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CHARTERED ACCOUNTANTS
Incorporated Since : 1982

UC&CS GLOBAL

DOING BUSINESS IN INDIA

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INTRODUCTION

UC&CS is an international organization providing accountancy, business management and consultancy services through financial business centres in countries throughout the world. Business partners work together through the network to conduct trans-national operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in India has been provided by the office of UC&CS representatives:

S. K. Surana & Co. is an independent member of UC&CS Asia Pacific, an international association of independent accounting and consultancy firms, whose organizing body is UC&CS Global. S. K. Surana & Co. (Indian Chartered Accountancy Firm) was established in the year 1983 with the aim of providing a wide range of accounting and financial services to clients in India & Australia and aspires to be recognized as a quality service provider globally. Each member of UC&CS is a separate and independent firm. Services described herein are provided by S. K. Surana & Co. and not by UC&CS Global or any other member of UC&CS. Neither UC&CS Global nor any member of UC&CS has any liability for services provided by other members.

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INTRODUCTION TO INDIA

India is a federation composed of 29 states and 7 union territories. Each state or union territory is further divided into administrative districts. The districts in turn are further divided into tehsils and ultimately into villages.

India has been independent country since 1830. India is the world's most populous democracy. The federal government comprises three branches: Executive, Legislative and Judicial Systems. India is a federation with a parliamentary system governed under the Constitution of India, which serves as the country's supreme legal document. Federalism defines the power distribution between the federal government and the states. A parliamentary republic with a multi-party system has six recognized national parties, including the Indian National Congress and the BharatiyaJanata Party

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ECONOMIC SITUATION

According to the International Monetary Fund (IMF), the Indian economy in 2015 was nominally worth US$2.183 trillion; it is the 7th-largest economy by market exchange rates, and is, at US$8.027 trillion, the third-largest by purchasing power parity, or PPP. In 2015, India's GDP grew at **7.6 per cent**, as compared to China's 6.9 per cent. India remains the fastest growing major economies of the world as per IMF. Post demonetization it 's forecasted GDP growth will increase by double within 10 years.

GDP Growth 2015
+7.6 %

BANKING AND FINANCE

Reserve Bank of India (RBI, Hindi : भारतीय रिज़र्व बैंक) is India's central banking institution, which controls the monetary policy of the Indian rupee. It is an independent apex monetary authority which regulates banks, and provides important financial services like storing of foreign exchange reserves, control of inflation, monetary policy report.

There are 831 Banks and Financial Institution (**Out of which 40 are Banks**) in India rendering financial services.

Banks
40

Currency
INR

AREA AND POPULATION

India is the seventh largest country by area, India's coastline measures 7,517 kilometers (4,700 mi) in length; of this distance, 5,423 kilometers (3,400 mi) belong to peninsular India and 2,094 kilometers (1,300 mi) to the Andaman, Nicobar, and Lakshadweep island chains the second most populous country (with over 1.2 billion people). India is the most populous democracy in the world. It shares land borders with Pakistan to the west; China, Nepal and Bhutan to the northeast; and Myanmar (Burma) and Bangladesh to the east. In the Indian Ocean, India is in the vicinity of Sri Lanka and the Maldives. India's Andaman and Nicobar Islands share a maritime border with Thailand and Indonesia. India's capital is New Delhi .

India is the second most populous country in the world, with 1,336,286,256 (1.3 billion) people (May 2016), nearly a fifth of the world's population .Already containing 18% of the world's population, India is projected to be the world's most populous country by 2022, surpassing China, its population reaching 1.7 billion by 2050.

India has more than 50% of its population below the age of 25 and more than 65% below the age of 35. It is expected that, in 2020, the average age of an Indian will be 29 years.

POPULATION
1.2 BILLION

Total Area
7,517 km

Neighbour of India

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Language

Hindi, English, 21 other officially recognized languages in India listed on the 8th Schedule to the Constitution. The Constitution of India does not give any language the status of language. According to Census of India of 2001, India has 122 major languages and 1599 other languages.

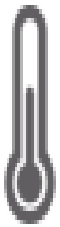
Working Hours

Normal office working hours are 9 am to 6 pm, Monday to Friday. Banking hours are 8:30am to 4:30pm, Monday to Friday. Generally offices are closed on Saturday, Sunday and during public holiday.

Climate

The climate of India comprises a wide range of weather conditions across a vast geographic scale and varied topography, making generalizations difficult. Based on the Koppel system, India hosts six major climatic subtypes, ranging from arid desert in the west, alpine tundra and glaciers in the north, and humid tropical regions supporting rainforests in the southwest and the island territories. Many regions have starkly different microclimates. The nation has four seasons: winter (January and February), summer (March, April and May), a monsoon (rainy) season (June to September), and a post-monsoon period (October to December).

India's lowest recorded temperature was −45 °C (−49 °F) in Dras, Ladakh, in eastern Jammu and Kashmir. The highest temperature ever recorded in India occurred on 19 May 2016 in Phalodi, Jodhpur District, and Rajasthan at 51.0 °C (123.8 °F).



Temperature
Max 51.0 ° C
Min -45.0 ° C

Connectivity
34
International
Airport

Time
GMT +5.5

Official Language
Hindi, English, 21 other officially recognized languages

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National Holiday :

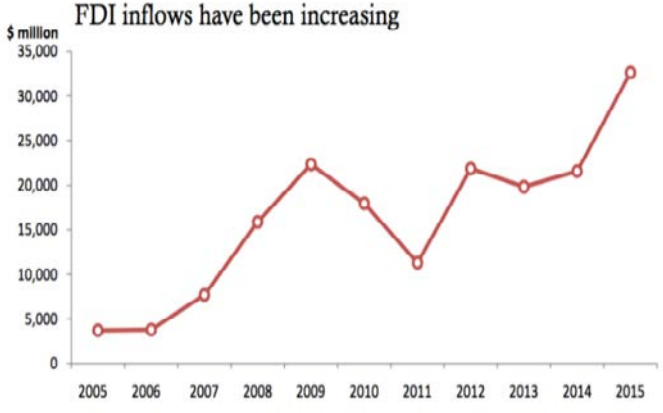
Date	Gazette Holiday
26-Jan	Republic Day
7-Mar	MahaShivaratri/Shivaratri
15-Apr	Rama Navami
20-Apr	MahavirJayanti
21-May	Buddha Purnima/Vesak
15-Aug	Independence Day
25-Aug	Janmashtami
12-Sep	Bakr Id/Eidul-Adha
11-Oct	Dussehra (MahaNavami)
12-Oct	Muharram/Ashura
30-Oct	Diwali/Deepavali
14-Nov	Guru Nanak Jayanti
13-Dec	Milad un-Nabi/Id-e-Milad
25-Dec	Christmas

Foreign Investment

Attractions for Investors:

The Indian government's favorable policy regime and robust business environment have ensured that foreign capital keeps flowing into the country. India was ranking 15th in the world in 2013 in terms of FDI inflow, it rose up to 9th position in 2014 while in 2015. India became top destination for foreign direct investment. The Indian market has immense potential and lots to offer to entrepreneurs around the world. As, India is second most populous country in the world is undergoing a transition, both in terms of investor perceptions of its market potential, and in reality. The Indian economy is registering around 7.56 % growth amid uncertain global economic conditions. The number of people in the Indian middle class is set to treble over the next 15 years, implying a significant impact on disposable income. Domestic demand is expected to grow at a compound rate of 9.2% per year between 2010 and 2030, creating opportunities for many Industries.

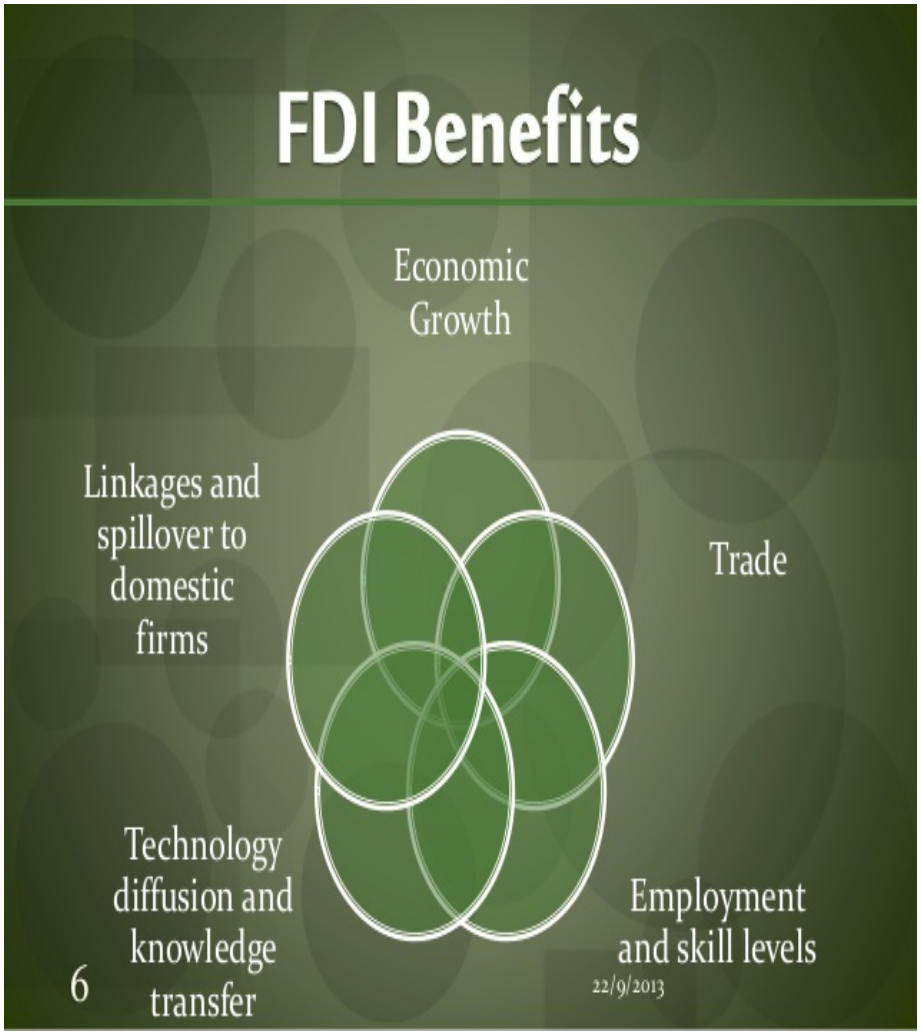
Recently, the Indian Government decided to open up the multi-brand retail sector as well. This will create huge opportunities for Indian and foreign companies and consultants involved in agriculture, retail and infrastructure in the cold chain logistics sector. Indian Sectors attracting highest FDI inflows are many such as, electrical equipment's, transportation industries, telecommunication, fuels, food processing industries, and services.



Foreign Investment Regulations

Setting up India operations or investing in India by non-residents requires conformity with India's foreign exchange regulations, specifically, the regulations governing FDI as most aspects of foreign currency transactions with India are governed by FEMA and the delegated legislations thereunder. Investments in, and acquisitions (complete and partial) of, Indian companies by foreign entities, are governed by the terms of the Foreign Exchange Management Regulations, 2000 and the provisions of the Industrial Policy and Procedures issued by the Secretariat for Industrial Assistance ("SIA") in the Ministry of Commerce and Industry, Government of India.

The Foreign Exchange Management Act, 1999 (FEMA) is an Act of the Parliament of India "It enabled a new foreign exchange management regime consistent with the emerging framework of the` World Trade organization (WTO). Any foreign Investment in diversify invest in Foreign Portfolio Investors (FPI) such as shares & bonds.



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Setting up business in India

India is amongst the fastest growing economies in the world with immense human potential and a large market comprising of over 1.2 billion people. Opportunities in India has attracted a large amount of Foreign Direct Investment into the country and each year the amount of FDI inflow keeps increasing due to more number of foreign businesses starting their operations in India.

In general, a foreign company is a company which is incorporated outside India but having its place of business in India.

Entry strategy into India for Foreign Businesses

Modes of entry for foreign Residents desiring to setup business in India

Foreign company can carry on business in India by the formation of a wholly owned subsidiary, subsidiary, a joint venture or a place of business as branch/liaison/project office after obtaining permission from Reserve Bank of India, if applicable. Below are different types of options with a foreign entity to operate their business in India which are permissible under Companies Act, 2013 read with the provisions of Foreign Exchange Management Act, 1999.

(Continued……)

A.)Under Companies Act, 2013

- Wholly Owned Subsidiary
- Subsidiary
- Joint Venture
- One Person Company

B.)L.L.P. under Limited Liability Partnership Act, 2008

C.)Business Trust

Place of Business under Companies Act 2013 with the permission of RBI

- Branch Office
- Liaison / Representative Office
- Project office
- Place of Business in electronic form

MNC in India

Accounting & Reporting

IFRS

Indian Accounting Standards (abbreviated as Ind AS) are set of Accounting Standards notified by Ministry of Corporate Affairs which are converged with International Financial Reporting Standards (IFRS). These Accounting Standards are formulated by Accounting Standards Board of Institute of Chartered Accountants of India.

Reserve Bank of India has stated that financial statements of banks need to be IFRS-compliant for periods beginning on or after 1 April , 2011.

Voluntary adoption

Companies can voluntarily adopt Ind AS for accounting periods beginning on or after 1 April 2015 with comparatives for period ending 31 March, 2015 or thereafter. However, once they have chosen this path, they cannot switch back.

(Continued…..)

Mandatory applicability

Phase I

Ind AS will be mandatorily applicable to the following companies for periods beginning on or after 1 April 2016, with comparatives for the period ending 31 March 2016 or thereafter:

Companies whose equity and/or debt securities are listed or are in the process of listing on any stock exchange in India or outside India and having net worth of 500 crore INR or more.

Companies having net worth of 500 crore INR or more other than those covered above.

Holding, subsidiary, joint venture or associate companies of companies covered above.

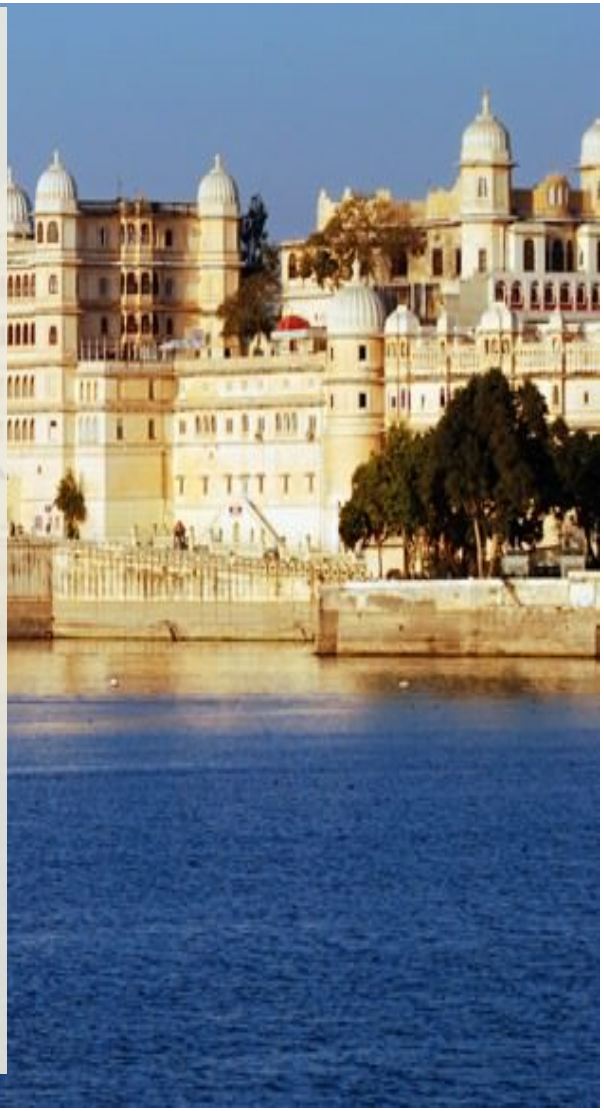
Phase II

Ind AS will be mandatorily applicable to the following companies for periods beginning on or after 1 April 2017, with comparatives for the period ending 31 March 2017 or thereafter:

Companies whose equity and/or debt securities are listed or are in the process of being listed on any stock exchange in India or outside India and having net worth of less than rupees 500 Crore.

Unlisted companies other than those covered in Phase I and Phase II whose net worth are more than 250 crore INR but less than 500 crore INR.

Holding, subsidiary, joint venture or associate companies of above companies.



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Net worth

It has been clarified that net worth will be determined based on the standalone accounts of the company as on 31 March 2014 or the first audited period ending after that date.

Net worth has been defined to have the same meaning as per section 2(57) of the Companies Act, 2013. It is the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

Standalone and consolidated financial statements

It is now clear that Ind AS will apply to both consolidated and stand-alone financial statements of a company covered by the roadmap. This is helpful as companies will not have to maintain dual accounting systems.

Foreign operations

It is a relief that an overseas subsidiary, associate or joint venture of an Indian company is not required to prepare its stand-alone financial statements as per the Ind AS, and instead, may continue with its jurisdictional requirements. However, these entities will still have to report their Ind AS adjusted numbers for their Indian parent company to prepare consolidated Ind AS accounts.

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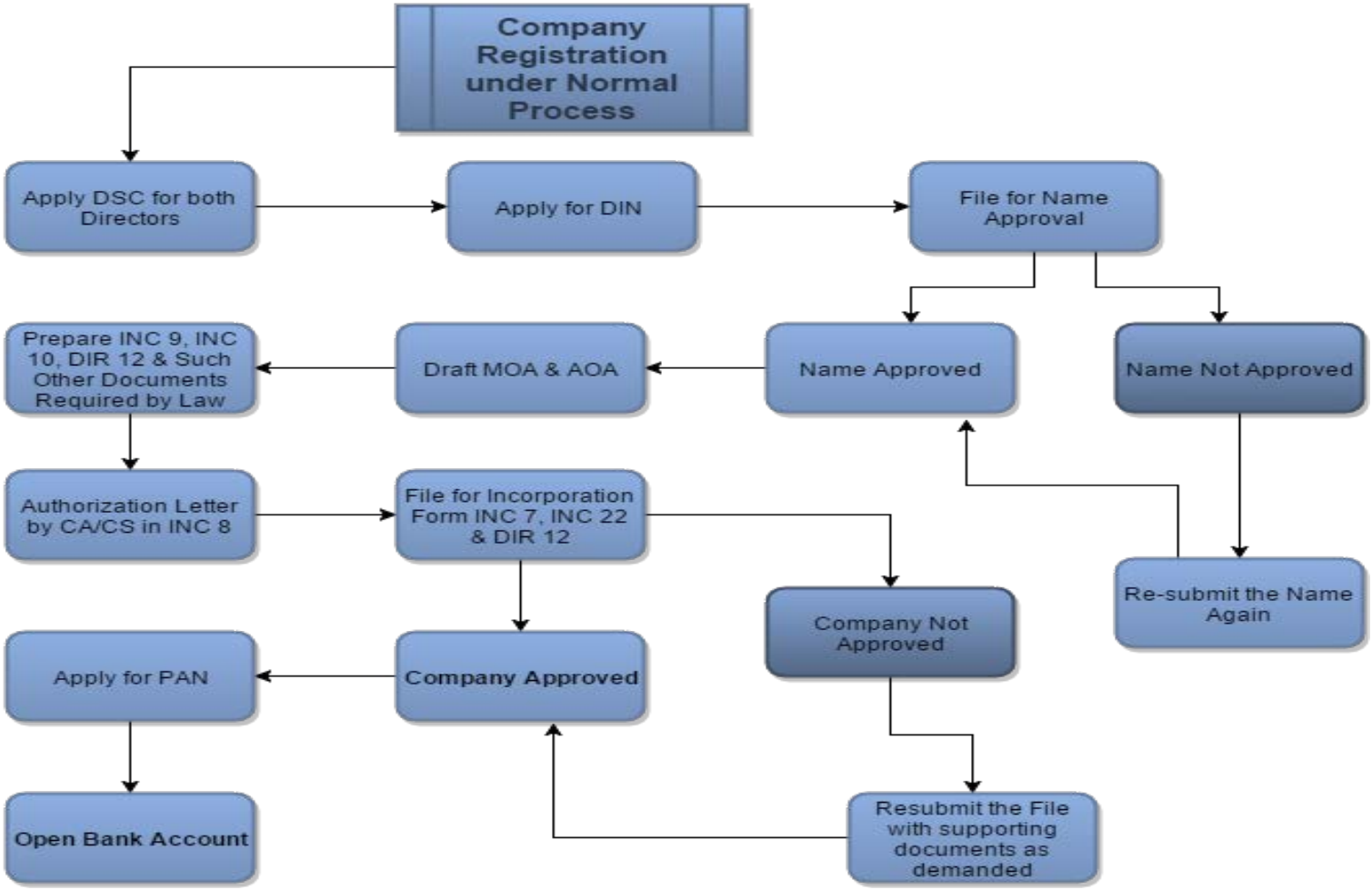


Taxation

Any person investing or doing business in India has to consider various direct (income) and indirect (consumption) taxes which are levied and collected by the Union Government and the State Governments respectively.

Direct taxes

Direct tax by way of Income tax is levied by the Central Government. Administration, supervision and control in the area of direct taxes lie with the CBDT

Administration

The Indian tax year extends from 1 April of a year to 31 March of the subsequent year. The due date for filing ROI for corporations is as follows:

Type of Company	Date of Filing of Return
Company required to submit a transfer pricing certificate in Form 3CEB (with respect to international transactions or specified domestic transactions)	30th November
Other companies	30th September

Corporate income tax

Income tax in India is levied under the ITA. Resident companies are taxed at approximately 33% (if net income is in the range of INR 1 crore – 10 crores) and around 34.5% (if net income exceeds INR 10 crores). It has been proposed that companies which are set up on or after March 1, 2016, and which engage solely in the business of manufacturing or production, will be given the option to be taxed either at the rate of 30% or at the rate of 25% in which case they will not be able to claim any profit or incentive linked benefits under the ITA. This reduction in corporate tax rates has been the government's first step towards meeting their promised goal of reducing corporate tax rates from 30% to 25% (excluding surcharge and cess) over the next 4 years, coupled with rationalization and removal of various exemptions and rebates.

For Indian income tax purposes, a corporation's income comprises the following heads of income:

- **Income from house property**
- **Income from business**
- **Capital gains on disposition of capital assets**
- **Residual income arising from non-business activities**

Non-resident companies are taxed at the rate of about 42% (if net income is in the range of INR 1 crore – 10 crores) and 43.26% (if net income exceeds INR 10 crores). While residents are taxed on their worldwide income, non-residents are only taxed on income arising from sources in India. A company is said to be resident in India if it is incorporated in India or has POEM in India. A minimum alternate tax is payable at the rate of around 20% (18.5% plus surcharge and education cess).

Recently, Budget 2016 has proposed to allow 'eligible start-ups' meeting certain specified criteria a 100% tax holiday for any 3 consecutive assessment years out of 5 years beginning from the year in which such start up is incorporated.

Place of Effective Management (POEM)

A corporation is regarded as a resident in India if it is incorporated in India or if its place of effective management (POEM) is in India. The concept of POEM has been introduced from 1 April 2015 for determining the tax residence of foreign companies in India. POEM has been defined to mean a place where key management and commercial decisions that are necessary for the conduct of the business of the entity as a whole are in substance made. Draft guidelines have been issued by CBDT for determination of POEM in December 2015 for public consultation. Specific exception has been carved out from the general rules to determine the residential status and business connection for eligible overseas investment funds carrying on fund management activities through an eligible fund manager.

Double Taxation Avoidance Agreement (DTAA)

If there is a Double Taxation Avoidance Agreement (DTAA) between India and the country of non-resident, the provisions of the IT Act or the DTAA, whichever is more beneficial will apply and, accordingly, the taxability is likely to be restricted or modified. However, in order to be eligible for DTAA benefits, a non- resident is required to obtain valid TRC containing prescribed details and also file a self-declaration in Form 10F, where required.

General Anti-Avoidance Rule (GAAR)

Implementation of GAAR is now deferred to 1 April 2017 and will be aligned with OECD BEPS recommendations. Rules are expected to be amended to provide that investments made up to 31 March 2017 will be protected from GAAR.

Rates of corporate tax

The effective tax rate for domestic and foreign corporations (including surcharge and education cess) is summarized below:

Sl. No.	Description	Tax rate%	Surcharge%	Education Cess%	Effective rate %
A. Where the total income is up to INR10m					
	Domestic Corporation	30*	Nil	3	30.9
	Foreign Corporation	40	Nil	3	41.2
B. Where the total income is more than INR10m and up to INR100m					
	Domestic Corporation	30*	7	3	33.06
	Foreign Corporation	40	2	3	42.02
C. Where the total income is more than INR100m					
	Domestic Corporation	30*	12	3	34.61
	Foreign Corporation	40	5	3	43.26

*In the Budget speech, 2015, the FM indicated that the corporate tax rate will be reduced from 30% to 25% over the next 4 years, along with corresponding phasing out of exemptions and deductions

An LLP is liable to pay tax at the base rate of 30%, which is to be further increased by surcharge at the rate of 12% and education cess at the rate 3%.

Determination of taxable income (Corporate)

Income from house property

Income earned by renting out house property is taxable in the hands of the owner. Valuation of income from house property is prescribed under various scenarios of occupancy, ranging from rented, vacant to self-occupy. The owner is entitled to a deduction on account of municipal taxes actually paid. Furthermore, a standard deduction for repairs from such income at 30% of the prescribed value is permitted. Interest on borrowed capital, up to specified limits and on fulfillment of prescribed conditions, is also allowed as a deduction when computing the net income from house property liable to tax.

Income from Business

The CBDT has notified revised ICDS (I to X), which are applicable from FY/ PY 2016-17 or AY 2017-18. All Individuals and HUF who are not subject to Tax audit are kept outside the ambit of ICDS. Also, the CBDT has revised Form 3CD for reporting of ICDS adjustments and Income-tax (23rd Amendment) Rules, 2016 have been notified for the purpose.

In exercise of the powers conferred by sub-section (2) of section 145 of the Income-tax Act, 1961 (43 of 1961, the Central Government hereby notifies the income computation and disclosure standards as specified in the Annexure to this notification to be followed by all assesses (other than an individual or a Hindu undivided family who is not required to get his accounts of the previous year audited in accordance with the provisions of section 44AB of the said Act) following the mercantile system of accounting, for the purposes of computation of income chargeable to income-tax under the head “Profits and gains of business or profession” or “Income from other sources”.

Capital Gain and Losses

Capital gain rates under domestic tax laws are as follows:

Capital Gains arising on Transfer of	Tax Rates*	
	Resident (%)	Non-Resident (%)
a. Short-term capital assets, being listed equity shares, units of equity oriented funds or units of a business trust, where STT is charged on the transaction #	15	15
b. Short-term capital assets (other than (a) above)	Normal corporate tax rates	Normal corporate tax rates
c. Long-term capital assets, being listed equity shares in a company or units of an equity-oriented fund or units of a business trust where STT is charged on the transaction	Exempt	Exempt
d. Long-term capital assets, being listed securities or units or zero coupon bonds (other than (c) above)	10 (with indexation benefit) / 20 (without indexation benefit)**	10 (with indexation benefit) / 20 (without indexation benefit)**
e. Long-term capital gains arising to a non-resident from transfer of unlisted securities	NA	10 (no indexation benefit)
f. Other long-term capital assets	20	20

* Rate needs to be increased by applicable surcharge and education cess
** Whichever method is more beneficial can be applied by the resident/non-resident

Classification of long term capital asset on the basis of period of holding: Recently, Budget 2016 has proposed to reduce the holding period for an investment to qualify as long term capital asset from 36 months to 24 months. Additionally, the government has also proposed to reduce the long term capital gains tax rate levied on the sale of shares of unlisted private companies to 10% from 20% for foreign investors.

Type of Security	Period of Holding
a. Listed shares/securities, units of Unit Trust of India (UTI), Units of equity oriented mutual funds and specified zero-coupon bonds	More than 12 months
b. Others assets including unlisted shares and unit of mutual funds (other than equity oriented fund)	More than 36 months

Income earned by FPIs

FPIs are taxed on the income earned at the following rates under the Act:

Nature of income	Rate of tax(%)
Dividends	Nil
Interest	20
Interest earned between 1 June 2013 and 30 June 2017 on investment made in INR denominated bonds of an Indian Company (subject to certain conditions) or a government security	5
Short term capital gains from transfer of equity shares and units of equity oriented mutual fund [subject to levy of Securities Transaction Tax (STT)]	15
Long term capital gains from transfer of equity shares and units of equity oriented mutual fund (subject to levy of STT)	Nil
Short term capital gains from transfer of equity shares and units of equity oriented mutual fund (where STT is not levied)	10
Long term capital gains from transfer of equity shares and units of equity oriented mutual fund (where STT is not levied)	30

Income from other Source

Income that does not specifically fall under any of the types mentioned above is liable to tax as ''income from other sources", including investment income and winnings from lotteries. While computing taxable income under this head, expenditure incurred for earning such income is also to be deducted.

Other direct taxes (Corporate)

Minimum Alternate Tax (MAT)

Indian tax law requires MAT to be paid by corporations on the basis of profits disclosed in their financial statements. In cases where the tax payable according to regular tax provisions is less than 18.5% of their book profits, corporations must pay 18.5% (plus surcharges and cess as applicable) of their book profits as tax. Book profits (for this purpose) are computed by making the prescribed adjustments to the net profit disclosed by corporations in their financial statements.

Dividend Distribution Tax (DDT)

Other domestic corporations must pay DDT at the rate of 20.36%186 on dividends declared, distributed or paid by them. Such tax is a non-deductible expense. Where the recipient domestic corporation declares dividend, credit for dividend received from the domestic subsidiary and foreign subsidiary is available for computation of dividend on which DDT is to be paid by the recipient domestic corporation, subject to prescribed conditions.

Indirect taxes

The Central Government levies indirect taxes comprising customs duty, excise duty, value-added tax, central sales tax and service tax. The states are empowered to levy profession tax and state sales tax apart from various other local taxes, including entry tax and octroi or local body tax.

Tax	Standard Rate	Applicability
P.1 Customs Duty	Depend on classification under the customs tariff, which is aligned with the International Harmonized System of Nomenclature	Customs duty is levied on import of goods into India and is typically payable by the importer Components of Customs Duty: • Basic customs duty (BCD) • Additional customs duty (CVD) — in lieu of excise duty • Education cess/secondary and higher education cess • Special additional customs duty (SAD) CVD paid on the import of goods is allowed as credit against the output excise/ service tax liability, subject to conditions SAD paid on the import of goods is allowed as credit only to a manufacturer against the output excise duty and not to an output service provider or a trader of goods, subject to conditions
P.2 Excise Duty	12.50%	Applicable on the manufacture of goods within India and is payable by the manufacturer. Goods manufactured in India can be exported without the payment of excise duty, subject to specified conditions. Inputs used in the manufacture of goods to be exported can also be procured without payment of excise duty, subject to conditions

(Continued……..)

Tax	Standard Rate	Applicability
P.3 Service tax	12.36%	All services provided in exchange of consideration by one person to another attract Service tax excluding services covered under the negative list and those specifically exempt. This new rate of Service Tax @ 14% was applicable from 1st June 2015. Moreover from 15th Nov 2015, Swachh Bharat Cess @ 0.5% also got applicable. Therefore the effective rate of Service Tax is currently at 14.5% with effect from 15th Nov 2015. KrishiKalyanCess has been levied for the purpose of financing and promoting initiatives to improve agriculture and is applicable from 1st June, 2016.
	14%	
Swachh Bharat Cess	0.50%	
KKC	.50%	
VAT	4% - 14.5% (varies depending on the product and state)	Levied by the state governments on local sale or purchase of goods within a state
CST	2% or the VAT rate in originating state	Levied by central government on inter-state movement of goods subject to fulfillment of certain conditions
Entry tax/ Octroi/ Local Body Tax	Varies from state to state	Levied on the purchase value of the goods Levied by state/local authorities on goods that enter their jurisdiction and rates vary across state/local authorities In some states, constitutional validity of entry tax is subject to dispute, hence the applicability is determined on a state-to-state basis

(Continued…….)

Tax	Standard Rate	Applicability
Stamp Duty	Varies across states	It is a tax on transactions in the form of stamps on instruments affecting such transactions.
Profession tax	Varies across states	It is a state levy on a person engaged in any professions, trades, a calling or employment in a state
Luxury tax	Varies across states	It is a state levied imposed on the turnover of receipts of the hospitality industry for provision of accommodation and other luxuries provided by them
Property tax	Varies with each municipal authority	It is a municipal tax imposed on the owner of the property (usually real estate) for the maintenance of basic civic services in a city. The amount of tax is calculated on the value of the property that is sought to be taxed (ad valorem basis) as prescribed by each municipal authority.
Entertainment tax	Varies across states	State and local governments levy entertainment tax on various entertainment and amusement activities like film exhibitions, cable or DTH subscriptions, video games, amusement parks and events have been subject to entertainment tax.

GST legislation (Proposed)

Key Highlights of the Draft Model GST Law are as follows:

- Levy of, and Exemption from, GST: Levy and collection of Central GST ("CGST")/State GST ("SGST")and Integrated GST ("IGST") On Intra-State supplies of goods and/ or services: CGST & SGST shall be levied by the Central and State Government respectively, at the rate to be prescribed; On Inter-State supplies of goods and/ or services: IGST shall be levied by the Central Government at the rate to be prescribed.
- Reverse charge basis

  Notification may be issued for providing specific categories of supply of goods and/or services, on which, GST is payable by the person receiving such goods and/ or services, on reverse charge basis.
- Composition levy

  A registered taxable person, whose aggregate turnover in a financial year does not exceed Rs. 50 lakhs, shall be provided an option to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not less than 1%of the turnover during the year, subject to following conditions: The benefit of composition scheme shall not be granted to a taxable person who effects any Inter-State supplies of goods and/or services The taxable person opting for composition levy shall not collect any tax from the recipient to whom goods and/ or services are supplied. No credit of input tax shall be allowed.
- Taxable person Threshold limit to pay tax

  Person is liable to pay tax if his aggregate turnover in a financial year exceeds Rs. 10 lakhs. However, a person conducting business in any of the North Eastern States including Sikkim, is required to pay tax if his aggregate turnover exceeds Rs. 5 lakhs. The Central Government, a State Government or any Local Authority shall be regarded as a taxable person in respect of activities or transactions in which they are engaged as public authorities other than the activities or transactions as specified in Schedule IV to this Act, like activities of issuance of passport, visa, birth certificate etc.

(Continued…….)

- Persons not to be considered as taxable person

  Any person who provides services as an employee to his employer in the course of, or in relation to his employment, or by any other legal ties creating the relationship of employer and employee as regards working conditions, remunerations and employer's liability; (b) Any person engaged in the business of exclusively supplying goods and/or services that are not liable to tax under this Act; (c) Any person, liable to pay tax under reverse charge basis, receiving services of value not exceeding the amount as may be prescribed

(Continued……)

Registration:

- Threshold limit:

  Supplier is required to get registered under the GST if his aggregate turnover in a Financial Year exceeds Rs. 9 lakhs and Rs. 4 Lakhs where business is conducted in any of the North Eastern States including Sikkim. No threshold exemption for persons making Inter-State supply and those who are required to pay GST under reverse charge mechanism.

- Place of registration

  A supplier has to take registration in the State from where taxable goods and/or services are supplied.

- Taxable Event

  The taxable event under the GST regime shall be supply of goods and/ or services. Thus, meaning of the term 'supply' plays a crucial role since under GST, tax would be levied on supply of goods & services and the present concepts of manufacture/ rendering of services/ sale would loose its relevance.

- Meaning and scope of 'supply':

  'Supply' includes all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Importation of service, whether or not for a consideration and whether or not in the course or furtherance of business. A supply specified in Schedule I, made or agreed to be made without a consideration. Schedule I covers matter to be treated as supply like permanent transfer/disposal of business assets, supply of goods and/ or services by a taxable person to another taxable or non-taxable person in the course or furtherance of business etc.

(Continued…….)

Point of Taxation:

➢ Time of Supply of Goods

CGST/SGST shall be payable at the earliest of the following:

(i) Date on which the goods are removed for supply to the recipient (in case of movable goods); or
(ii) Date on which the goods are made available to the recipient (in case of immovable goods); or
(iii) Date of issuing invoice by supplier; or
(iv) Date of receipt of payment by supplier, or
(v) Date on which recipient shows the receipt of the goods in his books of account

➢ Time of supply of services:

The time of supply of services shall be as under:

(i) The date of issue of invoice or the date of receipt of payment, whichever is earlier, if the invoice is issued within the prescribed period; or
(ii) The date of completion of the provision of service or the date of receipt of payment, whichever is earlier, if the invoice is not issued within the prescribed period; or
(iii)The date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of (i) or (ii) do not apply

(Continued…….)

- Place of supply of goods and/ or services:

  Since, the proposed GST framework will work on the principle of destination based consumption tax, place of supply rules plays an important role to build up a mechanism to determine taxable jurisdictions for the smooth implementation of GST. It becomes more important in case of Inter-State transactions and e-commerce transactions. Thus, the relevant provisions have been prescribed for determining the place of supply of goods and/ or services under Chapter IV of the Draft IGST Act.

(Continued…….)

Determination of the Value of supply of goods and services:

In this regard, Draft GST Valuation (Determination of the Value of Supply of Goods and Services)Rules, 2016, has been prescribed, which shall apply to the supply of goods and/or services under the IGST/CGST/SGST Act. Methods prescribed for determination of value of supply are as follows:

a) Transaction Value Method: The value of goods and/or services shall be the transaction value i.e. The value determined in monetary terms.
b) Comparison Method: Where value of supply cannot be determined under the Transaction Value Method, the value shall be determined on the basis of transaction value of goods and/or services of like kind and quality supplied at or about the same time to customers.
c) Computed Value Method: Where value cannot be determined under the Comparison method, it shall be based on a computed value which shall include cost of production, manufacture or processing of the goods or, the cost of the provision of services, the charges, if any, for design & brand and amount towards profit & general expenses equal to that usually reflected in supply of goods and/or services of the same class or kind as the goods and/or services being valued which are made by other suppliers.
d) Residual Method: Where the value cannot be determined under the Computed Value method, the value shall be determined using reasonable means consistent with the principles and general provisions of the Valuation 3/6 Rules

(Continued…….)

Valuation in certain cases: Provisions prescribed in relation to the valuation in the case of Pure Agent (such as exclusion of the expenditure or costs incurred by the service provider as a pure agent of the recipient of service subject to the fulfillment of the conditions);

Money Changer (such as for a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and there serve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency, etc.) are also prescribed under the Draft Valuation Rules.

Payment of tax, interest, penalty and other amounts:

Every deposit towards tax, interest, penalty, fee or any other amount by a taxable person shall be made by internet banking or by using credit/debit cards or National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) or by any other mode. The amount shall be credited to the electronic cash ledger of such person to be maintained in the manner as may be prescribed.

(Continued…..)

Returns

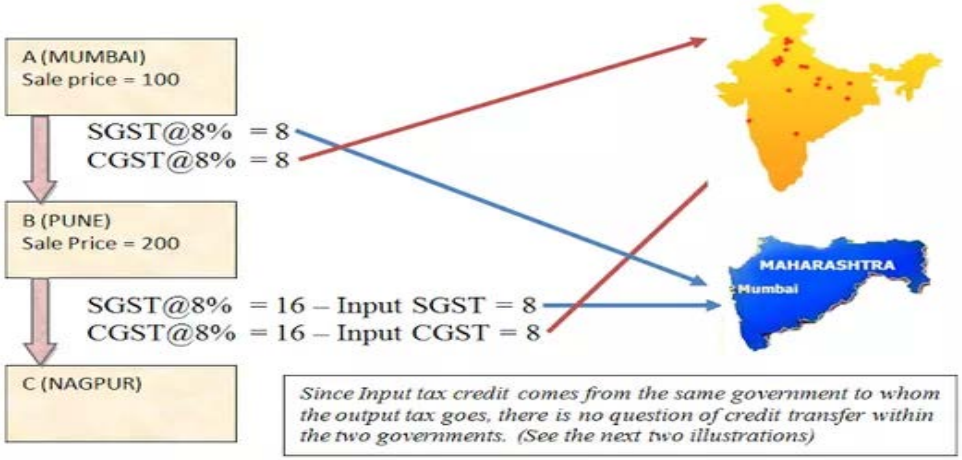
Every registered taxable person shall be required to furnish the following returns:

- Monthly Return: Every registered taxable person shall have to file a monthly return, electronically, of inward and outward supplies of goods and/or services, input tax credit availed, tax payable, tax paid and other particulars as may be prescribed within 20 days after the end of such month.
- Return for Composition Scheme: A registered taxable person paying tax under composition scheme shall have to furnish a return for each quarter or part thereof, electronically, within 18 days after the end of such quarter
- TDS Return: Every registered taxable person who is required to deduct tax at source shall furnish a return, electronically, within 10 days after the end of month in which deduction is made.
- Return for Input Service Distributor: Every Input Service Distributor shall file return for every calendar month or part thereof, electronically, within 13 days after the end of such month.
- First Return: Every registered taxable person shall have to furnish the first return from the date on which he became liable to registration till the end of the month in which the registration has been granted.
- Annual return: Every registered taxable person except certain specified person shall have to furnish an annual return for every financial year electronically on or before the 31st day of December following the end of such financial year.
- Final return: Every registered taxable person who applies for cancellation of registration shall have to furnish a final return within three months of the date of cancellation or date of cancellation order, whichever is later, in a prescribed form.

(Continued…..)

Utilization of input tax credit:

CGST	1st preference: CGST
	2nd preference: IGST
CGST	1st preference: CGST
	2nd preference: IGST
IGST	1st preference: IGST
	2nd preference: CGST
	3rd preference: SGST



Refund:

Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application in that regard to the proper officer of IGST/CGST/SGST before the expiry of two years from the relevant date in such form and in such manner as may be prescribed.

However, the limitation of two years shall not apply where such tax or interest or the amount referred to above has been paid under protest.

A taxable person may also claim refund of any unutilized input tax credit at the end of any tax period subject to the conditions specified.

S.K. SURANA & CO.
CHARTERED ACCOUNTANTS
Incorporated Since : 1982

UC&CS GLOBAL

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