SERIES ON DOING BUSINESS IN INDIA

5TH RELEASE ON TAXABILITY IN INDIA

FEMA. FDI. INCOME TAX. GST. LAND. LABOUR

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Taxability in India:

Applicable taxation for business establishments-

TAXATION OVERVIEW IN INDIA

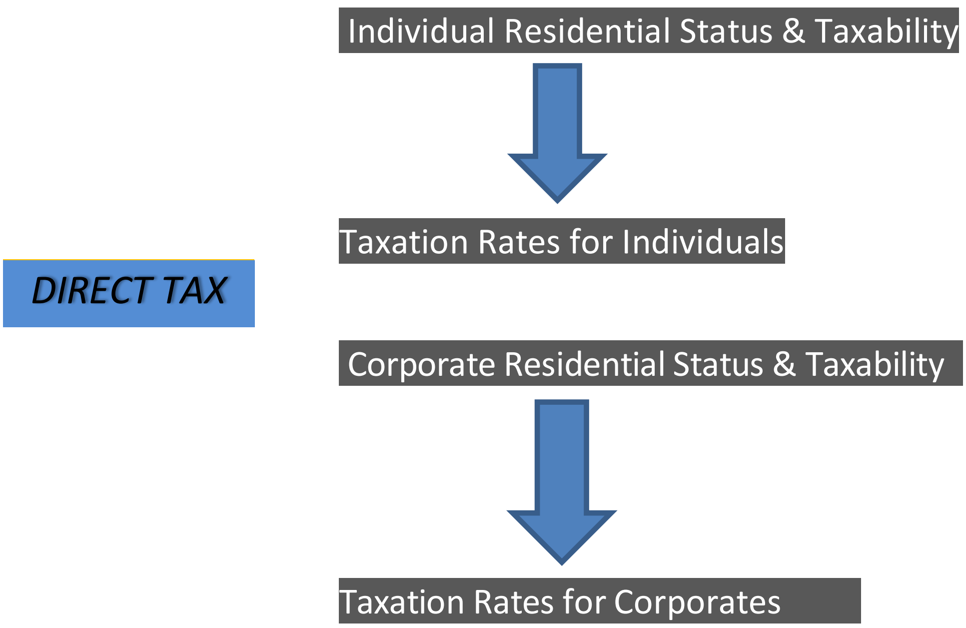
Over the last few years, the government of India (GoI) and various State (provincial) Governments have undertaken various policy reforms and process simplification towards great predictability, fairness & automation. This has consequently, lead to India's meteoric rise to the top 100 in the World Bank's Ease of Doing Business (EoDB) ranking in 2017.

Key Features of India's taxation System: Taxes in India 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 Local Government.

- **MAJOR CENTRAL TAXES**
  - Income Tax
  - Central Goods and Service Tax (CGST)
  - Integrated GST (IGST)
  - Custom Duty
- **MAJOR CENTRAL TAXES**
  - State Goods and Service Tax (SGST)
  - Stamp Duty and Registration

A resident company is taxed on its worldwide income. A non-resident company is taxed only on income that is received in India, or that accrues or arises, or is deemed to accrue or arise, in India. Company whether Indian or foreign is liable to taxation, under the Income Tax Act,1961. Corporation tax is a tax which is levied on the incomes of registered companies and corporations. Taxes in India are primarily into 2 categories- Direct and Indirect Tax.

Direct Taxes includes-



Indirect Tax includes-

INDIRECT TAX

Goods and Service Tax (GST)

AND

Customs

DIRECT TAX: INDIVIDUAL RESIDENTIAL STATUS AND TAXABILITY

Individual Residential Status

For the purpose of income tax in India, the income tax laws in India classifies taxable persons as:

a. A resident

b. A resident not ordinarily resident (RNOR)

c. A non-resident (NR)

The taxability differs for each of the above categories of taxpayers. Before we get into taxability, let us first understand how a taxpayer becomes a resident, an RNOR or an NR.

a. Resident

A taxpayer would qualify as a resident of India if he satisfies one of the following 2 conditions :

1. Stay in India for a year is 182 days or more or

2. Stay in India for the immediately 4 preceding years is 365 days or more and 60 days or more in the relevant financial year

In the event an individual who is a citizen of India leaves India for employment during an FY, he will qualify as a resident of India only if he stays in India for 182 days or more. Such individuals are allowed a longer time greater than 60 days and less than 182 days to stay in India. However, from the financial year 2020-21, the period is reduced to 120 days or more for such an individual whose total income (other than foreign sources) exceeds Rs 15 lakh.

In another significant amendment from FY 2020-21, an individual who is a citizen of India who is not liable to tax in any other country will be deemed to be a resident in India. The condition for deemed residential status applies only if the total income (other than foreign sources) exceeds Rs 15 lakh and nil tax liability in other countries or territories by reason of his domicile or residence or any other criteria of similar nature.

b. Resident Not Ordinarily Resident

If an individual qualifies as a resident, the next step is to determine if he/she is a Resident ordinarily resident (ROR) or an RNOR. He will be a ROR if he meets both of the following conditions:

1. Has been a resident of India in at least 2 out of 10 years immediately previous years and

2. Has stayed in India for at least 730 days in 7 immediately preceding years

Therefore, if any individual fails to satisfy even one of the above conditions, he would be an RNOR.

From FY 2020-21, a citizen of India or a person of Indian origin who leaves India for employment outside India during the year will be a resident and ordinarily resident if he stays in India for an aggregate period of 182 days or more. However, this condition will apply only if his total income (other than foreign sources) exceeds Rs 15 lakh.

Also, a citizen of India who is deemed to be a resident in India (w.e.f FY 2020-21) will be a resident and ordinarily resident in India.

NOTE: Income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in India or profession set up in India).

c. Non-resident

An individual satisfying neither of the conditions stated in (a) or (b) above would be an NR for the year.

Taxability for Individuals

Resident: A resident will be charged to tax in India on his global income i.e. income earned in India as well as income earned outside India.

NR and RNOR: Their tax liability in India is restricted to the income they earn in India. They need not pay any tax in India on their foreign income.

Also note that in a case of double taxation of income where the same income is getting taxed in India as well as abroad, one may resort to the Double Taxation Avoidance Agreement (DTAA) that India would have entered into with the other country in order to eliminate the possibility of paying taxes twice.

Tax Rate	Income (INR)	Income (USD)
Nil	Up to INR 250,000	Up to $ 3,472.22
5%	INR 250,001 - INR 500,000	$ 3,472.23 - $6,944.44
20%	INR 500,001 - INR 1,000,000	$ 6944.458 - $ 13,888.89
30%	Above INR 1,000,000	Above $ 13,888,90

DIRECT TAX: CORPORATE RESIDENTIAL STATUS AND TAXABILITY

Resident/ Domestic Companies

- Companies incorporated in India or
- Foreign Companies having Place of effective Management in India

Such companies global income shall be taxable in India.

Resident/ Domestic Firms/LLP/Others

- Control and Management of its affair is situated (wholly or partially) in India

Such Firms, LLPs and Others income earned within India (Being accrued or received in India) shall be taxable in India.

Taxation rates for Corporates

Domestic Company

Nature	*Effective Tax Rates w/o option	#Option for reduced tax rates
Total turnover or gross receipts < INR4 billion during FY 2017-18 or new manufacturing companies incorporated between 01/03/16 and 30/09/19 • Income < INR 10 Million • Income > INR 10 Million but < INR 100 million • Income < INR 100 Million	25% (26% ETR) 25% (27.82% ETR) 25% (29.12% ETR)	22% (25.17% ETR)
Optional tax rate for new manufacturing companies incorporated on or after 01/10/19	-same as above-	15% (17.16% ETR)
Other Domestic Company • Income < INR 10 Million • Income > INR 10 Million but < INR 100 million • Income < INR 100 Million	30% (31.2% ETR) 30% (33.38% ETR) 30% (34.94% ETR)	22% (25.17% ETR)

* Effective tax rates (ETR) includes surcharge @ 7%/12% and cess @ 4%

1. Option once exercised cannot be withdrawn

2. No MAT liability

3. No exemptions/ incentives to be availed

Firms (including LLP) – 30%

(Surcharge and Cess applicable for Assessment Year 2019-20 and Assessment Year 2020-21)

Foreign Company – 40%

(Surcharge and Cess applicable for Assessment Year 2019-20 and Assessment Year 2020-21)

INDIRECT TAX: GOODS AND SERVICE TAX

Goods and Services Tax (GST) is a unified indirect tax across the country on products and services. It is levied on manufacture, sale and consumption. It is a destination based consumption tax.

• The GST, dual in nature is comprehensive, multi stage tax, levied by both the Centre and State. The Central GST (CGST) is levied on intra state supply of goods and/ or services by the Central Government and State GST (SGST) is levied by State governments.

• Integrated GST (IGST) is levied and administered by the Centre on every inter-state supply of goods and services.

• Import of goods or services is treated as inter-state supplies and is subject to IGST in addition to Basic Custom duty.

• CGST, SGST and IGST is levied at uniform rates, mutually agreed upon by the Centre and the States under the aegis of the GST Council (GSTC).

• All goods and services are covered under GST except alcohol for human consumption and specified petroleum products.

	Under Old Regime	Under New Regime
	• Custom Duty	Custom Duty
Central Taxes	• Central Excise Duty (CENVAT) • Additional Excise Duties and the Excise Duty levied under the Medicinal and Toiletries Preparations Act,1955 • Service Tax • Additional Customs Duty (CVD) • Special Additional Duty of Customs (SAD) • Surcharges and Cesses levied by the Centre • Central Sales Tax	Central GST Integrated GST
State Taxes	• VAT/ sales tax • Octroi and Entry Tax • Purchase Tax • Luxury tax • Taxes on lottery, gambling and betting • Entertainment tax (unless levied by the local bodies) • Surcharges & State Cesses (related to the supply of goods and services)	State GST Union Territory GST

GST Rates on goods and services are:-

- NIL
- 0%
- 5%
- 18%
- 28%

LETS DISCUSS FURTHER!

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