</td>
</tr>
<tr>
<td>Excise duty</td>
<td>Central Government</td>
<td>Manufacture of goods in India</td>
<td>12.36%*</td>
</tr>
<tr>
<td>Service tax</td>
<td>Central Government</td>
<td>Provision of specified categories of services – (All services except those specified in a negative list proposed to be taxed as per Finance Act 2012)</td>
<td>12.36%</td>
</tr>
<tr>
<td>Value Added Tax ('VAT')</td>
<td>State Government</td>
<td>Sale of goods within the state</td>
<td>Varies from state to state; generally ranges between 4%-15%</td>
</tr>
<tr>
<td>Central Sales Tax ('CST')</td>
<td>Central Government</td>
<td>Inter-State sale of goods</td>
<td>2% or VAT rate applicable on the goods in the state where the movement of goods commences</td>
</tr>
<tr>
<td>Entry tax</td>
<td>State Government</td>
<td>Entry of goods into a state/ local area for consumption use or sale</td>
<td>Varies from State to State</td>
</tr>
<tr>
<td>R&amp;D cess</td>
<td>Central Government</td>
<td>Import of technology in India under foreign collaboration</td>
<td>5%</td>
</tr>
</tbody>
</table>

* Actual rate may vary according to the product description
International arrangements

**Double taxation avoidance agreements:**
- India has a Tax Treaty network with over 84 countries, which include USA, UK, European Union nations, Japan, Singapore, Australia, etc.
- In general, provisions of the domestic income-tax law or Tax Treaty, to the extent more beneficial may be applied by non-residents.
- Treaty shopping being heavily debated.

**Bilateral and Regional Trade Agreements:**
- India has signed Bilateral Investment Promotion Agreements (BIPA) with 82 countries to ensure protection of investors.
- India has entered into many agreements with Regional Countries, to facilitate greater trade between Countries.
- The Agreements principally provide for lower duties on imports upon satisfying the test of origin of goods.
- Significant among the Agreements are the SAFTA (between Pakistan, Sri Lanka, Maldives, Nepal, Bhutan and Bangladesh in operation since 1995) and India Singapore (Comprehensive Economic Cooperation Agreement – CECA) implemented and effective from August 2005.
- Free Trade Agreements also exist with Sri-Lanka, Nepal and Thailand.
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6. Recent tax and regulatory updates
Recent tax and regulatory updates

**Finance Act 2013**
- Withholding tax applicable to a non resident taxpayer on ‘royalty’ and ‘fees for technical services’ (FTS) earned from India increased from existing rate of 10% to 25%
- Indian company is liable to pay tax @ 22.66% on distributed income upon buy back of its own unlisted shares w.e.f June 1, 2013
- The provisions of General anti-avoidance rules (‘GAAR’) has been deferred to be applicable from Financial Year 2015 – 2016 onwards
- An additional investment allowance at the rate of 15% is allowed for manufacturing companies, if investment in plant and machinery would be INR 1000 million or more during the period from April 1, 2013 to March 31, 2015

**Tax Residency Certificate (TRC)**
- Mandatory requirement for foreign taxpayers to provide TRC certifying its residency to claim tax treaty/double taxation avoidance agreement (DTAA) benefits
- Additional information to be provided by tax payer in prescribed form along-with the TRC

**Reporting requirement on payment to non-residents**
- The tax department recently revised the rules and prescribed form relating to furnishing information in respect to payments to non residents by a resident.
- The new rules to be effective from October 1, 2013
Recent tax and regulatory updates

**Liberalization of ECB policy**
- External Commercial Borrowing (ECB) policy liberalized to allow (where otherwise permitted) the utilization of proceeds for general corporate purposes, subject to certain compliance and conditions with the prior approval.
- ECB policy liberalized to include the payment for import of service, technical know-how and license fees as part of import of capital goods by the companies for use in the manufacturing and infrastructure sector, subject to compliance of certain conditions.

**FDI policy liberalized**
- Recently, the Government of India has announced the reforms in the FDI policy by listing out relaxation in various sectors including, telecom, petroleum & natural gas refining, defence, single brand retail trading, multi brand retail trading, courier services, asset reconstruction companies, commodity exchanges, power exchanges, stock exchanges and credit information companies.

**Liberalization of Trade Credit policy**
- The policy is liberalised to allow trade credit to companies operating in all sectors upto 5 years for import of capital goods as classified by Director General of Foreign Trade (DGFT).
Recent tax and regulatory updates

**GAAR Rules**

- The tax department recently notified the rules for application of GAAR
- The Rules prescribe a threshold limit of INR 30 million of aggregate tax benefit to all parties to the arrangement for invoking GAAR
  - Tax benefit would be computed with respect to reduction, deferral or avoidance of tax or with reference to increase in refund of tax. In case of increase in loss, the tax benefit is tax that would have been chargeable had such increased loss been the total income
- The Rules also carve out exceptions in case of certain investments by Foreign Institutional Investors (FIIs) and non-resident investors in FIIs
- The Rules make it clear that GAAR applies to all tax benefits obtained on or after 1 April 2015 irrespective of the date of arrangement
- However, income from transfer of investments made before 30 August 2010 is protected from GAAR impact
- It is also clarified that, where a part of an arrangement is tainted, the tax consequences would be limited to the tainted part only
- The Rules also prescribe various forms for reference by the Tax Authorities having regard to the various stages of reference. The time limits for such procedures have also been stipulated
- The Rules would be effective so as to apply for tax year beginning 1 April 2015 and subsequent years
Recent tax and regulatory updates
Advance Pricing Agreements (APA)

► The APA provisions were enacted in the Indian Tax Laws through the Finance Act 2012
► An APA would be an agreement between the tax authority and any ‘person’ determining the arm’s length price (ALP) or specifying the manner in which the ALP is to be determined
► Flexibility to determine ALP using unspecified method/ adjustments /variations, as necessary
► Valid for the periods specified in the APA, and up to a maximum period of 5 years
► APA can be applied before the taxpayer enters into the international transaction(s), or before the beginning of a financial year
► Flexibility to opt for Unilateral APA (UAPA) or Bilateral APA (BAPA) or Multi-lateral APA (UAPA)
► Binding on taxpayer and tax authority, unless there is a change in law / facts
► No formal provision for “rollback” of APA on existing dispute / controversy

Need for entering into APA
► TP Certainty
► Pending Litigation
► Time and Cost saving

Details provided in Annexure
APA – Benefit & Risk

Benefits
- Concerns around domestic tax law process
- Provides certainty and enhances predictability
- Proactively avoids TP controversy
- A BAPA/MAPA is the only way to exclude TP controversy risk as it binds both countries’ authorities
- Discussion at the “right level”
- Solution to complex/difficult TP issues
- Eliminates/reduces risk of economic double taxation
- Can reduce compliance cost

Risks
- Time consuming exercise especially with BAPA and MAPAs
- Taxpayers may be asked to provide detailed information on transactions that is normally not required in a normal audit
- Confidentiality of information submitted not clear

APA agreement to include international transactions covered, agreed transfer pricing method, determination of ALP, definition of terms, critical assumptions, etc.
Based on our understanding of business profile, operations and history of litigation in India, we believe there is a need to evaluate an APA due to expected benefits that a prospective APA can provide, such as:

- Likely certainty on the treatment of its international transactions with associated enterprises/group entity from an Indian transfer pricing standpoint.
- Allowance of a corresponding deduction to associated enterprises/group entity in case of adverse adjustment being made to the income of Indian entity by Indian Revenue Authorities.
- Eliminating tax leakages arising on account of double taxation.
- Even if the outcome is not as favorable as expected, still corresponding deduction (to the extent of transfer pricing adjustment made in India) could be allowed to associated enterprises/group entity, and thereby limiting tax leakages for group in India.
- The current rules also provide an option for the taxpayer to withdraw before negotiations gain finality in the form of an APA.
Recent tax and regulatory updates

Safe Harbour Rules

- Recently, the tax department issued the safe harbour rules
- Safe Harbour - Circumstances in which Tax Authorities shall accept the transfer price declared by the Taxpayer
- Taxpayer located in some notified area will be ineligible for safe harbour
- Safe harbour applicable to international transactions at the option of the Taxpayer
- Rules shall be applicable for five years beginning from financial year (FY) 2012-13; taxpayer has flexibility in electing the years to be governed by safe harbour
- Taxpayers can opt to apply safe harbour rules for the following transactions:
  - Provision of software development services / ITES / Knowledge Process Outsourcing (KPO) services with insignificant risk
  - Provision of contract R&D services relating to IT / generic pharmaceutical drugs with insignificant risk
  - Intra group loan to non-resident wholly owned subsidiaries
  - Provision of explicit corporate guarantee to loans taken by non-resident wholly owned subsidiaries
  - Manufacture and export of core and non-core auto components where at least 90% of sale is to OEM

Rules provided the operating profit margins in relation to operating expenses which a taxpayer is expected to earn for specified international transactions –
<table>
<thead>
<tr>
<th>S. No.</th>
<th>Eligible International Transaction</th>
<th>Transaction Value</th>
<th>Safe Harbour Ceilings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Software development services with insignificant risk</td>
<td>• Upto INR 5000 million</td>
<td>• Operating Profit Margin (OPM) is 20 % or more</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• More than INR 5000 million</td>
<td>• OPM is 22% or more</td>
</tr>
<tr>
<td>2</td>
<td>ITeS services with insignificant risk</td>
<td>• Upto INR 5000 million</td>
<td>• OPM is 20 % or more</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• More than INR 5000 million</td>
<td>• OPM is 22% or more</td>
</tr>
<tr>
<td>3</td>
<td>KPO with insignificant risk</td>
<td>Not applicable / No limit prescribed</td>
<td>OPM is 25% or more</td>
</tr>
<tr>
<td>4</td>
<td>Intra group loans to a wholly owned subsidiary</td>
<td>Value of loan does not exceed INR 500 million</td>
<td>Interest rate ≥ base rate of SBI on June 30 of the relevant year plus 150 basis points</td>
</tr>
<tr>
<td>5</td>
<td>Intra group loans to a wholly owned subsidiary</td>
<td>Value of loan exceeds INR 500 million</td>
<td>Interest rate ≥ base rate of SBI on June 30 of the relevant year plus 300 basis points</td>
</tr>
<tr>
<td>6</td>
<td>Explicit corporate guarantee to a wholly owned subsidiary</td>
<td>• Value of guarantee provided does not exceed INR 1000 million</td>
<td>• Commission or fee should be charged at the rate of 2% or more per annum of the amount guaranteed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Value of guarantee provided exceeds INR 1000 million, provided WOS rated to be of adequate to highest safety</td>
<td>• Commission or fee should be charged at the rate of 1.75% or more per annum of the amount guaranteed</td>
</tr>
</tbody>
</table>
## Regulations - Safe Harbour Rules

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Eligible International Transaction</th>
<th>Transaction Value</th>
<th>Safe Harbour Ceilings</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Contract R&amp;D wholly or partly software development services with insignificant risk</td>
<td>Not applicable / No limit prescribed</td>
<td>OPM is 30 % or more</td>
</tr>
<tr>
<td>8</td>
<td>Contract R&amp;D wholly or partly relating to generic pharmaceutical drugs with insignificant risk</td>
<td>Not applicable / No limit prescribed</td>
<td>OPM is 29 % or more</td>
</tr>
<tr>
<td>9</td>
<td>Manufacture and export of core auto components</td>
<td>Not applicable / No limit prescribed</td>
<td>OPM is 12 % or more</td>
</tr>
<tr>
<td>10</td>
<td>Manufacture and export of non core auto components</td>
<td>Not applicable / No limit prescribed</td>
<td>OPM is 8.50 % or more</td>
</tr>
</tbody>
</table>

- If safe harbour opted, not entitled to make any comparability adjustments nor allowance of range benefit
- Any taxpayer who wishes to exercise the option to be governed by the safe harbour rules is required to file a specified form (Form 3CEFA)
Recent tax and regulatory updates

Companies Act 2013

► The Companies Act 2013 to replace the existing Companies Act, 1956
► The Act has inter-alia, introduced enhanced corporate governance standards particularly in relation to the e-governance, independent directors, audit, accounts, Corporate Social Responsibility, mandatory valuation, private placement of securities, small company concept, cross-border mergers, class action suits and related party transaction etc
► Some of the key provisions of the Companies Act 2013 are as follows:
  ► Mandatory for certain company to spend at least 2% of the average net profits for social purposes
  ► Increase in the limit of members in a private limited company to 200
  ► Concept of small company and one-person company, in order to provide ease in compliance
  ► Financial year defined as April to March
  ► One director of a company has to be resident in India (i.e. stay over 182 days or more)
  ► A body, National Financial Reporting Authority (NFRA) to constitute for monitoring the compliance and overseeing the quality of service of professionals
  ► Transfer to reserves is not mandatory before declaring the dividend
  ► Consolidated financial statements of companies are required to also include financial statements of associate companies and joint ventures
  ► Merger of Indian companies with a foreign company (incorporated in notified countries) permitted
  ► Valuation norms prescribed for providing exit to shareholders
  ► E-governance introduced for various company processes including maintenance and inspection of company’s statutory records
Recent tax issues

- Permanent Establishment (PE) issue on deputation of employees to India company / office (Please refer Annexure for detailed discussion)
- Withholding tax implication on reimbursement of salary of employees to foreign company by Indian company
- Transfer pricing adjustment regarding Advertisement, Marketing & Promotion (AMP) expenses applying ‘bright-line test’
- Disallowance of ‘royalty’ or ‘fee for technical service’ expenses on account of non-satisfaction of ‘benefit test’
- Taxation on the undervaluation of shares issued by Indian company to its overseas group entity
- Taxability of reimbursement of expenses to overseas group entity on cost basis
- Taxation of gain arising on transfer of shares of a foreign company which derives its substantial value from Indian assets (i.e. indirect transfer)
- Withholding tax compliance by a non-resident on the payment to another non-residents, if the payment is taxable in India
Key amendments - Finance Act 2013

- Indian company is liable to pay tax @ 22.66% on distributed income upon buy back of its own unlisted shares w.e.f June 1, 2013
- Withholding tax applicable to a non resident taxpayer on ‘royalty’ and ‘fees for technical services’ (FTS) earned from India increased from existing rate of 10% to 25%
- Reintroduction of mandatory requirement for foreign taxpayers to provide tax residency certificates certifying its residency to claim treaty benefits
- General anti-avoidance rules (GAAR) provisions deferred to be effective from FY 2015-16 onwards
- Additional investment allowance @15% allowed for manufacturing companies on investment in plant and machinery exceeding INR 1000 million or more during the period from April 1, 2013 to March 31, 2015
- Reduced withholding tax rate @ 5% on foreign debt in form of rupee-denominated bonds issued to Foreign Institutional Investors (FII) and Qualified Foreign Investor (QFI)
Recent trend at tax office

Tax administrators are becoming more aggressive and focused
- Closely monitoring activities of Indian Cos/ Liaison offices of foreign companies in India based on the news and market reports
- Taxpayer specific detailed questionnaires based on the industry trend, financial statements and tax audit report
- Detailed scrutiny on foreign payments through reporting mechanism

Transfer Pricing and International tax – focus areas
- Legislative changes to plug potential loopholes
- Increasingly aggressive positions adopted by the Revenue
- Augmented staffing and training of officers
- TP adjustment for Advertisement, Marketing & Promotion (AMP) expenses

Tax audits – widening scope and becoming more intrusive
- Request for higher level of documentation and access to operational personnel
- Arming of tax officials with greater powers of investigation
- More focused and aggressive approach while conducting assessments

Growing cross-country collaboration
- Several exchange of information treaties effected
- Inclusion of LOB clause in recently concluded/re-negotiated tax treaties (e.g. UAE, Iceland)
- Possible re-negotiation of existing treaties with beneficial provisions/capital gains tax exemption
Potential areas of concern for MNC’s

- **Transfer pricing:** Comprehensive TP regulations, increasing number of TP audits and stringent penal consequences for non-compliances with regulations result in uncertainty

- **Taxation of overseas M&A deals:** The Indian Tax Authorities have in recent past questioned the Indian tax impact of overseas M&A deals involving transfer of shares of an Indian company. The matters are being fiercely litigated

- **Withholding tax:** Stringent enforcement of withholding tax rules by Indian Tax Authorities

- **Secondment of employees:**
  - Secondment arrangements by MNC’s to India poses potential Service PE consequences
  - Tax withholding mandated on overseas salary payments to expatriates working in India
  - Indian Government has recently mandated contribution towards social security for “International Workers”

- **Tax Treaties:** Direct Taxes Code to potentially override Tax Treaties entered into by India
Mergers and Acquisitions - Overview

Snapshot of transactions catered to

- Corporate re-organization
- Group re-structuring
- Acquisition structuring
- Outbound Structuring
- Delisting advisory
- Private equity/venture capital advisory
- Financial structuring
- Divestment advisory
- Tax due diligence
Our comprehensive analysis encapsulates a wide gamut of tax and regulatory aspects

- **TAX**
  - Analyse tax issues surrounding transactions
  - Structuring to minimise tax costs

- **FOREIGN EXCHANGE / FDI**
  - Structuring to meet regulatory norms
  - Assistance in seeking approvals

- **ACCOUNTING**
  - Financial statement impact analysis due to the transactions

- **STAMP DUTY**
  - Cost on transfer of property
  - Transaction structuring to minimize impact

- **INDUSTRY-SPECIFIC LAWS**
  - Highlighting transaction-specific implications

- **CORPORATE LAWS**
  - Impact of Corporate laws
  - SEBI / capital market perspective
  - Competition law

- **Practical, implementable advice with a commercial business mindset**
Taxation in India – PE issue

Recently, the activities of Indian offices of foreign enterprises have come under scanner of Indian Revenue Authorities.

Revenue authorities based on analysis of facts have held offices in India to be the PE resulting in the taxable presence for the foreign enterprises.

The Revenue authorities have held PE in the following situations:

- Offices are negotiating and concluding contracts for and on behalf of its head office
- Activities of office is closely involved with revenue generation activities
- Activities of the office are similar to that of the overseas head office
- Appraisal of the employees of the Indian office based on sales target achieved in India

Revenue authorities in India are closely monitoring activities of Indian offices of foreign companies in India

- Long term presence of Foreign Cos employees in India
- Negotiation of contract in India
- Long term presence in India on account of multiple contracts
- Attribution of a portion of income of head office in India resulting in tax demands being raised and initiation of penal proceedings
### Tax Incentives

<table>
<thead>
<tr>
<th>Nature</th>
<th>Benefit available</th>
<th>Essential conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>In-house scientific research – Section 35(2AB)</td>
<td>► 200% deduction of amount spent on in-house scientific research</td>
<td>► Approval from prescribed authority required</td>
</tr>
<tr>
<td></td>
<td>► No deduction of land or building cost</td>
<td>► Audited accounts required</td>
</tr>
<tr>
<td></td>
<td>► Expenses incurred up to March 31, 2017 eligible for deduction</td>
<td></td>
</tr>
<tr>
<td>Specified business including production of fertilizer in India –</td>
<td>► Deduction of capital expenditure in the year of commencement of business</td>
<td>► New plant to be installed post April 1 2011</td>
</tr>
<tr>
<td>Section 35AD</td>
<td>► No deduction of land or goodwill cost</td>
<td></td>
</tr>
<tr>
<td>Manufacturing unit in North-Eastern states of India – Section 80IE</td>
<td>► 100% deduction of business profits for 10 years</td>
<td>► Manufacturing of eligible article</td>
</tr>
<tr>
<td></td>
<td>► Production to start on or before March 31, 2017</td>
<td></td>
</tr>
<tr>
<td>Unit in Special Economic Zone (SEZ) – Section 10AA</td>
<td>► Deduction of business profits derived from export of services</td>
<td>► Unit should be located in SEZ area</td>
</tr>
<tr>
<td></td>
<td>► 100% for first 5 years</td>
<td></td>
</tr>
<tr>
<td></td>
<td>► 50% for next 5 years</td>
<td></td>
</tr>
<tr>
<td></td>
<td>► 50% for next 5 years (subject to condition)</td>
<td></td>
</tr>
</tbody>
</table>
About EY
Who we are and what we stand for

167,000 people | 750+ offices | 140 countries | 1 unwavering commitment

Who we are

► People who demonstrate integrity, respect and teaming;
► People with energy, enthusiasm, and the courage to lead;
► People who build relationships based on doing the right thing.

EY – A global leader

EY is a global leader in assurance, tax, transaction and advisory services. Worldwide, our 167,000 people are united by our shared values and an unwavering commitment to quality.

In India

► > 7900 + people *
► 235 partners
► 12 Locations : Ahmedabad, Bangalore, Chandigarh, Chennai, Gurgaon, Hyderabad, Kochi, Kolkata, Mumbai, New Delhi, Noida and Pune
► Industry expertise – Focused industry practices
► 4 Service lines – Assurance, Tax & Regulatory services, Transactions and Advisory
► Specialty services – Global business desks, IPO and Private equity

What we stand for

At EY, we’re committed to helping our people, our clients and our wider communities achieve their potential. It’s how we make a difference.

We are the #1 professional services brand in India

► Ranked #1 for excellent service quality, industry understanding, technical expertise
► Ranked #1 for global mindset, creating effective teams, people, relationships
► Ranked #1 for brand awareness, favorability

* (biennial survey conducted by TNS once in two years)

* (The numbers include personnel from other member firms of EY Global, in India)
Our services

<table>
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<tr>
<th>Assurance</th>
<th>Tax</th>
<th>Transactions</th>
<th>Advisory</th>
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| • Assurance services under - International GAAP, US GAAP and IFRS  
• FIDS - Fraud Investigation and Dispute Services  
• FAAS – Financial Accounting Advisory Services  
• ACR – Accounting, Payroll, Reporting and Corporate Secretarial Services | • Business tax  
• Human capital  
• International tax  
• Indirect tax  
• Transaction tax *  
• Advance Pricing Agreement  
• Estate Planning for Family Business  
• Regulatory services | • Lead advisory  
• Valuation and business modeling  
• Transaction support  
• Transaction tax *  
• Other transaction services  
• Working Capital Management & Restructuring Advisory | • Performance Improvement  
• Risk Advisory  
• Information Technology  
• Advisory for Financial Services  
• Business Performance Management  
• IT Transformation  
• CSR Advisory  
• HR Transformation |

*Transaction tax is a specialist service provided by an optimal mix of tax and transaction professionals. It pertains to M&A deals and other related structuring from a tax, regulatory and commercial perspective.*
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Thank you.