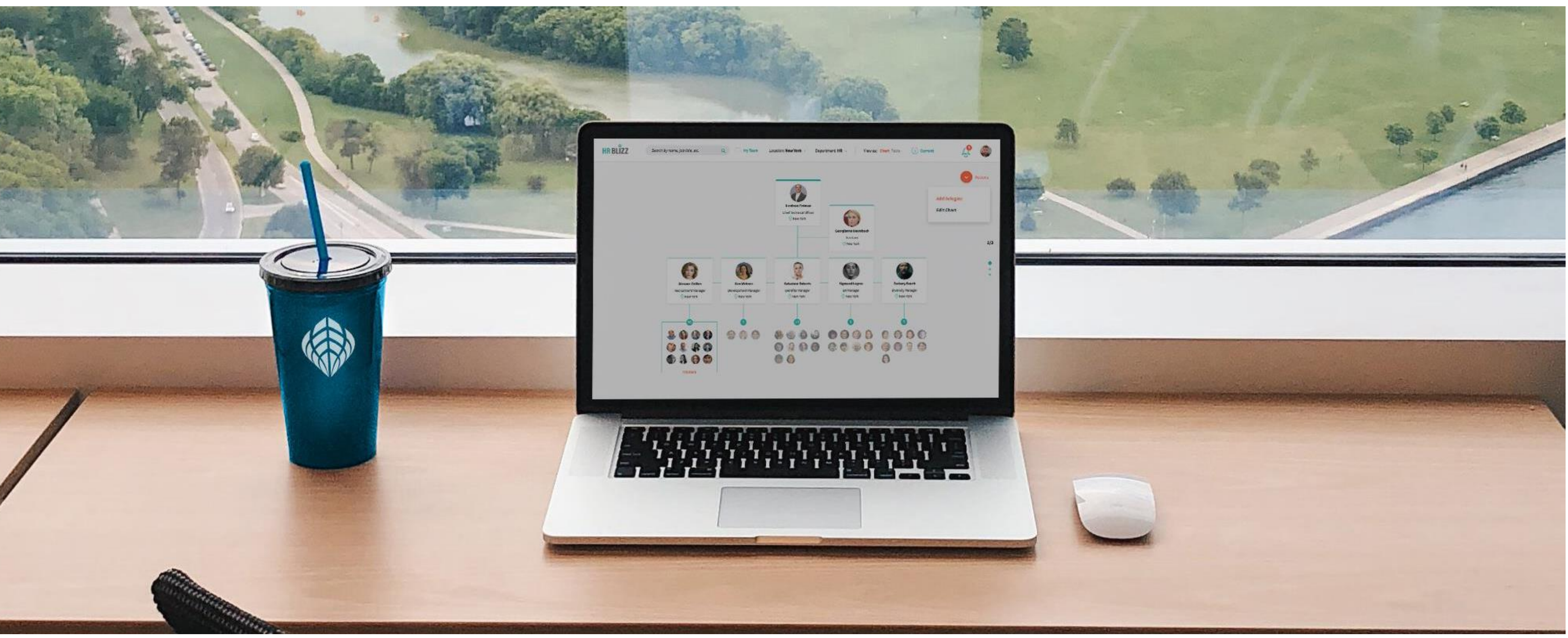
Simplifying Employment
Tasks Worldwide

Payroll & Tax Highlights

2020 Global Payroll Country Guide for India



India

8 June 2020

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Rationalize your HR budgets, monitor your data, and optimize your global payroll tasks in real-time. Systematize processes and streamline HRM lifecycles with HR Blizz™, our unified SaaS platform, to ensure your employees are paid accurately and on time.

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Mercans at a Glance

140+ Countries	**20** Years of Success	**500+** Specialists
5k+ Customers Worldwide	**97%** Client Retention Rate	**1.5X** Annual Revenue Growth
25k+ Largest Single Payroll	**2.5M+** Pay Slips per Annum	**0** Security Breaches

Number one for outsourced payroll services, we are endorsed by international authorities.

Mercans has the highest industry quality and IT security certifications.

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India – Is the crisis an opportunity?

The economy of India is characterised as a developing market economy. It is the world's sixth-largest economy by nominal GDP and the third-largest by purchasing power parity (PPP). According to the IMF, on a per capita income basis, India ranked 142nd by GDP (nominal) and 124th by GDP (PPP) in 2020. From independence in 1947 until 1991, successive governments promoted protectionist economic policies with extensive state intervention and regulation which is characterised as Dirigism. The end of the Cold War and an acute balance of payments crisis in 1991 led to the adoption of a broad program of economic liberalisation. Since the start of the 21st century, annual average GDP growth has been 6% to 7%, and from 2014 to 2018, India was the world's fastest growing major economy, surpassing China.

India's economy had been slowing down for over seven quarters even before the pandemic. Investments and exports were contracting and it was government spending that boosted growth to compensate for the declining private sector demand.

The government intensified its effort to cushion the economy from the impact of the pandemic and announced economic stimulus packages.2 Consequently, government's final consumption expenditure increased by 16.4% as it incurred unplanned spending.

GDP likely recovered relatively robustly in Q3 (Q2 FY 2020) as large swaths of the economy came back online, leading to a softer contraction in the industrial and services sectors, while agricultural output should have expanded at a stronger pace.

Turning to Q4 (Q3 FY 2020), economic activity should be improving: In October, the services sector PMI posted the first expansion since March, while the manufacturing PMI indicated output growth hit a 13-year high. However, shrinking employment in October and lingering targeted containment measures likely continue to weigh on household spending. In November, the government outlined the third instalment of stimulus to combat the fallout from Covid-19, focusing largely on credit growth, job creation and infrastructure. Total spending on Covid-19 relief amounts to roughly 2.0% of GDP now—but will likely have a limited impact on the ongoing recovery and its fiscal position.

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Doing Business in India

Process of Registering a Company in India

The procedures for the registration of a company have been established in the Companies' Act 2013. There are four critical steps to be followed on how to register a company in India.

- Obtaining DSC (Digital Signature Certificate)
- Obtaining DIN (Director Identification Number)
- Filling a New User Registration or eForm
- Incorporating the company

Obtaining a DSC

The first step is to apply for the DSC of the directors also derived as Digital Signature Certificate. DSC is e-signature which enables you to complete the online company registration process in India. It takes two days to obtain DSC after submitting the documents.

This is an authentic and secure way to submit a document electronically. Similarly, all filings done by the LLP and companies under the government program of MCA21 are needed to be filed utilizing the digital signatures by the person who is authorized to sign the documents.

Obtaining DIN (Director Identification Number)

The second step is to acquire an identification number. Obtaining a DIN is mandatory according to the amendment act of 2006. Every intending and existing directors need to acquire DIN. To get this, file a DIN e-form. The form can be taken from the official State of Ministry of Corporate Affairs.

Once receiving the generated DIN, they should let know about their organization about DIN. The director can let them know about their company using DIN 2 form. The company should then intimate the ROC (Registrar of Corporate) regarding all DIN of the directors via DIN-3 form. In the case of any changes in DIN or if there is anything to be updated like personal details, address, etc., then the director needs to initiate the changes to be done through the eForm DIN- 4 forms.

Filling a new user registration or e-form

This part is about having an MCA portal or registered user account for e-Form filing, for different transactions, for online fee payment as business and registered user. Creating an account is free.

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Incorporating the company

The final part of the company registration online is incorporating the company name, notice for appointment of managers, secretary, and company directors, and registering the opinion of the situation of office and office address.

Checklist of documents needed:

- DSC - Digital Signature Certificate
- Form - 1 for Incorporation of Company in India
- Form-32 for particulars of managers, secretary, and proposed directors
- Director Identification Number of all proposed company directors' Original copy of the formal letter which is published by ROC about company name availability
- Form- 18 for address or situation of the proposed company.

Formalities to be followed:

- Obtain a TAN card
- Documents obeying act of shop and establishment if required Registration document of STPI (Software Technologies Parks of India) if required
- Both foreign and Indian directors need to have authorized agencies digital signature certificates
- Obtain a PAN (Permanent Account Number) from the income tax department of India
- Registration documents of IEC (Import Export Code) from foreign trade director general for international trade if required
- RBI approval for investing in FIPB and India support of foreign companies if required.

Different Business Structures

To register to incorporate your entity under a specific business type, you should be aware of the technicalities of each type.

Before deciding the business type, have a clarity on the kind of business you are into, your goals and objectives since each of these types come with their own legal implications.

According to Section 3 of companies, a company is a legal entity registered and formed under the 1956 Companies Act.

There are five main types of companies you can register in India:

Sole Proprietorship

Sole proprietorship is the easiest form of company registration in India. One person manages sole ownership, i.e., a sole proprietor. If you are looking to have full control of your business, this option serves ideal.

Key advantages of the sole proprietorship:

- No government registration required
- No compliances to be fulfilled
- No government regulatory paperwork
- All profits earned are yours
- You do not require double taxation
- Pay income tax returns only on your income

Before you register, you need to have the following documents:

- Aadhaar card
- PAN card
- Bank account
- Registered office proof (rental agreement or utility bills will do)

Once you have these, you can approach any chartered accountant for a registration certificate and you are good to go.

One-person Company

A new type of business structure called One Person Company (OPC) was introduced by the Indian government in 2013.

Until 2013, a single person could not incorporate a company, you needed to have a minimum of two directors to do that.

Other benefits of an OPC:

- Lesser compliance compared to a private limited
- Limited liability for directors (meaning the owner's personal assets won't be at risk in the event of an unfortunate event)
- Legal Recognition
- Makes it easier to get loans from banks
- Complete control of the company
- Easy to manage

Setup Steps:

- Obtain Digital Signature Certificate (DSC)
- Obtain Director Identification Number (DIN)
- Apply for Name Approval

Documents required:

- Memorandum of Association (MoA)
- Articles of Association (AoA)
- Proof of registered office
- Affidavit and consent of director
- A declaration that all compliances have been made

Partnership

Partnership requires a partnership deed which is an agreement between the partners. This agreement will contain all the duties and obligations between the partners and how profit will be shared.

Details to be mentioned in the partnership deed:

- Name and address of all the partners
- Name and address of the partnership firm
- Starting date of the firm
- Capital each partner has invested
- Profit share ratio among partners
- Salaries/commissions to be paid out to partners
- Rights of each partner

- Duties and obligations of each partner
- Other clauses which are mutually agreed upon

Partnership firm can be registered under the Indian Partnership Act of 1932 but it is not mandatory and is at the discretion of the partners.

Benefits of partnership companies:

- Easy and convenient to form
- Risk is shared between partners
- No need to submit annual returns to the MCA
- Statuary Audit is not mandatory
- Easy to wind up
- Flexibility

Limited Liability Company ("LLC")

Limited Liability Company (LLC) takes advantage of other business structures corporation, partnerships, and sole proprietorship. Limited Liability Company is entitled as flexible business structures, and LLC separates personal and business liabilities. Every owner will have their tax liabilities shared.

Key advantages of LLC:

- The paperwork in LLC is much lesser as compared to other registrations. This makes LLC more flexible and easier to form.
- LLCs keep their members safe from the liabilities like personal debts and legal hearings.
- It also provides tax flexibility where the income, expenditures, and profits become the part of owner's tax returns.
- In LLCs, one does not have to necessarily follow a business structure to run one's organisation.
- Profit sharing is also flexible in LLCs.

Incorporation Steps:

- Apply for DPIN (Designated Partner Identification Number) by filling the form online. Acquire your Digital Signature Certificate and register it on MCA portal.
- Get the approval for your LLC name from the Ministry of Corporate Affairs.
- After approval, fill the incorporation form to register the LLC and obtain the LLC agreement.

Private Limited Company ("PLC")

A Private Limited Company aka LTD is a type of company that has a minimum of two and a maximum of 200 members. As the name suggests, it cannot raise the funds from the public, which means the company cannot publicly issue the shares. There is no paid-up capital required now to set up an LTD.

Some benefits of having a private limited company:

- The liability of the company's owner with respect to the company's debt is only limited to his/her shares.
- The shares of the company are easily transferrable to the other person.
- The company can issue debentures and can receive funds from public platforms, thus making it easier to raise the money.

There are more tax benefits in LTDs and the percentage of applied tax is also lesser as compared to other types of company registrations.

How to register a private limited company:

- Obtain Directors Identification Number(DIN), which is a unique code that requires you to have a PAN card, Aadhaar card, bank statement, phone and electricity bill
- After that, a name registration application needs to be filed.
- Now, you need to draft MOA and AOA. MOA states the objects of the company while AOA specifies the rules and regulations of the company.
- Now file the application through SPICE-E form on MCA's website and obtain PAN and TAN applications.
- If all your papers are in order, you are done with your application.

Liaison Office

Setting up a liaison or representative office is a common practice for foreign companies seeking to enter the Indian market. The role of such offices is limited to collecting information about the possible market and to providing information about the company and its products to prospective Indian customers.

Such offices act as listening and transmission posts and provides a two-way information flow between the foreign company and the Indian customers. A liaison office is not allowed to undertake any business activities other than liaison activities in India and cannot, therefore, earn any income in India, under the terms of approval granted by the RBI.

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Project Office

Foreign companies planning to execute specific projects in India can set up temporary project/ site offices in India for this purpose. The RBI has granted general permission to a foreign entity for setting up a project office in India, subject to the fulfilment of certain conditions. The foreign entity needs only to provide a report to the jurisdictional Regional Office of the RBI giving the particulars of the project/contract.

Branch Office

Foreign companies engaged in manufacturing and trading activities abroad can set up branch offices in India for the following purposes, with the prior approval of RBI:

- Export/import of goods.
- Rendering professional or consultancy services.
- Carrying out research work in which the parent company is engaged that promotes technical or financial collaborations between Indian companies and a parent or overseas group company
- Representing the parent company in India and acting as a buying/selling agent in India.
- Rendering services in information technology and development of software in India.
- Rendering technical support for the products supplied by parent/group companies.
- Acting as a foreign airline/ shipping company.

In general, manufacturing activity cannot be undertaken through a branch office. However, foreign companies can establish a branch office/unit for manufacturing in a Special Economic Zone subject to the fulfilment of certain conditions. Citizens of specified countries are prohibited from establishing a project office or any other place of business in India without the prior permission of the RBI.

Accounting and Reporting

Financial statements must be prepared annually, in accordance with the accounting standards prescribed under the Companies Act. India has committed to converge its accounting standards with IFRS (subject to a few carve-outs); these standards are called the Indian Accounting Standards or the Ind AS.

Tax Year: The fiscal year begins on 1 April and ends on the 31 March of the following year.

Accounting Standards: Accounting standards issued by the Institute of Chartered Accountants of India (ICAI), which largely are based substantially and converged with IFRS standards, apply. Financial statements must be prepared annually, in accordance with the accounting standards prescribed under the Companies Act. There are differences between these accounting standards and IFRS.

India has committed to converge its accounting standards with IFRS (subject to a few carve-outs); these standards are called the Indian Accounting Standards or the Ind AS. For accounting periods commencing on or after 1 April 2016, these standards are mandatory for listed and unlisted companies meeting certain net worth thresholds.

Accounting Reports: 'Balance Sheet' and 'Profit & Loss' report. Companies are required to prepare their financial statements each year, as per the provisions of the Companies Act, and to have them audited by a practicing chartered accountant or a firm of chartered accountants registered with the ICAI. The audited financial statements must be approved by the members in an annual general meeting. All companies are required to file their audited financial statements with the ROC after they have been approved by the members.

Publication Requirements: The "balance sheet" and ‘profit and loss account' need to be published every fiscal year.

Professional Accountancy Bodies: ICAI , Institute of Chartered Accounts of India

Certification and Auditing: Companies have to seek a statutory auditor to conduct an annual audit of the financial health of their organization. For more information, consult the Institute of Internal Auditors-India and The Institute of Chartered Accountants of India (ICAI)

Financial and Banking System

In India the banks and banking have been divided in different groups. Each group has their own benefits and limitations in their operations. They have their own dedicated target market. Some are concentrated their work in rural sector while others in both rural as well as urban. Most of them are only catering in cities and major towns.

The banking system plays an important role in promoting economic growth not only by channeling savings into investments but also by improving allocative efficiency of resources. The recent empirical evidence, in fact, suggests that banking system contributes to economic growth more by improving the allocative efficiency of resources than by channeling of resources from savers to investors. An efficient banking system is now regarded as a necessary pre-condition for growth.

The banking system of India consists of the central bank (Reserve Bank of India - RBI), commercial banks, cooperative banks and development banks (development finance institutions). These institutions, which provide a meeting ground for the savers and the investors, form the core of India's financial sector. Through mobilization of resources and their better allocation, banks play an important role in the development process of underdeveloped countries.

Along with the rest of the economy and perhaps even more than the rest, financial markets in India have witnessed a fundamental transformation in the years since liberalization. The going has not been smooth all along but the overall effects have been largely positive.

The Indian banking sector has witnessed wide ranging changes under the influence of the financial sector reforms initiated during the early 1990s. The approach to such reforms in India has been one of gradual and non-disruptive progress through a consultative process. The emphasis has been on deregulation and opening up the banking sector to market forces. The Reserve Bank has been consistently working towards the establishment of an enabling regulatory framework with prompt and effective supervision as well as the development of technological and institutional infrastructure.

Persistent efforts have been made towards adoption of international benchmarks as appropriate to Indian conditions. While certain changes in the legal infrastructure are yet to be effected, the developments so far have brought the Indian financial system closer to global standards.

Private banks are today increasingly displacing nationalized banks from their positions of pre-eminence. Though the nationalized State Bank of India (SBI) remains the largest bank in the country by far, private banks like ICICI Bank, Axis Bank and HDFC Bank have emerged as important players in the retail banking sector. Though spawned by government-backed financial institutions in each case, they are profit-driven professional enterprises.

Banks usually open around 9:30 AM and close at 5:30 PM. However, there are some banks that are open 12 hours a day i.e., from 8:00 AM to 8:00 PM. There are some banks that are open to customers for only six hours from 10:00 AM to 4:00 PM. Hence, it is recommended that one should find out the bank's workings hours before visiting the branch.

The Banks are open on the 1st, 3rd, and 5th Saturdays of every month as long as it is not a gazetted holiday. Most banks are open on Saturday and recognize their weekday timings.

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Working Week

Working Hours in India: As per the Factories Act 1948, every adult (a person who has completed 18 years of age) cannot work for more than 48 hours a week and not more than 9 hours in a day. According to Section 51 of the Act, the spread over should not exceed 10–1/2 hours.

There are numerous overtime rules and procedures in India stipulating different periods of working hours under the labor law. Section 51 and Section 59 of the Factories Act — 1948 states: No employee is supposed to work for more than 48 hours in a week and 9 hours in a day. Any employee who works for more than this period is eligible for overtime remuneration prescribed as twice the amount of ordinary wages.

Additionally, Section 14 of the Minimum Wages Act, 1948 states: when the minimum wages of an employee are fixed for a particular period of time and the employee works beyond that period, then the employee has to be paid overtime wages for the extra time.w

Every state in India has its own Shops and Establishment Act (SEA)[4] which also lays down overtime rules and procedures for workmen employed in different institutions. The SEA is applicable to all managerial and non-managerial positions, in every Indian shop and establishment.

The overtime rules also state that the employees must be provided at least one break for half an hour between the working hours and the entire working period per day must be calculated in such a way that no working period exceeds 5 hours without an interval.

The total number of working hours in India in a day must be 12 and a half hours, limiting the maximum number of overtime hours in a day at 2 hours.

Overtime rules under the Factories Act, 1948 also specifies the punishment in case an employer violates these provisions.

Any employer found to be contravening these provisions would be liable for punishment of imprisonment up to 2 years and fine of up to Rs. 1 lakh or both. If the employer continues to violate the provisions after conviction, a fine of Rs. 1000 per day is levied for each day of violation.

Under the overtime payment rules in India, overtime wages are paid in two ways — either on a per hour rate or a per piece rate in factories.

- In a per hour or hourly rate, the per hour wage of an employee is calculated and double the amount is paid for every extra working hour.

- In per piece method, an employee is paid overtime for every extra piece made during the overtime period.

The working hour's related regulations have been summarized below:

Area	Regular Employee	Shift Employee	Female Employee
Workdays (1)	Monday – Saturday (Sunday is the only official weekend day).		Workdays (1)
Weekly Regular Working Hours (1)	Daily Criterion – 8 hours/day	Weekly Regular Working Hours (1)	Daily Criterion – 8 hours/day
Breaks	Min 30 minutes every 5 hours (not part of the working hours i.e. unpaid – employee may not be required to stay at their workplace) (4)	Min 30 minutes every 5 hours (not part of the working hours i.e. unpaid – employee may not be required to stay at their workplace) (4)	1 hour for nursing mothers (paid break)
Max Stay at the Workplace	9 hours per day	9 hours per day	
Total Maximum Working Hours (Regular + Overtime)	10 1/2 hours per day	Total Maximum Working Hours (Regular + Overtime)	10 1/2 hours per day
Public Holidays (30)	2 – 3 days Diwali	Public Holidays (30)	1 day – Eid Al-Fitr

Basic Facts

Official State Name	India
Population	1.38 billion
Capital	New Delhi
Major Languages	Hindi, English
Currency	Indian Rupee (INR)
Main Industries	Iron and Steel, Textiles, Jute, Sugar, Cement and Paper
GDP Growth	3.4% (2019)
Internet Domain	.in
International Dialing Code	+91
Dates & Numbers	Dates are usually written in the DD/MM/YYYY format.

Tax & Social Security

Overview

India offers a well-structured tax system for its population. Taxes are the largest source of income for the government. This money is deployed for various purposes and projects for the development of the nation.

Taxes are determined by the Central and State Governments along with local authorities like municipal corporations. The government cannot impose any tax unless it is passed as a law.

Role of the Central and State Government

The entire system is clearly demarcated with specific roles for the central and state government. The Central Government of India levies taxes such as customs duty, income tax, service tax, and central excise duty.

The taxation system in India empowers the state governments to levy income tax on agricultural income, professional tax, value added tax (VAT), state excise duty, land revenue and stamp duty. The local bodies are allowed to collect octroi, property tax, and other taxes on various services like drainage and water supply.

Types of Taxes

Taxes are classified under two categories namely direct and indirect taxes. The largest difference between these taxes is their implementation. Direct taxes are paid by the assesses while indirect taxes are levied on goods and services.

Direct Taxes

Direct taxes are levied on individuals and corporate entities and cannot be transferred to others. These include income tax, wealth tax, and gift tax.

Income Tax

As per the Income Tax (IT) Act, 1961 every assessee whose total income exceeds the maximum exempt limit is liable to pay this tax. The tax structure and rates are annually prescribed by the Union Budget. This tax is imposed during each assessment year, which commences on 1st April and ends on 31st March. The total income is calculated from various heads such as business and profession, house property, salaries, capital gains, and other sources. The assesses are classified as individuals, Hindu Undivided Family (HUF), association of persons (AOP), body of individuals (BOI), company, firm, local authority, and artificial judiciary not falling in any other category.

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Indirect taxes:

Indirect taxes are not directly paid by the assesses to the government authorities. These are levied on goods and services and collected by intermediaries (those who sell goods or offer services). Here are the most common indirect taxes in India:
Value Added Tax (VAT): This is levied by the state government and was not imposed by all states when first implemented. Presently, all states levy such tax. It is imposed on goods sold in the state and the rate is decided by the state governments.

Customs duty: Imported goods brought into the country are charged with customs duty which is levied by the Central Government.

Octroi: Goods that move from one state to another are liable to octroi duty. This tax is levied by the respective state governments.

Excise duty: All goods produced domestically are charged with excise duty. Also known as Central Value Added Tax (CENVAT), this is paid by the manufacturers.

Service Tax: All services provided domestically are charged with service tax. The tax is paid by all service providers unless specifically exempted.

Goods and Service Tax (GST)

As a significant step towards the reform of indirect taxation in India, the Central Government has introduced the Goods and Service Tax (GST). GST is a comprehensive indirect tax on manufacture, sale and consumption of goods and services throughout India and will subsume many indirect taxes levied by the Central and State Governments. GST will be implemented through Central GST (CGST), Integrated GST (IGST) and State GST (SGST).

Four laws (IGST, CGST, UTGST & GST (Compensation to the States), Act) have received President assent. All the States & UT expected to pass State GST Act, by end of May 2017. GST law is expected to take effect from July 1, 2017.

Revenue Authorities

CBDT: The Central Board of Direct Taxes (CBDT) is a part of the Department of Revenue under the Ministry of Finance. This body provides inputs for policy and planning of direct taxes in India and is also responsible for administration of direct tax laws through the Income Tax Department.

CBEC: The Central Board of Excise and Customs (CBEC) is also a part of the Department of Revenue under the Ministry of Finance. It is the nodal national agency responsible for administering customs, central excise duty and service tax in India.

CBIC: Under the GST regime, the CBEC has been renamed as the Central Board of Indirect Taxes & Customs (CBIC) post legislative approval. The CBIC would supervise the work of all its field formations and directorates and assist the government in policy making in relation to GST, continuing central excise levy and customs functions.

The Indian taxation system in India has witnessed several modifications over the years. There has been standardization of income tax rates with simpler governing laws enabling common people to understand the same. This has resulted in ease of paying taxes, improved compliance, and enhanced enforcement of the laws.

Corporate Income Tax

Domestic as well as foreign companies are liable to pay corporate tax under the Income-tax Act. While a domestic company is taxed on its universal income, a foreign company is only taxed on the income earned within India i.e. is being accrued or received in India.

For the purpose of calculation of taxes under Income tax act, the types of companies can be defined as under:

Domestic Company: Domestic company is one which is registered under the Companies Act of India and also includes the company registered in the foreign countries having control and management wholly situated in India. A domestic company includes private as well as public companies.

Foreign Company: Foreign company is one which is not registered under the companies act of India and has control & management located outside India.

The following rates are applicable to the domestic companies for AY 2019-20 based on their turnover:

Particulars	Tax Rate
Gross Turnover upto Rs. 250 Crore in FY 2019-20	25%
Gross Turnover exceeding Rs. 250 Crore	30%

The following rates are applicable to foreign companies for AY 2019-20 based on their turnover:

Nature of Income	Tax Rate
Royalty received or fees for technical services from government or any Indian concern under an agreement made before April 1, 1976 and approved by central government	50%
Any other income	40%

In addition to **above** rates:

Surcharge rate:

Particulars	Tax Rate
If total income exceeds Rs. 1 crore but not Rs. 10 Crore	7% of tax calculated on domestic company/ 2 % of tax calculated on foreign company as per above rates
If total income exceeds Rs. 10 crore	12% of tax calculated on domestic company/ 5 % of tax calculated on foreign company as per above rates

Minimum Alternate Tax (MAT)

Alternatively, all the companies (including foreign companies) are required to pay minimum alternate tax at the rate of 18.5 % on book profits if the tax calculated as per above rates are less than 18.5% of book profits.

Dividend Distribution Tax (DDT)

Companies are required to pay tax on the dividend distributed to the shareholders in a particular year. This dividend is exempted in the hands of shareholders up to an amount of Rs. 10 lakh but the companies have to pay tax at 20.56 %.

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Withholding Tax

Withholding tax is an amount that is directly deducted from the employee's earnings by the employer and paid to the government as a part of individual's tax liability. These taxes are paid to the central government of India. In India, the Central Government is liable and empowered to levy and collect taxes. Tax is charged based on the income of the person. The income is categorized into various slabs and whenever it exceeds the minimum threshold limit then it attracts taxes as per the rates decided for various income slabs prescribed in the Income Tax Act. Tax liability is decided by calculating the total income earned for the previous year in the current assessment year. As we know, the income tax payable by any person is dependent on the residential status of that person so to understand withholding tax we should know how residential status is categorized in India.

Salary paid for the services provided in India

Income from property in India or income arising out of the business carried out in India.
Fees, Royalty, Interest paid by Resident Indian to Non Resident Indian for the technical services provided by the Non-Resident Indian in India.

Now that we understand that tax liability is dependent on the residential status of a person, let us now learn more about withholding tax. Charge ability of the withholding tax is also dependent on the residential status of the person.

Withholding tax is a tax that is deducted by the payer of the income. This withholding tax is also called retention tax. Under withholding tax, the taxable amount is deducted at source by the payer i.e. the payer of the income is liable to deduct the withholding tax before making payment to the payee.

The withholding tax sounds similar to Tax deducted at source. Many are of the opinion that outside India the terminology for Tax deducted at source (TDS) is Withholding Tax. But there are few differences between TDS and Withholding Tax which we shall study subsequently. In India, the withholding tax is applicable on various sources of income namely: Salary, work contract, Commission, Rent, Interest, Professional services, Technical Services, Income from Business etc.

Interest charged at 20%For Dividends paid by domestic companies no tax is charged i.e. NIL. For Royalties it is 10%Technical Services are charged at 10%For other services: Individuals are charged at 30% of the income Companies are charged at 40% of the income. The above stated rates are applicable with respect to countries with whom India does not have Double Taxation Avoidance Agreement (DTAA).

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Personal Taxation

The Union Budget 2020 has brought a new income tax slab regime with reduced rates for those foregoing 70 tax exemptions and deductions under a "new simplified tax regime". This new tax system is optional and will co-exist with the old one with three slabs and various exemptions and deductions available to the taxpayer. The new income tax slabs have come into effect from April 1, 2020.

If a taxpayer opts for the new regime, then his income will be taxed as per the following tax rates:

Total income (Rs)	Income tax rate
Up to 2.5 lakh	Nil
From 2,50,001 to Rs 5,00,000	5 percent
From 5,00,001 to Rs 7,50,000	10 percent
From 7,50,001 to 10,00,000	15 percent
From 10,00,001 to Rs 12,50,000	20 percent
From 12,50,001 to 15,00,000	25 percent
Above 15,00,000	30 percent

Individuals with a net taxable income of up to Rs 5 lakh will be able to avail tax rebate of Rs 12,500 under section 87A in both, the existing and new, tax regimes. Effectively, this would mean that individual taxpayers with net taxable income of up to Rs 5 lakh will continue to pay zero tax in both tax regimes.

However, individuals opting for the new tax regime would not be able to avail common tax breaks such as deductions under section 80C for maximum of Rs 1.5 lakh by investing in specified instruments, section 80D for medical insurance paid, house rent allowance, leave travel allowance etc.

Social Security

In accordance with the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, this is a registration which covers the provident fund and pension scheme that are retiral benefits for employees. This registration is mandatory if the company has 20 or more employees (including contract staff). The provident fund has different rules for contributions relating to domestic and international workers and the pension scheme works differently for each of these categories. This registration can be a centralized registration or can be obtained on the basis of branch locations.

Effective September 2014, there has been a change in the pension guidelines. Whenever an employee joins, a declaration needs to be obtained from the employee using Form 11 to analyze the applicability of pension.

The provident fund and pension requirements are undergoing massive changes and new requirements are coming up on an ongoing basis which cannot be easily documented in this short summary.

Provident and pension funds:

The provident fund (both employee and employer) need to be contributed at 12% of base wages. This needs to be deposited in the fund by the 15th of every month for the previous month. The employer's contribution is distributed between provident fund and pension fund and withdrawal of this fund is based on certain criteria. The allocation to pension fund is decided based upon the employee's declaration in "Form 11" and employee's base wages. Furthermore as per the Electronic Challan cum Return (ECR) launched by EPF Organization, India from April 2012, the company would need to generate the challan online and subsequently deposit the contributions into the provident fund account before the 15th of every month. From January 2017 there has been a new ECR launched which has new requirements and is a drastic change from the previous online filing version.

Payroll

The salary has to be paid to the employee after making statutory deductions like income tax, provident fund or pension, and state-specific taxes (profession tax), labor welfare fund and employee state insurance.

Payment is in Indian rupee for all local employees. Any payments to expats outside India in any other foreign currency have to follow the requirements of the Foreign Exchange Management Act including a requirement to submit several documents to the bank along with certifications, including the details and nature of payment along with the withholding tax details in the income tax website, verified by an independent chartered accountant, that has been attested by the company as well.

Payments are generally transferred via the corporate bank and can be paid via National Electronic Funds Transfer (NEFT) to any of the employee's bank accounts in any bank in India. The banking regulations are governed by the main central bank in India — The Reserve Bank of India.

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Sample Payslip

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EMPLOYEE PAYSLIP

REF-P00-463

TRANSFERABLE AMOUNT:

INR	25,080.00

Employer	[redacted]
Employer address	[redacted]
Country	India
Pay Period	April 2020

Employee name	[redacted]	Email	[redacted]
Employee ID	001	Hire date	2017-07-12
Employee Position	Engineer	Payment Method	Bank

Summary			
Pay currency	Entitlements	Deductions	Net pay
INR	28500.00	3420.00	25,080.00

Details					
Entitlements	Amount	Currency	Deductions	Amount	Currency
Basic salary (incl. Arrears)	1,5000.00	INR	Income Tax	1220.00	INR
HRA	8000.00	INR	PF (12%)	1800.00	INR
Special Allowance	4000.00	INR	Professional Tax	200.00	INR
Conv. Allowance	1500.00	INR	ESI (1.75%)	200.00	INR

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Employment Law

India is a member of the International Labour Organisation and complies with the conventions it has ratified. It has enacted comprehensive legislations to provide a good working environment for labour and protects their interests.

The key labour laws applicable to employers and employees in India have been outlined below:

- The Industrial Disputes Act 1947, is the main legislation in India that provides for the investigation and settlement of industrial disputes;
- Trade Unions Act 1962, provides for the registration of trade unions of employers and workers, and is administered by the state governments. It confers legal and corporate status on registered trade unions;
- Plantation Labour Act 1951, provides for the plantation labour and regulates the condition of work in plantations;
- Payment of Bonus Act 1965, provides for the payment of bonus to persons employed in certain establishments on the basis of profits or on production or productivity, as well as matters connected therewith;
- The Payment of Gratuity Act 1972, provides a scheme for the payment of gratuity to all employees earning wages to do any skilled, semi-skilled, unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, and whether or not such employees are employed in a managerial or administrative capacity;
- The Workmen's Compensation Act 1923, is to compensate an employee or his/her survivors in the vent of industrial accidents or occupational diseases, resulting in disablement or death during the course of the person's employment;
- Industrial Employment (Standing Orders) Act 1946, requires employers in industrial establishments to clearly define the conditions of employment to their workers by issuing standing orders or implementing services rules;
- Minimum Wages Act 1948, seeks to determine the minimum rates of wages in certain employments, a list of which is contained in the legislation;
- The Payment of Wages Act 1936, seeks to regulate the payment of wages to certain classes of employees in an industry;
- Factories Act 1948, is a principal legislation that governs the health, safety and welfare of factory workers;
- Employees Provident Fund and Miscellaneous Provisions Act 1952, seeks to ensure the financial security of employees in an establishment by providing a system of compulsory savings;

- The Maternity Benefit Act 1961, regulates the employment of women in certain establishments for prescribed period before and after childbirth; and
- Employees State Insurance Act 1948, provides for healthcare and cash benefits to the employees in case of sickness, maternity or injury suffered during the employment, whether they are working in a factory, establishment or elsewhere, or they are directly employed by the principal employee or through an intermediate agency, if the employment is incidental or in connection with the factory or establishment.

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Leaves

The statutory leaves for India have been summarized in the below table:

Leave Type	Eligibility	Compensation	Leave Duration
Annual Leave	• An adult worker is entitled to one day of earned leave for every 20 days of service • A young worker (under the age of 15 years) is entitled to one day of earned leave for every 15 days of service. • Annual leave may be carried over however no more than 30 days can be carried over to the next year.	Paid	12 days per year
Sick Leave	• Doctor's notice	Partially-paid	30 days – half paid
Bereavement Leave	• Death of direct family member	Paid	7 days
Marriage Leave	• Marriage	Paid	3 days
Childbirth Leave for Male Employees	• Birth of a child	Paid	15 days
Maternity Leave	• Completion of the probation period	Paid	26 weeks includes 8 weeks before and 18 weeks after the delivery
Unpaid Leave	• Employer prior approval	Unpaid	Max duration is defined by the employer.

Termination, Resignation or Retirement

An employment relationship may terminate on the occurrence of following events:

- automatically on completion of the agreed term; or
- on reaching the age of superannuation of the employee; or
- mutually by signing mutual termination agreement; or
- by either party as agreed in the agreement.

Workmen: The Industrial Disputes Act ("ID Act") regulates the termination only of workman. The ID Act prescribes a minimum notice period of 1 to 3 months or payment in lieu of notice for the termination of the employment depending on the number of employees in the establishment. In case of termination of a workman, an establishment employing 100 or more workmen must obtain prior permission of the appropriate government.

Employees: For termination of employees other than workmen, the regulations of the S&E Act and the terms of the contract of employment apply. Third party consent, as in case of workman, is not required by an employer to terminate employment relationship with a non-workman. Therefore, the employees other than workmen do not have a statutory right to redundancy/ severance pay in the event of termination unless it is provided for in their contract of employment or the human resources policy of the employer. For termination of such employee, a minimum period of 1 month of written notice or pay in lieu of notice is required.

Termination for cause: Indian labour regulations also recognise termination of employment for cause. The employer may dismiss an individual employee summarily for misconduct without notice. The S&E Acts and the Industrial Employment (Standing Orders) Central Rules lay down acts of the employee which denote misconduct. However, dismissal for misconduct, except in cases involving moral turpitude and criminal acts, should be preceded by a domestic enquiry. This consists of a show cause notice by the employer, opportunity to the employee to be heard and written record of reasons for dismissal. Dismissal without domestic enquiry may be viewed as unlawful termination by Courts in India. Some instances of misconduct which may justify dismissal after conducting a domestic enquiry are willful insubordination or disobedience, theft, fraud or dishonesty.

Severance Payments: Workmen are entitled to a statutory redundancy compensation equivalent to 15 days' pay for each completed year of service and 1 or 3 months' notice (depending on the number of employees in the establishment) or salary in lieu thereof. There is no customary practice in terms of redundancy payments other than the statutory benefits. However, certain statutory benefits like provident fund and gratuity are available to all the employees post termination, irrespective of employees' category, subject to the eligibility criteria and the applicable laws. In case of termination with cause the employer is not obliged to pay any compensation to the employee. The gratuity of an employee, whose services have been terminated for causing any damage or loss to the employer's property, is liable to be forfeited to the extent of loss or damage caused. The gratuity payable to an employee may be wholly or partially forfeited if his/ her services have been terminated for serious misconduct. As a matter of practice, the employer should ensure that it provides a discharge letter to the terminated employee setting out all the payable amounts towards full and final settlement and receive the employee's acknowledgment on such letter.

Gratuity: Gratuity is a terminal benefit earned by an employee for services rendered. The right to receive gratuity and the liability to pay gratuity is a contingent right and liability. While a pension amount is usually payable periodically as long as the pensioner (retired employee) is alive, gratuity is paid only once as a lump sum. The Payment of Gratuity Act, 1972 ("Gratuity Act") is applicable to all establishments where 10 or more persons are or were employed, on any day of the preceding 12 months. Every employee irrespective of his/ her salary is eligible to receive gratuity after rendering continuous service for not less than 5 years: › on superannuation; › on retirement or termination; or › on death or disablement due to accident or disease Completion of continuous service of 5 years is not necessary where the termination of the employment of any employee is due to death or disablement. For every completed year of service or part thereof in excess of 6 months, the gratuity payable shall be at the rate of 15 days' wages for each year of completed service based on the rate of wages last drawn by that employee. The amount of tax-free gratuity payable to an employee is currently capped at INR 1 million (10 lakhs). However, the government is contemplating to double the ceiling of tax-free gratuity to INR 2 million (20 lakhs) soon.

Immigration

On arrival, all passengers are requested to move towards immigration. We conduct immigration check for all passengers, Indians or foreigners, both at the time of arrival and departure. The passports are duly stamped at the arrival as well as departure. Passengers should ensure that their passports are duly stamped before leaving the immigration counter. Only Foreigners coming to India are required to fill-up D (Disembarkation) Card. Passengers are required to present valid travel documents i.e. passport and visa (if applicable) before proceeding for immigration clearance.

If inadvertently, an immigration stamp is not affixed by the counter officer at the immigration check-post, the passenger may immediately contact the concerned FRRO/FRO/SSP and get the same affixed on his/her passport to avoid inconvenience at the time of next travel abroad.

Eligibility to apply for E-Tourist Visa:

- International travelers whose sole objective of visiting India is recreation, sight-seeing, casual visit to meet friends or relatives, short duration medical treatment or casual business visit.
- Passport should have at least six months validity from the date of arrival in India. The passport should have at least two blank pages for stamping by the Immigration Officer.
- International travelers should have return ticket or onward journey ticket, with sufficient money to spend during his/her stay in India.
- International travelers having Pakistani Passport or Pakistani origin may please apply for regular Visa at Indian Mission.
- Not available to Diplomatic/Official Passport Holders.
- Not available to individuals endorsed on Parent's/Spouse's Passport i.e. each individual should have a separate passport.
- Not available to International Travel Document Holders.

E- Tourist Visa application process:

Step 1- Apply online (upload photo and passport page)
Step 2- Pay visa fee online using credit or debit card.
Step 3- Receive E- Tourist Visa online (It will be sent to your email id)
Step 4- Fly to India (Print e-TV and carry it at the time of travel)

They already trust Mercans

What Makes Mercans your HR and Payroll Partner of Choice?

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Everywhere for Everyone

We are a borderless people engagement enabler, driven by technology and innovation. We deliver bespoke human capital management services and global payroll solutions to empower businesses across 110+ countries regardless of their organizations' size and their industry. We pride ourselves on being global people experts with a striking local presence, committed to making your teams happy, and ensuring the consistent and sustainable growth of your organization.

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+1 877 MERCANS (637 2267) | Toll-Free

Europe: +44 20 328 777 62
Americas: +1 646 798 5541
Middle East: +971 43 999 260
Asia: +81 50 5539 5354

info@mercans.com | mercans.com