ASA & ASSOCIATES LLP
CHARTERED ACCOUNTANTS

Regulatory Compliance - India >>

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Once an investor sets-up a business in India, whether it is a liaison office, project office, branch office or company, that business needs to comply with Indian regulations. In this note we will discuss the recurring compliances that affect day to day business. Within each compliance activity, we have indicated the applicability to the business entity i.e. CO for a Company, LO for a Liaison Office, etc.

1 ACCOUNTING & PAYROLL

1.1 Accounting

All businesses in India need to maintain accounting records that meet the Indian Generally Accepted Accounting Policies. A business entity is free to decide their accounting year as financial, calendar or otherwise to match their global reporting norms. However, under the Indian income tax laws it is mandatory to close the books of accounts on a financial year basis i.e. April 1 to March 31.

CO **LO** **PO** **BO**

1.2 Employee Payroll

Businesses need to draft appropriate employment contracts keeping in view the income tax laws and employment regulations. In terms of compliance, they are required to pay monthly salary, generate pay slips and ensure regulatory compliances under labour laws. Furthermore, salaries are structured at the time of set-up, revision or when there is an amendment in the law.

CO **LO** **PO** **BO**

2 ASSURANCE

2.1 Statutory Audit

Under the Indian Companies Act it is mandatory for businesses to have their accounts audited by an Indian firm of chartered accountants. These audited accounts are to be filed with the Registrar of companies ('ROC') and, in some cases, with the Reserve Bank of India.

CO **LO** **PO** **BO**

2.2 Tax Audit

Businesses with an annual turnover exceeding INR 10 million (USD 150,000 approx) need to additionally have accounts audited under specific provisions of the Indian income tax laws and certified by an Indian firm of chartered accountants.

CO **PO** **BO**

2.3 Internal Audit

Private Companies exceeding a turnover INR 2 billion (USD 31millions approx) or outstanding borrowings of INR 1 billion (USD 15 million approx), need to have an internal audit system in place, either outsourced to an Indian firm of chartered accountants or through their in-house team, the latter being prevalant in case of large corporates.

CO

3 DIRECT TAX

3.1 Corporate Tax

Businesses need to determine their annual tax payment and ensure its deposit under an instalment plan commonly referred to as Advance Tax. Delays, deferment or incorrect calculations attract penal provisions. At the year end, an annual return together with audited accounts and tax audit report must be submitted e.g. in case of Financial Year 2018-19, advance taxes have to be deposited by June 15 (15%), September 15 (45%), December 15th (75%) and March 15 (100%). The Annual Return for this year is to be submitted by September 30, 2019 / November 30, 2019.

CO PO BO

3.2 Transfer Pricing

Businesses having cross border dealings with related concerns fall within ambit of Indian Transfer Pricing regulations. This requires the maintenance of documentation and certification by an Indian firm of chartered accountants confirming that the firm's dealings with related concern were at an arm's length, and the profits were appropriately reported by the Indian business entity.

CO PO BO

3.3 Withholding Tax

Businesses need to withhold tax on specified payments viz salary, contractual, etc. To illustrate

PAYEE	WHEN	TAX WITHHOLDING (%)	DATE OF DEPOSIT	REPORTING
Employee	If salary is taxable	Per prescribed slabs*	7th of the month succeeding payments	Quarterly
Contractor	Annual payment exceeds INR 1,00,000 (USD 1500 approx) or single payment exceeds INR 30, 000 (USD 460 approx)	2 (1 for individual payee)	7th of the month succeeding payments	
Landlord	Annual rental exceeds INR 180,000 (USD 3,000 approx)	10 (2 for plant, machinery or equipments)		
Professional	Annual payment exceeds INR 30,000 (USD 460 approx)	10		

3.4 Expatriate Taxation

An expatriate deputed to India is liable to pay tax in respect of his remuneration. The components of taxable remuneration are similar to those applicable to a local employee, though one may explore relief under the Double Tax Avoidance Agreement between India and the parent country. The expatriate would need to file an annual personal tax return with the Indian tax authorities by July 31st. All foreign nationals who are likely to exceed 180 days stay in India, need to register within 14 days of their arrival with the Foreigners Regional Registration Office.

CO LO PO BO

4 INDIRECT TAX

4.1 Customs Duty

Businesses engaged in cross border trading need to comply with customs duty regulations. The duty varies between products. The compliance requirement includes determination and deposit of duty prior to clearance of goods by the customs authority. While basic customs duty remains, the Counter Vailing Duty (CVD) and Special Additional Duty (SAD) of customs are subsumed into GST.

CO LO PO BO

4.2 Goods and Services Tax ('GST ')

GST is applicable on supply of goods and/or services. It consolidates the erstwhile excise duty, service tax, central and local VAT, amongst others. Compliances include deposit of taxes and filing of monthly / quarterly returns.

CO LO PO BO

5 SECRETARIAL COMPLIANCE

Businesses in India need to comply with secretarial matters specified under the Indian Companies Act and report to the concerned ROC. This may include

EVENT	APPLICABILITY			
Office shifting	CO	LO	PO	BO
Change in director / authorized representative	CO	LO	PO	BO
Maintain board minutes, statutory registers	CO			
Annual return to ROC	CO	LO	PO	BO

6 LABOUR LAWS

An employer needs to consider the impact of Provident Fund, government regulated Pension Plan scheme. Furthermore, an outgoing employee, who has exceeded 5 years of service, is to be paid Gratuity calculated as per specified scales.

CO LO PO BO

Industrial units are covered by the Employee State Insurance, Industrial Dispute Act, Contract Labour Act, etc.

CO PO BO

7 MISCELLANEOUS

There are certain state specific regulations e.g. Professional Tax and the Shop and Establishment Act which prevail in Indian states like Karnataka, Maharashtra, Tamil Nadu etc.

8 KEY DATA

REGULATORY MATTER	DUE DATE
Corporate Law	
Board Meeting	Four meetings every year with a gap not exceeding 120 days between two such meetings
Annual General Meeting ('AGM') (adoption of financial)	Within 180 days of end of the financial year
Annual Return with the ROC	Within 60 days from the date of AGM
Tax	
Corporate Tax Return	September 30th / November 30th*
Tax Audit Report	September 30th / November 30th*
Transfer Pricing Report	November 30th
TDS Returns (Tax Withholding)	Quarterly
Individual tax return	July 31st
GST Return • GSTR 3B • GSTR 1 - Turnover > ₹ 15 million - Turnover ≤ ₹ 15 million	 Monthly** Monthly** Quarterly/Monthly**
Compliance	
Deposit of TDS	7th of every month
Deposit of GST	20th of every month

* Where the transfer pricing report is required
****As notified till date**

Filing of GSTR 2 and GSTR 3 yet to be notified

CO — Non-listed company
LO — Liaison Office
PO — Project Office
BO — Branch Office

(1 USD=65 INR)

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International Affiliates
Australia, Austria, Belgium, Canada, China, Denmark, Egypt, France, Finland, Germany, Hongkong, Hungary, Indonesia, Ireland, Israel, Italy, Japan, Luxembourg, Malaysia, Mauritius, Myanmar, Netherlands, Norway, Philippines, Poland, Portugal, Russia, South Korea, Singapore, Slovenia, Spain, Switzerland, Sweden, Thailand, Turkey, UAE, UK, USA, Vietnam

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* This document has been prepared as a service to the clients. We recommend that you seek professional advice prior to initiating action on specific issues.