Taxation Overview in India

The tax structure in India is divided into direct and indirect taxes.

While direct taxes are levied on taxable income earned by individuals and corporate entities, the burden to deposit taxes is on the assesses themselves. On the other hand, indirect taxes are levied on the sale and provision of goods and services respectively and the burden to collect and deposit taxes is on the sellers instead of the assesses directly.

The taxation system in India is such that the taxes are levied by the **Central Government** and the **State Governments.** Some minor taxes are also levied by the local authorities such as the Municipality and the Local Governments.

Over the last few years, the Central and many State Governments have undertaken various policy reforms and process simplification towards great predictability, fairness and automation. This has consequently lead to India's meteoric rise to the top 100 in the World Bank's Ease of Doing Business (EoDB) ranking in 2022 as India jumps 79 positions from 142nd (2014) to 63rd (2022) in 'World Bank's Ease of Doing Business Ranking 2022'. The Goods & Services Tax (GST) reform is one such reform to ease the complex multiple indirect tax regime in India.

Major Central Taxes

- **Income Tax**
- **Central Goods & Services Tax (CGST)**
- **Customs Duty**
- **Integrated Goods & Services Tax (IGST)**

Major State Taxes

- **State Goods & Services Tax (SGST)**
- **Stamp Duty & Registration**

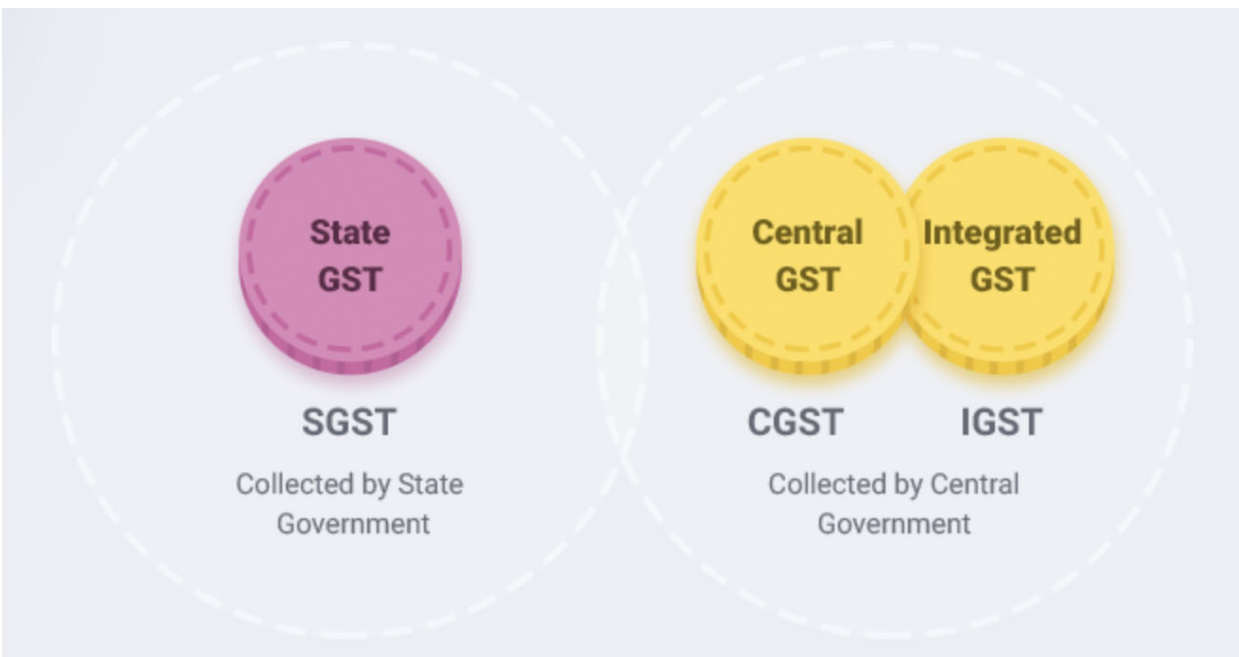
Major tax reform in India

- **GST OVERVIEW**
- GST REGISTRATION
- GST RATES
- GST NETWORK

GST is one of the biggest indirect tax reforms in the Country.

GST is a comprehensive indirect tax levied on manufacture, sale and consumption of goods as well as services at the national level. It has replaced all indirect taxes levied on goods and services by the Central and State Governments.

GST regime was implemented from 1st July 2017, and India has adopted the dual GST model in which both the Centre and States levy taxes:



GST Collection Update: The gross GST revenue collected in the month of Nov 2024 is INR 1.82 Lakh Cr of which CGST is INR 34,141 Cr, SGST is INR 43,047 Cr, IGST is INR 91,828 Cr and Cess is INR 13,253 Cr.

Note: The GST is applicable on all goods other than the following:
• Alcoholic liquor for human consumption

• Five petroleum products (Petroleum crude, high-speed diesel, motor spirit, natural gas and aviation turbine fuel). GST on these to be levied post notification about the effective date.

Benefits of GST

- Minimal physical interface
- Compliance cost reduced due to the unification of Indirect taxes
- Check over tax-evasion through a robust IT-based administration
- Unified tax-regime for both goods and services
- No cascading of taxes

- GST OVERVIEW
- **GST REGISTRATION**
- GST RATES
- GST NETWORK

GST registration

- Already registered under previous Acts such as VAT, Excise, etc.
- Aggregate annual turnover exceeds INR 40 Lakh
- Aggregate annual turnover exceeds INR 20 Lakh (for Jammu & Kashmir, Himachal Pradesh, Uttarakhand and North-Eastern States)
- Businesses specified under the GST Act (irrespective of the above-stated conditions)
- Importer/ Exporter

Process under GST regime

1 Register your business

2 Issue tax invoices

3 Accounting for GST

4 Tax-return filing

5 Input tax credit

6 Claiming GST refund

7 Making GST payment

0%

- **50% of consumer price baskets including food grains**

5%

- **Mass consumption items like spices and mustard oil**

12%

- **Processed foods**

18%

- **Refrigerator**
- **Soap**
- **Oil**
- **Smartphones**
- **AC Restaurants**

28%

- **Luxury goods**
- **Tobacco**
- **Cigarettes**
- **Hotel services**

Note: Given is an indicative list of items, for details **Click Here**

- GST OVERVIEW
- GST REGISTRATION
- GST RATES

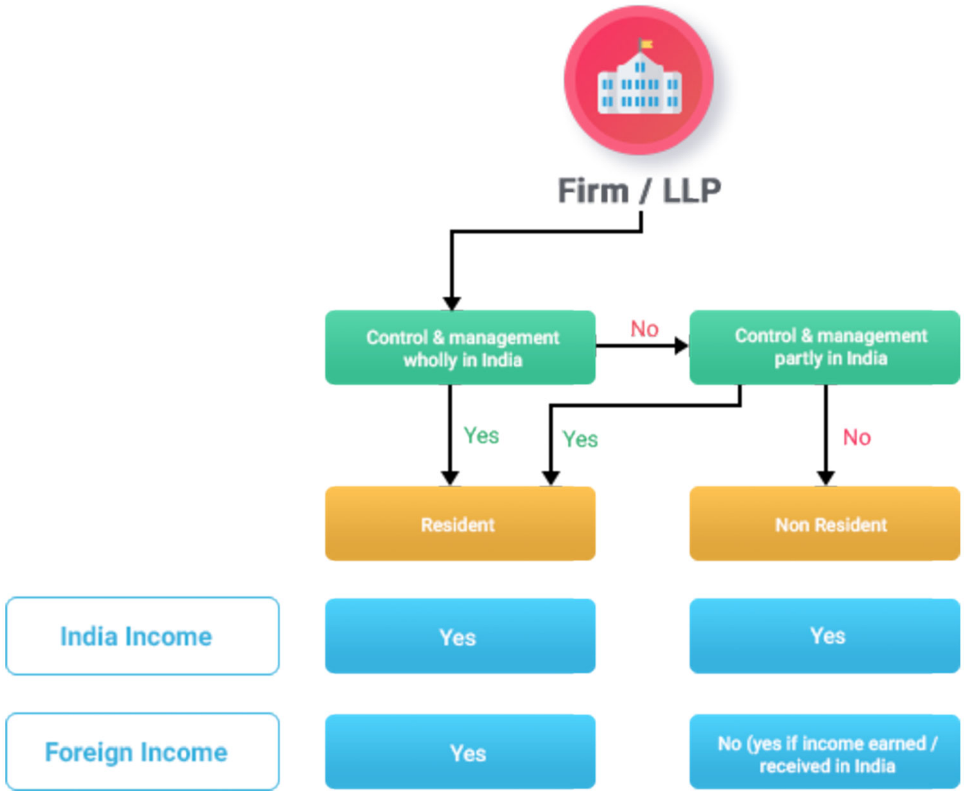
GST NETWORK

- Facilitation of Registrations
- Computation of IGST
- Filing of tax returns
- Submission of tax returns to Central & State Authorities
- Managing computation of input tax credit
- Submitting MIS reports to Govt.
- Analyzing taxpayers' profiles
- Integrating banking networks with tax payment details

TAXABILITY IN INDIA

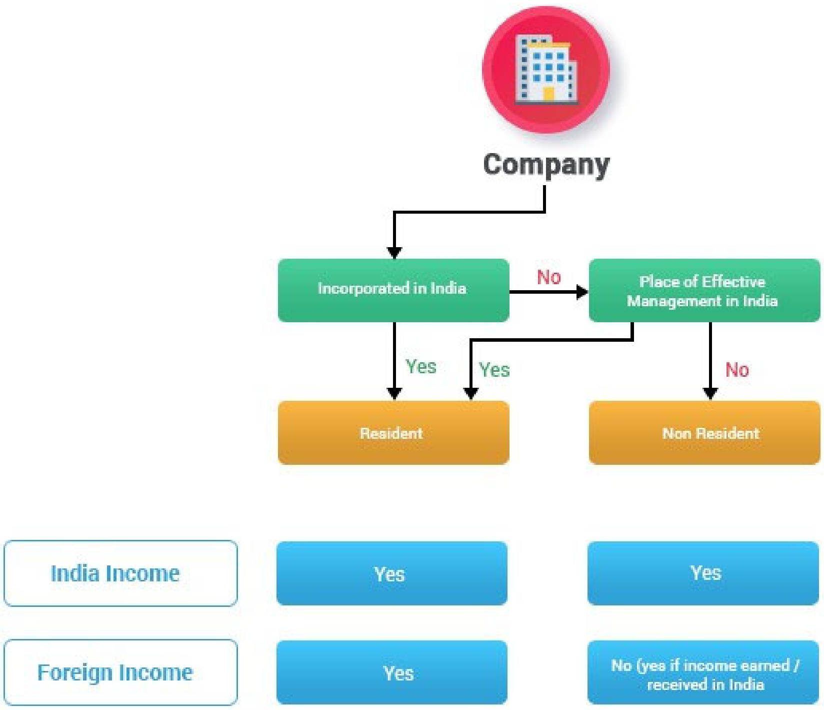
Individual

Tax incidence of a Limited Liability Partnership (LLP) depends on the residential status of the LLP, i.e., whether the control and management of its affairs are situated wholly or partially in India.



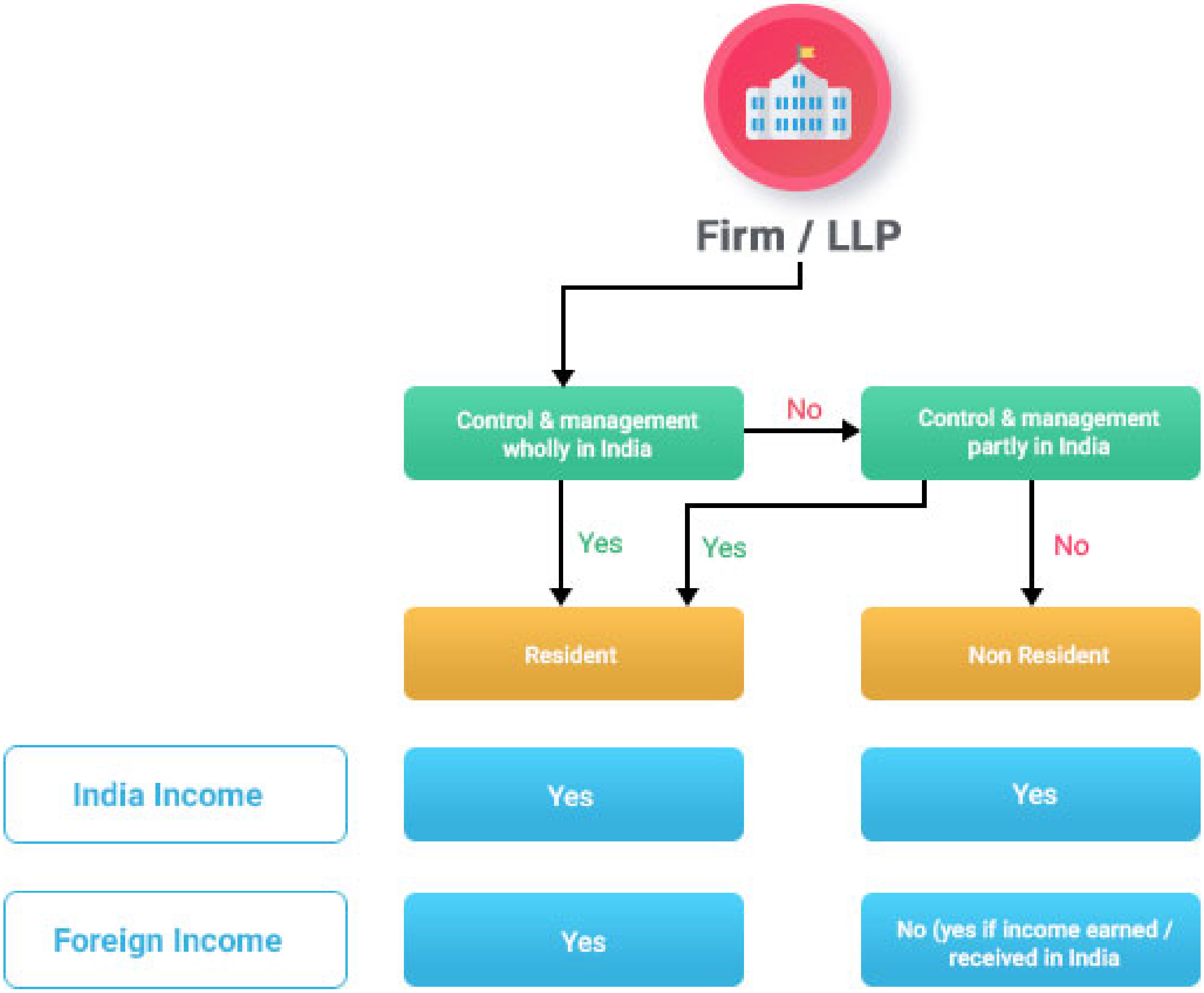
Company

Tax incidence of a company depends on the residential status of the company, i.e., whether the company has been incorporated in India or its place of effective management lies in India.



Firm/ LLP

Tax incidence of a Limited Liability Partnership (LLP) depends on the residential status of the LLP, i.e., whether the control and management of its affairs are situated wholly or partially in India.



TAXATION ON FOREIGN ENTITIES

Liaison Office

- A Liaison Office (LO) is generally not subject to Income Tax in India, as it cannot conduct business activities and earn profits on account of Indian exchange control regulations.
- It is required to obtain an Indian tax registration number (PAN) and a withholding tax registration number (TAN).
- It is required to file an annual statement of its financial affairs and an annual activity certificate (AAC).
- As an LO cannot generally earn any profits, no repatriation taxes are applicable. Even if there are any unutilized funds available at the time of its closure, they can be repatriated without any exit taxes.

Project Office/ Branch Office

- A Project Office (PO)/ Branch Office (BO) is treated as an Indian Permanent Establishment (PE) of its Foreign headquarter. Therefore, it is taxable in respect of its Indian profits @ 40%*.
- It is required to obtain a PAN and TAN, file an annual return of income and an AAC.
- Repatriation of surplus or at the time of closure, PO/ BO is not subject to any additional taxes.

** Plus applicable surcharge and cess*

LLP

- An LLP incorporated in India is treated as a tax resident of India and is taxed @ 30%* of its global income.
- It is required to obtain a PAN and TAN, and file an annual return of income.
- When LLP distributes its profits to partners, they are not taxed in the hands of the LLP or its partners. Repatriation of capital contribution (say, upon dissolution) is permissible without any thresholds and is not subject to any additional taxes.

** Plus applicable surcharge and cess*

Company formed in India (Wholly-owned subsidiary/ Joint Venture)

- A company incorporated in India is treated as a tax resident of India and is taxed @ 30%* on its global income. However, if its turnover is up to INR 4,000 Mn in FY 2017-18, then the applicable rate of tax is 25%*.
- It is required to obtain a PAN and TAN, and file an annual return of income.

- W.e.f., Assessment Year 2021-22, the domestic company isn’t required to pay dividend distribution tax on any amount declared, distributed or paid by such company by way of dividend.
- Dividend received from domestic company is taxable in hands of shareholders.

* *Plus applicable surcharge and cess*

KEY TAX INCENTIVES IN INDIA

Export Promotion

Applicability: SEZ units operational before 1st April 2020
Incentive: Deduction of 100% of profits and gains derived from export business for first 5 years of commencement, 50% of profits and gains derived from export business for next 5 years, 50% of ploughed-back profits and gains from export business for next 5 years.

Research & Development

Applicability: Companies in respect of any expenditure on R&D in an approved in-house facility
Incentive: Weighted tax deduction of 200% granted to companies
Validity: 31st March 2020

Investment-linked

Incentive: To incentivise investment in certain sectors, any capital expenditure incurred for specified businesses is allowed as a deduction in the year in which it is incurred.

Startup India Scheme

Incentive: Tax incentives granted to eligible start-ups are the tax holiday for any consecutive 3 years (from initial 5 years) in respect to 100% of their profits, including fast-tracking of patent applications with 80% rebate.

International Financial Services Centre

Applicability: Caters to customers outside the jurisdiction of the domestic economy. Such centres deal with flows of finance, financial products and services across borders.

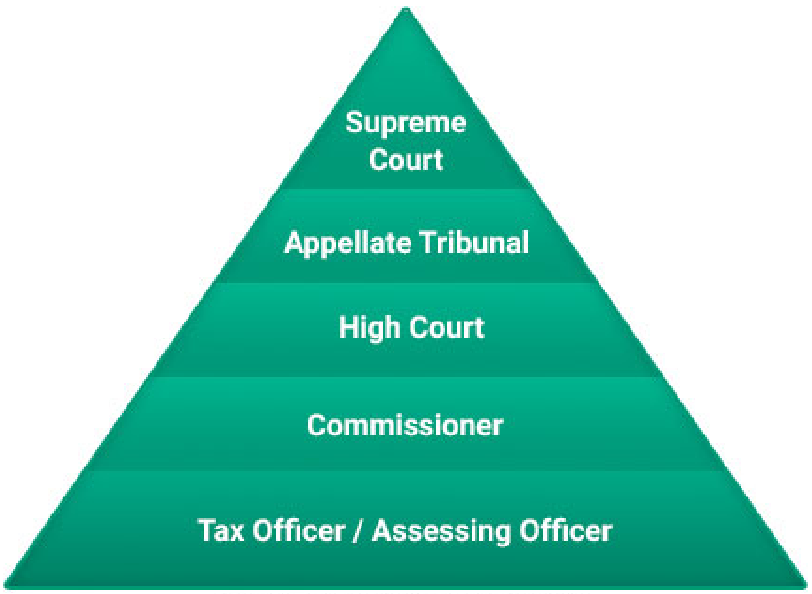
Incentives: Tax concessions on capital gains, Minimum Alternate Tax and Divident Distribution Tax

TAX COMPLIANCES & DISPUTE RESOLUTION

Tax compliances

Every taxpayer is required to undertake certain compliances, such as:

- **Annual filing of:**
  - **Return of income**
  - **Report of audit under the ITA** (if applicable)
  - **Transfer pricing certificate** (if applicable)
- **Monthly deposition of withholding taxes**
- **Quarterly deposition of advance tax**
- **Quarterly filing of withholding tax return**

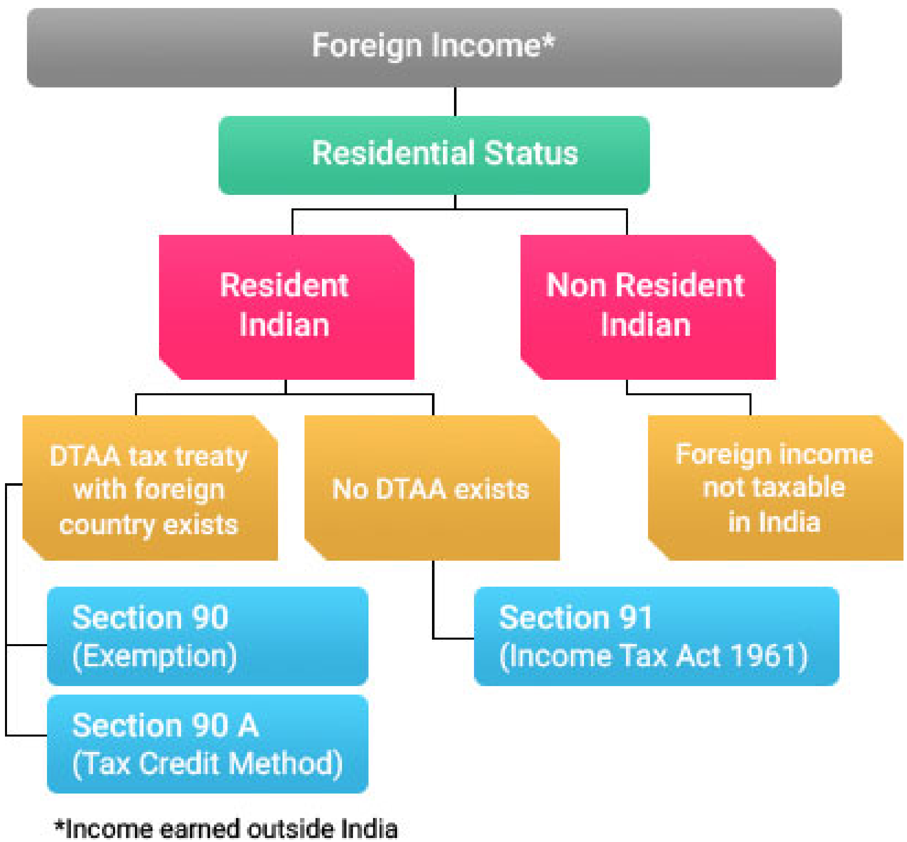


Hierarchy of dispute resolution

Note: In certain cases, the return of income filed by a taxpayer is subject to verification or audit by tax authorities. This process is called an ‘assessment’. In case a taxpayer is aggrieved by the outcome of the assessment, he/she can challenge the same before the dispute resolution authorities.

COMMON TAX CONCERNS OF EXPATRIATES

- **Double Taxation Avoidance Agreement (DTAA)**
  Signed b/w India and another country so that taxpayers can avoid paying double taxes on their income earned from the source country as well as the residence country.
- **Social Security**
  All employees are required to contribute towards statutory social security contribution funds. Withdrawal from such funds is possible at the time of termination of employment.
  - To exempt international workers from the contributing towards Indian social security funds, India has entered into **Social Security Agreements (SSA)** and Bilateral Comprehensive Economic Agreements (BCEA) with various countries.
  - As a result, inbound assignees from countries that have entered into an SSA with India and hold a Certificate of Coverage (COC) issued by their home-country can claim exemption from Indian social security contributions.



STAKEHOLDERS

- **Central Board of Indirect Taxes and Customs**
- **Department of Revenue, Ministry of Finance**
- **Income Tax Department**