CHAPTER 01 · COMPLIANCE MANUAL · 2024 EDITION

# Income Tax

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Income tax is a type of tax that the central government charges on the income earned during a financial year by the individuals and businesses. The tax calculation is based on the income slab rates applicable during that financial year.

## 1.1 Tax Rates

### 1.1.1 Individual/HUF/AOP/BOI

| Sl No. | Income Range | Income Range | AY 2024-25 | AY 2023-24 | AY 2022-23 | AY 2021-22 |
|---|---|---|---|---|---|---|
| I | | **Resident Individual below 60 years – *Normal Rate* Non-Resident Individual/HUF/AOP/BOI/Artificial Juridical Person** | **Resident Individual below 60 years – *Normal Rate* Non-Resident Individual/HUF/AOP/BOI/Artificial Juridical Person** | **Resident Individual below 60 years – *Normal Rate* Non-Resident Individual/HUF/AOP/BOI/Artificial Juridical Person** | **Resident Individual below 60 years – *Normal Rate* Non-Resident Individual/HUF/AOP/BOI/Artificial Juridical Person** | **Resident Individual below 60 years – *Normal Rate* Non-Resident Individual/HUF/AOP/BOI/Artificial Juridical Person** |
| | Up to Rs. 2,50,000 | Up to Rs. 2,50,000 | Exempt | Exempt | Exempt | Exempt |
| | Rs. 2,50,001 to Rs. 5,00,000 | Rs. 2,50,001 to Rs. 5,00,000 | 05% | 05% | 05% | 05% |
| | Rs. 5,00,001 to Rs. 10,00,000 | Rs. 5,00,001 to Rs. 10,00,000 | 20% | 20% | 20% | 20% |
| | Above Rs. 10,00,000 | Above Rs. 10,00,000 | 30% | 30% | 30% | 30% |
| | | | | | | |
| II | | Resident Senior Citizen (*aged 60 years & above but below 80 years)* | Resident Senior Citizen (*aged 60 years & above but below 80 years)* | Resident Senior Citizen (*aged 60 years & above but below 80 years)* | Resident Senior Citizen (*aged 60 years & above but below 80 years)* | Resident Senior Citizen (*aged 60 years & above but below 80 years)* |
| | Up to Rs. 3,00,000 | Up to Rs. 3,00,000 | Exempt | Exempt | Exempt | Exempt |
| | Rs. 3,00,001 to Rs. 5,00,000 | Rs. 3,00,001 to Rs. 5,00,000 | 05% | 05% | 05% | 05% |
| | Rs. 5,00,001 to Rs. 10,00,000 | Rs. 5,00,001 to Rs. 10,00,000 | 20% | 20% | 20% | 20% |
| | Above Rs. 10,00,000 | Above Rs. 10,00,000 | 30% | 30% | 30% | 30% |
| | | | | | | |

| Sl No. | Income Range | Income Range | AY 2024-25 | AY 2023-24 | AY 2022-23 | AY 2021-22 |
|---|---|---|---|---|---|---|
| III | | Resident Super Senior Citizen *(aged 80 years & above)* | Resident Super Senior Citizen *(aged 80 years & above)* | Resident Super Senior Citizen *(aged 80 years & above)* | Resident Super Senior Citizen *(aged 80 years & above)* | Resident Super Senior Citizen *(aged 80 years & above)* |
| | Up to Rs. 5,00,000 | Up to Rs. 5,00,000 | Exempt | Exempt | Exempt | Exempt |
| | Rs. 5,00,001 to Rs. 10,00,000 | Rs. 5,00,001 to Rs. 10,00,000 | 20% | 20% | 20% | 20% |
| | Above Rs. 10,00,000 | Above Rs. 10,00,000 | 30% | 30% | 30% | 30% |
| | | | | | | |
| IV | | Resident Individual below 60 years & HUF (Section 115BAC) – *Special Rate* | Resident Individual below 60 years & HUF (Section 115BAC) – *Special Rate* | Resident Individual below 60 years & HUF (Section 115BAC) – *Special Rate* | Resident Individual below 60 years & HUF (Section 115BAC) – *Special Rate* | Resident Individual below 60 years & HUF (Section 115BAC) – *Special Rate* |
| | Up to Rs. 2,50,000 | Up to Rs. 2,50,000 | Exempt | Exempt | Exempt | Exempt |
| | Rs. 2,50,001 to Rs. 5,00,000 | Rs. 2,50,001 to Rs. 5,00,000 | 05% | 05% | 05% | 05% |
| | Rs. 5,00,001 to Rs. 7,50,000 | Rs. 5,00,001 to Rs. 7,50,000 | 20% | 10% | 10% | 10% |
| | Rs. 7,50,001 to Rs. 10,00,000 | Rs. 7,50,001 to Rs. 10,00,000 | 20% | 15% | 15% | 15% |
| | Rs. 10,00,001 to Rs. 12,50,000 | Rs. 10,00,001 to Rs. 12,50,000 | 30% | 20% | 20% | 20% |
| | Rs. 12,50,001 to Rs. 15,00,000 | Rs. 12,50,001 to Rs. 15,00,000 | 30% | 25% | 25% | 25% |
| | Above Rs. 15,00,000 | Above Rs. 15,00,000 | 30% | 30% | 30% | 30% |
| V | **NEW TAX REGIME** | **NEW TAX REGIME** | **NEW TAX REGIME** | **NEW TAX REGIME** | **NEW TAX REGIME** | **NEW TAX REGIME** |
| | Up to 3,00,000 | Up to 3,00,000 | Exempt | | | |
| | 3,00,001 to 6,00,000 | 3,00,001 to 6,00,000 | 05% | Tax Rebate U/s 87A | Tax Rebate U/s 87A | Tax Rebate U/s 87A |
| | 6,00,001 to 9,00,000 | 6,00,001 to 9,00,000 | 10% | Tax Rebate U/s 87A up to 7Lakhs | Tax Rebate U/s 87A up to 7Lakhs | Tax Rebate U/s 87A up to 7Lakhs |
| | 9,00,001 to 12,00,000 | 9,00,001 to 12,00,000 | 15% | | | |
| | 12,00,001 to 15,00,000 | 12,00,001 to 15,00,000 | 20% | | | |

| Sl No. | Income Range | Income Range | AY 2024-25 | AY 2023-24 | AY 2022-23 | AY 2021-22 |
|---|---|---|---|---|---|---|
| | Above 15,00,000 | Above 15,00,000 | 30% | | | |

Resident individual with net income upto Rs. 5 lakh can avail **rebate u/s 87A**, at 100% of tax upto a maximum of Rs. 12,500.

However, under the new tax regime rebate is up to Rs.25000 is applicable if the total income does not exceed Rs 7,00,000. (not applicable for NRIs)

For FY 2023-24, the default regime changed to the new tax regime, now if you want to file the return under the old tax regime by claiming all the deductions, exemptions, and losses, then you have to file within the due date. After the due date, you have to mandatorily file under the new regime by giving up on most of the deductions and exemptions and all losses.

**Alternate Minimum Tax (AMT)** for non-corporates**:** Minimum tax payable is 18.5% of adjusted total income (lower rate in case of international financial services centre), computed as per section 115JC.

**Surcharge, in the case of the Individual, HUF, AOP, BOI or AJP:**

| Income Range | AY 2024-25; AY 2023-24 | AY 2024-25; AY 2023-24 | AY 2024-25; AY 2023-24 | AY 2024-25; AY 2023-24 | AY 2024-25; AY 2023-24 | AY 2024-25; AY 2023-24 |
|---|---|---|---|---|---|---|
| **Income Range** | STCG covered u/s 111A | LTCG covered u/s 112A | LTCG covered u/s 112 | Dividend income | Unexplained income u/s 115BBE | Any other income |
| Rs. 50 Lakhs to Rs. 1 Crore | 10% | 10% | 10% | 10% | 25% | 10% |
| Rs. 1 Crore to Rs. 2 Crores | 15% | 15% | 15% | 15% | 25% | 15% |
| Rs. 2 Crores to Rs. 5 Crores | 15% | 15% | 15% | 15% | 25% | 25% |
| Rs. 5 Crores to Rs. 10 Crores | 15% | 15% | 15% | 15% | 25% | 37% |

**From AY 2023-24 onwards, the surcharge rate for AOP with all members as a company, cannot exceed 15%.*

| Income Range | AY 2022-23; AY 2021-22 | AY 2022-23; AY 2021-22 | AY 2022-23; AY 2021-22 | AY 2022-23; AY 2021-22 | AY 2022-23; AY 2021-22 | AY 2022-23; AY 2021-22 |
|---|---|---|---|---|---|---|
| **Income Range** | STCG covered u/s 111A | LTCG covered u/s 112A | LTCG covered u/s 112 | Dividend income | Unexplained income u/s 115BBE | Any other income |
| Rs. 50 Lakhs to Rs. 1 Crore | 10% | 10% | 10% | 10% | 25% | 10% |
| Rs. 1 Crore to Rs. 2 Crores | 15% | 15% | 15% | 15% | 25% | 15% |
| Rs. 2 Crores to Rs. 5 Crores | 15% | 15% | 25% | 15% | 25% | 25% |

| Income Range | AY 2022-23; AY 2021-22 | AY 2022-23; AY 2021-22 | AY 2022-23; AY 2021-22 | AY 2022-23; AY 2021-22 | AY 2022-23; AY 2021-22 | AY 2022-23; AY 2021-22 |
|---|---|---|---|---|---|---|
| Rs. 5 Crores to Rs. 10 Crores | 15% | 15% | 37% | 15% | 25% | 37% |

**Marginal Relief** in respect of surcharge is available to restrict the amount of increase in income tax to the amount of increase in income.

**Health and Education Cess** is levied at the rate of 4% on the amount of income tax plus surcharge.

**Levy of surcharge at 12%**

In cases where tax has to be charged and paid under sub-section (2A) of section 92CE (related to transfer pricing) or section 115QA (which provides that a domestic company distributing its income through buy back of shares have to pay income tax /distribution tax at 20%) or section 115TA (tax on distributed income to investors) or section 115TD (tax on accreted income).

**Rationalization of surcharge**

Surcharge on AOPs capped at 15% to reduce the disparity in surcharge between individual companies and AOPs.

Surcharge on long term capital gains arising from transfer of any type of assets has been capped at 15%.

**Budget 2022: Virtual Digital Assets Taxation Scheme**

Due to the increase in the frequency and volume of transactions of Virtual Digital Assets, for the first time, the provision for taxation of virtual digital assets is introduced in Budget 2022.

It has inserted Section 115 BBH, which provides taxation rules on income from virtual digital assets. Any income from the transfer of virtual digital assets shall be taxed at 30%. No deduction for any expenditure shall be allowed from the same, except the acquisition cost.

It further specifies that loss arising from the transfer of virtual digital assets cannot be adjusted against any other income, and it cannot be carried forward to subsequent years.

Another provision (Section 194S) is also inserted to deduct TDS at 1% at the time of payment on transfer of virtual digital assets where the amount is above the specified threshold limit.

The Finance Minister has further proposed to fully tax the gifts received in the form of virtual digital assets in the hands of the recipient.

**Other recent amendments**

**Exemption for cash allowance received in lieu of LTC** - As employees have not been able to avail of Leave Travel Concession for the block of 2018-21, to provide relief to employees, exemption in respect of cash allowance received in lieu of LTC will be provided, subject to conditions - the amount received should be incurred by the assessee or family member during the period 12-10-2020 & 31-03-2021 on goods/services which attract 12% or more GST.

**Taxability of interest on provident fund** - Exemption will not be available for interest income accrued during the year on recognised and statutory provident fund for contribution made by employees in excess of Rs. 2,50,000 in a previous year.

### 1.1.2 Other different types of assessees

| Assessee status | Income tax | Income tax | Income tax | Surcharge, subject to marginal relief | Cess |
|---|---|---|---|---|---|
| **Assessee status** | **AY 2023-24** | **AY 2022-23** | **AY 2021-22** | **Surcharge, subject to marginal relief** | **Cess** |
| Partnership Firm/LLP | 30% | 30% | 30% | 12% for total income > Rs. 1 crore | 4% |
| Local Authority | 30% | 30% | 30% | 12% for total income > Rs. 1 crore | 4% |
| **Domestic Company -** ***Normal Rate*** | | | | | 4% |
| (a) Total turnover or gross receipt during the year 2018-19 ≤ Rs. 400 crore | | | 25% | 7% for total income between Rs. 1 crore & Rs. 10 crore; 12% for total income > Rs. 10 crores | 4% |
| (b) Total turnover or gross receipt during the year 2019-20 ≤ Rs. 400 crore | | 25% | | 7% for total income between Rs. 1 crore & Rs. 10 crore; 12% for total income > Rs. 10 crores | 4% |
| (c) Total turnover or gross receipt during the year 2020-21 ≤ Rs. 400 crore | 25% | | | 7% for total income between Rs. 1 crore & Rs. 10 crore; 12% for total income > Rs. 10 crores | 4% |
| (d) Any other domestic company | 30% | 30% | 30% | 7% for total income between Rs. 1 crore & Rs. 10 crore; 12% for total income > Rs. 10 crores | 4% |
| **Domestic Company -** ***Special Rate*** | | | | | 4% |
| Manufacturing of any article (section 115BA) | 25% | 25% | 25% | Normal rate applicable (7% or 12%) | 4% |
| All domestic companies (section 115BAA; no MAT) | 22% | 22% | 22% | 10% | 4% |

| Assessee status | Income tax | Income tax | Income tax | Surcharge, subject to marginal relief | Cess |
|---|---|---|---|---|---|
| **Newly set-up for manufacturing of any article (section 115BAB; no MAT)** ***Refer 1.12 & 1.13 for more details*** | **Newly set-up for manufacturing of any article (section 115BAB; no MAT)** ***Refer 1.12 & 1.13 for more details*** | **Newly set-up for manufacturing of any article (section 115BAB; no MAT)** ***Refer 1.12 & 1.13 for more details*** | **Newly set-up for manufacturing of any article (section 115BAB; no MAT)** ***Refer 1.12 & 1.13 for more details*** | **Newly set-up for manufacturing of any article (section 115BAB; no MAT)** ***Refer 1.12 & 1.13 for more details*** | 4% |
| Income from manufacture or production of article or thing | 15% | 15% | 15% | 10% | 4% |
| Income from non-manufacturing activities (if no specific rate is prescribed) | 22% | 22% | 22% | 10% | 4% |
| Short term capital gains (from transfer of depreciable assets) | 15% | 15% | 15% | 10% | 4% |
| Short term capital gains (from transfer of non-depreciable assets) | 22% | 22% | 22% | 10% | 4% |
| Excess profit added by the Assessing officer under section 115BAB(6) owning to close connection between company and other person | 30% | 30% | 30% | 10% | 4% |
| Special income under Chapter XII | As prescribed under the Act | As prescribed under the Act | As prescribed under the Act | 10% | 4% |
| **Foreign Company** | | | | | 4% |
| (a) Royalty or fees for rendering technical services | 50% | 50% | 50% | 2% for total income between Rs. 1 crore & Rs. 10 crore; 5% for total income > Rs. 10 crores | 4% |
| (b) Any other income | 40% | 40% | 40% | 2% for total income between Rs. 1 crore & Rs. 10 crore; 5% for total income > Rs. 10 crores | 4% |

| Assessee status | Income tax | Income tax | Income tax | Surcharge, subject to marginal relief | Cess |
|---|---|---|---|---|---|
| **Co-operative Society - *Normal Rate*** | | | | | 4% |
| Upto Rs. 10,000 | 10% | 10% | 10% | 12% for total income > Rs. 1 crore; **For AY 2023-24:** 7% for total income between Rs. 1 crore & Rs. 10 crore; 12% for total income > Rs. 10 crores | 4% |
| Rs. 10,000 to Rs. 20,000 | 20% | 20% | 20% | 12% for total income > Rs. 1 crore; **For AY 2023-24:** 7% for total income between Rs. 1 crore & Rs. 10 crore; 12% for total income > Rs. 10 crores | 4% |
| Above Rs. 20,000 | 30% | 30% | 30% | 12% for total income > Rs. 1 crore; **For AY 2023-24:** 7% for total income between Rs. 1 crore & Rs. 10 crore; 12% for total income > Rs. 10 crores | 4% |
| **Co-operative Society - *Special Rate*** | | | | | 4% |
| Resident co-operative society (section 115BAD, no AMT) | 22% | 22% | 22% | 10% | 4% |

**Minimum Alternate Tax (MAT)** for corporates**:** Minimum tax payable is 15% of book profit (lower rate in case of international financial services centre), computed as per .

### Reduced AMT and Surcharge Rates for Co-operative Societies

Reduction of the Alternative Minimum Tax to 15% of the adjusted total income from the current rate of 18.5% to provide parity in tax rates between co-operative societies and companies.

It has further capped the surcharge at 7% for the co-operative societies with total income above Rs. 1 crore and up to Rs. 10 crore.

### Clarification for Allowability of Surcharge and Cess

It is further clarified that the surcharge and cess on income and profits will not be allowed as business expenditure.

### Set off of losses against undisclosed income (section 79A)

No set off of losses brought forward, or otherwise, or unabsorbed depreciation u/s 32(2) shall be allowed to an assessee while computing his total income in any previous year which includes undisclosed income –

That is found in the course of a search u/s 132 or a requisition u/s 132A or a survey u/s 133A, other than under sub-section (2A),

That is represented, either wholly or partly, by any entry in the books of account in respect of an expense or other documents maintained in the normal course relating to the previous year which is found to be false and would not have been found otherwise.

### Deduction of tax on benefit of perquisite in respect of business or profession

Section 194R has been inserted to provide that any person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession, by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that **tax has been deducted** in respect of such benefit or perquisite at the **rate of 10%** of the value or aggregate of value of such benefit or perquisite.

Further, no deduction shall be made if the value of benefits passed on does not exceed Rs. 20,000.

### Tax Incentives to IFSC units

It is proposed to amend the clause (4E) of Section 10 so as to provide that exemption under clause (4E) shall also be applicable to the income accrued or arisen to, or received by a non resident as a result of **transfer of offshore derivative instruments** or over-the-counter derivatives entered into with an Offshore Banking Unit of an International Financial Services Centre, as referred to in sub-section (1A) of Section 80LA, which fulfils the conditions prescribed.

Clause (4F) provides exemption to any income of a non-resident byway of royalty or interest, on account of lease of an aircraft in a previous year, paid by a unit of an International Financial Services Centre as referred to in sub-section (1A) of Section 80LA, if the unit has commenced its operations on or before 31st March, 2024.

It is proposed to amend the clause to extend the exemption to any income of a non-resident by way of royalty or interest, on account of lease of a “ship” paid by a unit of an International Financial Services Centre also.

It is also proposed to insert a new clause (4G) to provide exemption to any income received by a non-resident from portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident, in an account maintained with an Offshore Banking Unit, in any International Financial Services Centre as referred to in sub-section (1A) of Section 80LA, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

### Other recent amendments

### Business or Profession

**No MAT on dividend income of a foreign company** - Dividends received by a foreign company on its investment in India will be excluded for calculation of book profit if the tax payable on dividend income is less than MAT liability on account of concessional tax rate provided under DTAA.

**No deduction for employee's contribution if not deposited before the due date -** The deduction u/s 36(va) for contribution received by the employers from employees towards any welfare fund will be allowed only if such sum is credited by the employer to the employee's account in the fund on or before the due date.

**LLPs are not eligible for presumptive taxation scheme u/s 44ADA -** Only an Individual, HUF or a Partnership Firm, not being an LLP, will be eligible to opt for presumptive taxation scheme u/s 44ADA.

**Increase in threshold limit for tax audit to promote digital transactions -** If at least 95% of the business receipts and payments are made through electronic modes, the threshold limit for the tax audit would be Rs. 10 crores from assessment year 2021-22.

**No depreciation will be allowed on goodwill -** Section 2(11) specifically excludes goodwill (acquired or self-generated) from the block of assets. If the assessee has claimed depreciation on goodwill prior to assessment year 2021-22, then the cost of purchase of goodwill will be reduced by the amount of depreciation while computing capital gains.

**No equalisation levy on royalty or fees for technical services -** Equalisation levy will not be levied on consideration received or receivable for specified services or for e-commerce supply which is taxable as royalty or fees for technical services.

**Exemption in respect of income chargeable to equalisation levy -** Exemption u/s 10(50) will apply for e-commerce supply or services made or provided or facilitated on or after 01-04-2020 on which equalisation levy is levied. No exemption will apply for royalty or fees for technical services which are taxable.

#### Charitable and Religious Trusts

**Set-off of deficit will not be allowed to Charitable Institutions -** Charitable trusts will not be permitted to claim any carry forward of losses and no set-off/deduction/allowance of any excess application of any preceding year will be allowed while computing income required to be applied or accumulated during the previous year.

**Amount applied out of loans will not be considered as an application of income -** Utilization of borrowed money will not be considered as an application of income for charitable or religious purposes. However, when loan or borrowing is repaid from the income of the previous year, repayment will be allowed as an application in the year in which it is repaid.

**Corpus contributions will be exempt only if invested -** Voluntary contributions made with a specific direction that it will form part of the corpus will be eligible for exemption only if it is invested/deposited in modes specified u/s 11(5) maintained specifically for such corpus. The amount spent from corpus will not be considered as an application against the mandatory 85% application of non-corpus income.

**Exemption to educational or medical institutions having annual receipt of up to Rs. 5 crores -** Educational or medical institutions are entitled to exemption u/s 10(23C)(iiiad) and 10(23C)(iiiae) respectively, if the annual receipt does not exceed Rs. 1 crore. This limit has been now increased to Rs. 5 crores.

### 1.1.3 Tax on Capital Gains

| Nature of capital gain | Condition | Tax applicable* |
|---|---|---|
| Long-term capital gain | Normal rate | 20% |
| | Special rate: | |

| Nature of capital gain | Condition | Tax applicable* |
|---|---|---|
| | 1. Sale of listed securities (equity share in a company/unit of an equity oriented fund/business trust) exceeding Rs. 1 lakh (section 112A) | 10% |
| | 2. Transfer of security listed in a recognised stock exchange, a unit of UTI/mutual fund listed or not and zero coupon bonds (other than section 112A) | Lower of: 10% without indexation and 20% with indexation |
| Short-term capital gain | Normal rate | Normal slab rates |
| | Concessional rate: | |
| | 1. Sale of equity shares listed in a recognised stock exchange/units of equity oriented mutual fund/business trust (section 111A) 2. STT is not paid, but transaction is undertaken on a recognised stock exchange located in a international financial services centre and consideration is paid/payable in foreign currency | 15% |

*Plus surcharge and cess as applicable

Refer annexure (para 25.1.1) for capital gains computation table

**Recent amendments**

**Slump sale -** Slump sale will include all types of transfers specified u/s 2(47).

**Transfer of capital asset to partner/member on the dissolution of the firm/AOP/BOI is taxable as capital gains -** Where a partner/member receives any money or other asset during dissolution or reconstitution of the firm/AOP/BOI which is more than the balance appearing in the capital account, the profits or gains will be chargeable as capital gains to the firm/AOP/BOI.

**Taxation of unit linked insurance policy (ULIP) -** Section 10(10D) provides exemption in respect of sum received under a life insurance policy if the premium payable does not exceed 10% of sum assured. This exemption will not be available with respect to any ULIP issued on or after the 01-02-2021, if the amount of premium payable during the term of the policy exceeds Rs. 2,50,000 per annum. This ULIP will be treated as a capital asset.

**Revision in the safe harbour limit (10%) in respect of the transfer of immovable property below stamp duty value -** To boost the demand in the real estate sector and to enable the real estate developers to liquidate their unsold inventory at a lower rate to home buyers, the safe harbour limit is increased from existing 10% to 20% in case of transfer of residential property during the period from 12-11-2020 to 30-06-2021 by way of first-time allotment to any person. The consideration should not exceed Rs. 2 crores.

**Extension in the time limit for transfer of residential house property for Section 54GB exemption -** Time limit for utilising the net consideration (capital gain from transfer of a residential property) for investment in the equity shares of an eligible start-up has been extended by an year to 31-03-2022 from erstwhile 31-03-2021.

## 1.2 Advance Tax

### 1.2.1 Applicability

Every person whose estimated tax liability after TDS is Rs. 10,000 or more, must pay advance tax.

A resident senior citizen not having any income from business or profession is not liable to pay advance tax (section 208).

TCS, MAT, AMT, rebate and other reliefs under section 90/90A or 91 should be deducted before arriving at advance tax liability.

### 1.2.2 Due Dates for Payment of Advance Tax Instalments

| Due Date | Assessees other than eligible assessee u/s 44AD or 44ADA | Presumptive taxation u/s 44AD or 44ADA |
|---|---|---|
| By 15th June | Minimum 15% of tax | Nil |
| By 15th September | Minimum 45% of tax | Nil |
| By 15th December | Minimum 75% of tax | Nil |
| By 15th March | Minimum 100% of tax | Minimum 100% of tax |

If taxpayer's estimate is lower than the estimate of the AO, taxpayer must submit his estimate of current income and pay tax accordingly. An intimation must be sent in Form No. 28A. No intimation is required if the taxpayer's estimate is higher based on which advance tax is being paid.

### 1.2.4 Consequences of Default

| Section | Nature of default | Interest Payable | Exception |
|---|---|---|---|
| 234B | Default in payment of advance tax | Simple interest @ 1% pm or part, from 1st April of the assessment year | Advance tax paid was more than 90% of the total tax |
| 234C | Deferment of advance tax | Simple interest @ 1% pm or part, for 3 months* on the amount of shortfall (*1 month in case of the last instalment due on 15th March) | Advance tax paid on or before 15th June or 15th September is not less than 12% or 36%, respectively |

**Recent amendment**

**Relief from interest for any deficit in the advance tax liability due to dividend income -** If the shortfall in the advance tax instalment or the failure to pay on time is on account of dividend income, no interest u/s 234C will be charged if the assessee has paid full tax in subsequent advance tax instalments.

## 1.3 Tax Deducted/Collected at Source

### 1.3.1 ApplicabilitY

Any person who is liable for audit  must deduct TDS as per the relevant provisions. All companies and firms are required to deduct TDS.

Deductor should quote TAN in all the TDS certificates, challans, quarterly statements and correspondences. Failure to quote TAN, may attract penalty of Rs.10,000.

Person deducting TDS on consideration of more than Rs. 50 lakhs for sale of immovable property other than the agricultural property can use PAN instead of TAN (section 194IA).

TCS is tax payable by a seller which he collects from the buyer at the time of sale (section 206C).

### 1.3.2 How to pay TDS/TCS?

Tax deducted or collected at source must be deposited to the credit of Central Government by:

Electronic mode: E-payment is mandatory for

All corporate assesses; and

All assesses (other than company) to whom provisions of  are applicable.

Physical mode: By furnishing Challan 281 in the authorized bank branch.

All corporate, Government deductors and persons required to get accounts audited u/s 44AB are compulsorily required to file their TDS return in electronic mode. For others, filing of e-return is optional.

### 1.3.3 TDS/TCS Rates

Refer annexure (para 25.1.2) for TDS rates and annexure (para 25.1.3) for TCS rates

Health and education cess at 4% on the tax amount is applicable only for TDS u/s 192 Salary.

In case of absence of PAN, the rate applicable would be 20% (section 206AA)**.**

**Budget 2022: TDS on sale of immovable property**

Deduction of tax by any person responsible for paying to a resident any sum by way of consideration for transfer of any immovable property (>= Rs. 50 lakh) (other than agricultural land) shall at the time of credit or payment to the resident at the rate of 1%.

**Amendment:** It is proposed to amend the section to provide that the person responsible for paying to a resident any sum by way of consideration for transfer of any immovable property (other than agricultural land) shall at the time of credit or payment to the resident deduct tax at the rate of 1% of such sum or the stamp duty value of such property, whichever is higher.

**Recent Amendments**

**w.e.f 1st July 2021**

In case of a transaction on which TCS u/s 206C(1H) is applicable, TDS u/s 194Q shall not apply.

**A specified person is :**

Person who has not filed the income tax return for 2 previous years;

Time limit of ITR filing – normal due date u/s 139(1) – has expired; **and**

Aggregate TDS/TCS is Rs. 50,000 or more in each of the 2 previous years

Higher rate in case of non-filing of ITR does not apply where the tax is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act.

**w.e.f 1st October 2020**

**Note: Reduction in rate of TDS & TCS**

Rates of TDS for non-salaried specified payments made to residents and rates of TCS for specified receipts have been *reduced by 25% for the period from 14-05-2020 to 31-03-2021.*

Reduction in rates will not apply where the tax is required to be deducted or collected at higher rate due to non-furnishing of PAN/Aadhaar.

**Other amendments**

**TDS at a concessional rate on the income from securities held by FPIs -** Considering the applicability of DTAA in case of FPIs, Section 196D is amended to provide tax deduction at the rate provided under DTAA if it is lower than current TDS rate of 20%.

**No TDS on dividend distributed by SPV to the business trust -** Business trusts are considered pass-through entities and are allowed to pass certain income to their unit holders without paying tax. As business trust can freely pass the dividend received from SPV to its unit holders, no tax will be deducted on payment of dividend by the SPV to the business trust.

**Issuance of zero-coupon bond by infrastructure debt fund -** Definition of zero-coupon bond provided u/s 2(48) has been amended to enable infrastructure debt fund to issue bonds. Consequential amendment has been made u/s 194A to provide relaxation from deduction of tax on income payable with respect to these bonds.

### 1.3.4 Due Dates – TDS/TCS Payments & Returns

| Category | Particulars/Period | Due dates | Due dates |
|---|---|---|---|
| **Category** | **Particulars/Period** | **FY 2024-25** | **FY 2023-24** |
| Depositing TDS | TDS for the month of March | 30th April of next year | 30th April of next year |
| | TDS for other months | 7th of next month | 7th of next month |
| Depositing TCS | TCS for all the months | 7th of next month | 7th of next month |
| Tax is deducted by office of the | Tax deposited without challan | Same day | Same day |
| Government | Tax deposited with challan | 7th of next month | 7th of next month |
| TDS Quarterly | 1st April to 30th June | 31st July | 31st July |
| Return Filing | 1st July to 30th September | 31st October | 31st October |
| | 1st October to 31st December | 31st January | 31st January |

| Category | Particulars/Period | Due dates | Due dates |
|---|---|---|---|
| | 1st January to 31st March | 31th May | 31st May |
| TCS Quarterly | 1st April to 30th June | 15th July | 15th July |
| Return Filing | 1st July to 30th September | 15th October | 15th October |
| | 1st October to 31st December | 15th January | 15th January |
| | 1st January to 31st March | 15th May | 15th May |

The time limit for depositing TDS u/s 194-IA on the purchase of immovable property is the 30th day of the following month in which the property is purchased.

### TDS/TCS Certificates

| Form No. | Due Date |
|---|---|
| Form No. 16 - Annual | On or before 31st May of the financial year immediately following the financial year in which tax is deducted<br>Extended upto 15th July for FY 2020-21 |
| Form No. 16A/ 27B/27D - Quarterly | Within 15 days from due date of furnishing quarterly TDS/TCS |
| Form No. 16B | Within 15 days of furnishing challan in Form No. 26QB |

TDS/TCS certificates must be generated online from **www.tdscpc.gov.in (Traces).**

### Forms for Quarterly TDS Returns

| Form No. | Purpose |
|---|---|
| Form 24Q | TDS on Salaries |
| Form 26Q | TDS on payments other than Salaries |
| Form 27Q | TDS on payments made to Non-Residents |

## 1.3.6 TDS Exemption Forms

| Sl No. | Nature of Income | Form No. | Certificate Issued |
|---|---|---|---|
| 1 | Application under section 197 Salary, interest on securities, insurance commission, commission, brokerage, rental income, income in respect of units, compensation on acquisition of immovable property, payment to non-resident | Form 13 Non deduction or lower deduction of TDS | Form 15AA |
| 2 | Payments to contractors & sub-contractors | Form 13C | No specified certificate (letter will be issued) |
| 3 | Commission on sale of lottery tickets | Form 13D | No specified certificate (letter will be issued) |

| Sl No. | Nature of Income | Form No. | Certificate Issued |
|---|---|---|---|
| 4 | Payment of fees for professional & technical services | Form 13E | No specified certificate (letter will be issued) |
| 5 | Payment to non-resident banking company | Form 15C | Form 15E |
| 6 | Payment to non-resident company carrying on business or profession in India through a branch (other than interest/dividend) | Form 15D | Form 15E |
| 7 | Application under section 197A | | |
| | Interest from bank (residents) and dividend income 1. Senior citizens 2. Other individuals/HUF | | Form 15H |
| | Interest from bank (residents) and dividend income 1. Senior citizens 2. Other individuals/HUF | | Form 15G |

### 1.3.9 TCS ExemptioN

TCS is exempted when

The eligible goods are used for personal consumption.

The purchaser buys the goods for manufacturing, processing or production and not for the purpose of trading.

A copy of declaration must be submitted to the Chief Commissioner/Commissioner of Income Tax **on or before expiry of 7 days** from the end of month in which the sale is made.

Buyer can apply to the AO for a lower rate (Form 13). AO, upon satisfaction, will issue a certificate, specifying the rate of collection u/s 206C.

### 1.3.10 Consequences of Default

Interest

1% pm for a month or part for non-deduction of TDS and 1.5% pm for a month or part for late payment of TDS after deduction. Interest must be paid before filing of TDS return, from the date at which TDS was deducted.

1% pm for a month or part for late payment of TCS.

**Penalty (section 234E – late submission of quarterly TDS/TCS returns)**

Fee of Rs. 200 per day till the failure to pay continues.

Penalty is restricted to the total amount of TDS/TCS.

**Penalty (section 271H – late filing or non-filing of TDS/TCS return or furnishing incorrect information)**

AO may direct a person who fails to file the statement of TDS/TCS within due date to pay a penalty minimum of Rs.10,000 which may be extended to Rs. 1,00,000.

Futher, disallowance of the expenditure as per section 40a(ia) shall get attracted.

## 1.4 Filing of IT Returns

### 1.4.1 ITR Forms

| Sl No. | Form | Description | Applicable to |
|---|---|---|---|
| 1 | ITR-1 SAHAJ | Individual having income from salary/pension, one house property, other sources and agriculture upto Rs. 5,000 | Resident individual |
| 2 | ITR-2 | Individual/HUF, not covered under ITR-1 not having income from profits and gains of business or profession | Individual/HUF |
| 3 | ITR-3 | Individual/HUF having income from profits and gains of business or profession | Individual/HUF/partner in a firm |
| 4 | ITR-4 SUGAM | Individual/HUF/firm (not LLP) having income from business or profession computed as per presumptive income scheme | Individual/HUF/firm other than LLP, being a resident |
| 5 | ITR-5 | For persons other than individual, HUF, company and person filing ITR-7 | LLP/Firm/AOP/BOI/AJP/estate of deceased or insolvent/business trust/investment fund |
| 6 | ITR-6 | Company other than company claiming exemption under section 11 (charitable/religious purposes) | Company |
| 7 | ITR-7 | Person including company required to furnish return under sections 139(4A) / (4B) / (4C) / (4D) | Company/trusts/political parties/charitable institutions |

ITR-1 and ITR-4 can only be filed by assessee having total income upto Rs. 50 lakh.

ITR-V acknowledgement is received for the income tax return filed which must be signed and posted by the assessee to the income tax department within 30 days of filing.

This requirement is not applicable to ITRs filed using digital signature and e-verification done via mobile/e-mail/net banking/EVC.

**Relaxation for certain senior citizens (≥ 75 age) from filing ITR (w.e.f 1st April 2021)**

He has pension income and no other income. However, he may also have interest income from the same bank in which he is receiving his pension income.

This bank is a specified bank.

He has to furnish a declaration to the specified bank.

The specified bank will compute the income of such senior citizen after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A and deduct income tax on the basis of rates in force.

**Budget 2022: New Provision for Updation of ITR**

A new provision is inserted that allows the taxpayers to file an updated return for errors or mistakes done in income tax returns. Taxpayers can now file an updated return within two years from the end of the relevant assessment year.

### 1.4.2 Due Dates

| Section | Particulars | Due date | Extended due date AY 2021-22 |
|---|---|---|---|
| 139(1) | Return of income (mandatory & voluntary) | | |
| | Company required to furnish report u/s 92E | 30th Nov | 31st Dec'21 |
| | Other companies | 31st Oct | 30th Nov'21 |
| | Non corporate assessee or a working partner, whose accounts are required to be audited | 31st Oct | 30th Nov'21 |
| | Any other case | 31st July | 30th Sept'21 |
| 139(3) | Loss Return | As per section 139(1) | As per section 139(1) |
| | No loss can be carried forward if return is filed after due date, except for house property loss and unabsorbed depreciation | As per section 139(1) | As per section 139(1) |
| 139(4) | Belated Return | 3 months before end of relevant AY, or before completion of assessment, whichever is earlier | 31st Jan'22 |
| 139(5) | Revised Return | 3 months before end of relevant AY, or before completion of assessment, whichever is earlier | 31st Jan'22 |
| | Return can only be revised if original return is filed within due date u/s 139(1) or in response of notice issued u/s 142(1) | 3 months before end of relevant AY, or before completion of assessment, whichever is earlier | 31st Jan'22 |

**139(9) – Defective Return:** If a return of income is found to be defective, AO will intimate the defect to the assessee and give a period of 15 days to rectify the defect. If the defect is not rectified within this period, the return will be treated invalid and it will not be considered.

**Recent amendments**

Reduction in the time limit for filing of belated or revised return - The time limit for filing of belated return or revised return is reduced by 3 months.

Time limit for sending intimation u/s 143(1) and issue of notice u/s 143(2) has been reduced from 1 year to 9 months and from 6 months to 3 months, respectively, from the end of the financial year in which the return was furnished.

Notice to file the return of income can be issued by the prescribed authority - To enable centralised issuance of notices in an automated manner, the prescribed Income-tax authority would also be empowered to issue a notice under Section 142(1) in addition to the Assessing Officer.

**Other amendments:**

Conditions listed under which a return of income is considered as defective u/s 139(9).

Section 143(1)(a) which specifies adjustments made while processing the return of income.

### 1.4.3 Consequences of Default

**Interest for delay in filing the return (section 234A):** 1% per month or part from the end of the due date till date of payment of tax.

**Penalty for failure to furnish return within due date (section 234F –-** *amended w.e.f AY 2021-22*)**:** Fee of Rs. 5,000. If the total income does not exceed Rs. 5 lakh, then fee payable will be limited to Rs. 1,000.

**Penalty for failure to comply with notice issued or direction for audit (section 272A ):** Penalty of Rs. 10,000 for each failure may be levied.

**Penalty for concealment of income (section 270A):** Penalty for under-reporting (50% of amount of tax payable) and misreporting (100% of amount of tax payable) of income will be levied, if there is a taxable income and the return is not filed.

**Best judgment assessment (section 144):** AO is under an obligation to make an assessment to the best of his judgment, if the taxpayer fails to –

file the return required within the due date prescribed for filing normal return, belated return and revised return [section 139(1), 139(4), 139(5)]

comply with all the terms of a notice issued [section 142(1), 143(2)] or with the direction issued [section 142(2A)]

**Prosecution in case of failure to furnish the return (section 276CC):** This section provides for rigorous imprisonment for a term up to 7 years and fine.

**Assessments, appeal and attachments - amendments**

**Reduction in time limit for reopening of cases -** New procedure of assessment for search and income escaping assessment has been introduced which is focused on less litigation and providing ease of business by reducing the time limits to issue notice for assessment or reassessment. No notice can be issued if three years have elapsed from the end of the assessment year, but if the income escaping assessment exceeds or is likely to exceed Rs. 50 lakhs, notice can be issued within 10 years from the end of the assessment year.

**Faceless scheme for ITAT appeal the Central Government** has been empowered for disposal of appeal. This will eliminate the interface between the ITAT and parties to the appeal. All communication between the Tribunal and the Appellant will be electronic. Where a personal hearing is needed, it will be done through video-conferencing.

**Constitution of DRC for small and medium taxpayers -** Setting up of Dispute Resolution Committee (DRC) - Taxpayers having a taxable income of up to Rs. 50 lakh and disputed income of up to Rs. 10 lakh will be eligible to approach the Committee (optional).

**Discontinuance of Income Tax Settlement Commission -** Discontinuation with effect from 01-02-2021 and an Interim Board of Settlement will be constituted for pending cases.

**Constitution of the Board for Advance Ruling -** To provide an alternative method of providing advance ruling which can give rulings to taxpayers promptly, a Board of Advance Ruling will be constituted. Authority for Advance Rulings will cease to operate with effect from the notified date.

**Provisional attachment of assets in fake invoice cases -** Assessing Officer is empowered to provisionally attach the property of assessee during the pendency of proceedings u/s 271AAD (penalty for fake invoices) if the amount or aggregate of amounts of penalty imposable is likely to exceed Rs. 2 crores.

## 1.5 Tax Audit

### 1.5.1 Applicability

| Nature of income | Threshold | Threshold | Additional criteria |
|---|---|---|---|
| **Nature of income** | **Upto 31st Mar 2021** | **w.e.f 1st Apr 2021** | **Additional criteria** |
| Business | Total sales, turnover or gross receipts > 5 crore | Total sales, turnover or gross receipts > 10 crore | Cash receipts & payments do not exceed 5% of total receipts & payments, respectively |
| Business | Total sales, turnover or gross receipts > 1 crore | Total sales, turnover or gross receipts > 1 crore | None |
| Profession | Total gross receipts > Rs. 50 lakh | Total gross receipts > Rs. 50 lakh | None |

**Tax audit applicability for assessees opting for presumptive taxation**

| Particulars | Tax audit is applicable if assessee, |
|---|---|
| Section 44AE (plying, hiring or leasing goods carriages), 44BB (exploration of mineral oils) or 44BBB (civil construction) | Claims profits or gains lower than the prescribed limit |
| Section 44AD (business) | Declares taxable income below the prescribed limit and income exceeds basic threshold, or total sales, turnover or gross receipts exceed Rs. 3 crore |

| Particulars | Tax audit is applicable if assessee, |
|---|---|
| Section 44ADA (professional income) | Claims profits or gains lower than the prescribed limit and income exceeds maximum amount not chargeable to tax |

### 1.5.2 Tax Audit Reports

| Report | Particulars | Due date | Due date |
|---|---|---|---|
| **Report** | **Particulars** | **General** | **Extended<br>AY 2021-22** |
| Form 3CA | Audit report - mandatory audit conducted under any other Act | 30th Sept | 31st Oct |
| Form 3CB | Audit report - audit conducted only under the Income Tax Act | 30th Sept | 31st Oct |
| Form 3CD | Statement of particulars related to various aspects of the business and transactions | 30th Sept | 31st Oct |
| Form 3CE | Audit report - international or specified transactions | 31st Oct | 30th Nov |

### 1.5.3 Consequences of default

**Penalty (section 271B)**: AO may impose penalty in the absence of a reasonable cause for non-compliance. The amount would be 0.5% of the total sales, turnover, or gross receipts subject to a maximum Rs. 1.5 lakh.

## 1.6 Presumptive Taxation Scheme

| Section | Business | Not applicable to | Eligible assessee | Eligible assessee | Minimum deemed profit/gain |
|---|---|---|---|---|---|
| 44AD | Any business excluding goods carriage, agency and commission or brokerage | Total turnover or gross receipts > Rs. 3 crore | Resident 1. Individual 2. HUF 3. Firm (not LLP) | Resident 1. Individual 2. HUF 3. Firm (not LLP) | 8% of turnover or gross receipts, or 6% of turnover or gross receipts, if received by banking channels |
| 44ADA | Specified professional income | Total gross receipts > Rs. 75 lakhs | Resident 1. Individual 2. HUF 3. Firm (not LLP) | Resident 1. Individual 2. HUF 3. Firm (not LLP) | 50% of gross receipts |

| Section | Business | Not applicable to | Eligible assessee | Eligible assessee | Minimum deemed profit/gain |
|---|---|---|---|---|---|
| 44AE | Plying, leasing or hiring goods carriages | Person owning more than 10 goods carriages any time during the year | Any assessee | Rs. 7,500 per month or part, for each goods carriage other than heavy goods vehicle, and Rs. 1,000 per ton of gross vehicle weight per month or part, for heavy goods vehicle | Rs. 7,500 per month or part, for each goods carriage other than heavy goods vehicle, and Rs. 1,000 per ton of gross vehicle weight per month or part, for heavy goods vehicle |
| 44B | Shipping business | N/A | **Non resident** | 7.5% of amount paid (anywhere) and amount received (in India), to or by the assessee for carriage of passengers, livestock, mail or goods shipped at any port in India and outside India, respectively | 7.5% of amount paid (anywhere) and amount received (in India), to or by the assessee for carriage of passengers, livestock, mail or goods shipped at any port in India and outside India, respectively |
| 44BB | Activities connected with exploration of mineral oils | N/A | **Non resident** | 10% of amount paid (anywhere) and amount received (in India), to and by the assessee for provision of services or facilities or supply of plant and machinery in extraction or production of mineral oils in India and outside India, respectively | 10% of amount paid (anywhere) and amount received (in India), to and by the assessee for provision of services or facilities or supply of plant and machinery in extraction or production of mineral oils in India and outside India, respectively |
| 44BBA | Operation of aircraft | N/A | Foreign airlines | 5% of amount paid (anywhere) and amount received (in India), to or by the assessee for carriage of passengers, livestock, mail or goods from any place in India and outside India, respectively | 5% of amount paid (anywhere) and amount received (in India), to or by the assessee for carriage of passengers, livestock, mail or goods from any place in India and outside India, respectively |

| Section | Business | Not applicable to | Eligible assessee | Eligible assessee | Minimum deemed profit/gain |
|---|---|---|---|---|---|
| 44BBB | Civil construction in turnkey power projects | Power project not approved by Central Government | Foreign companies | 10% of amount paid in or outside India to the assessee for civil construction, erection, testing or commissioning | 10% of amount paid in or outside India to the assessee for civil construction, erection, testing or commissioning |

Presumptive income computed is the final income, no further expense will be allowed or disallowed.

No need to maintain books of account as prescribed u/s 44AA.

Person opting for presumptive taxation scheme must follow it for 5 years, failing which, the scheme will not be available for next 5 years. Person will also be required to maintain books of account and will be liable for tax audit u/s 44AB.

## 1.7 Maintenance of Books of Accounts (Section 44AA)

### 1.7.1 Applicability

**a. Books of accounts (prescribed) to be compulsorily maintained as per Rule 6F:**

**Books to be maintained which have been prescribed,**

Cash Book

Journal

Ledgers

Copies of bills or receipts ( > Rs. 25)

Original bills and corresponding receipts issued to the person (Payment vouchers prepared and signed by the person may be used, if the expenditure is < Rs.50)

Daily cash register (Form 3C) with details of patients, services rendered, fees received and date of receipt and details of stock (inventory) of drugs, medicines, and other consumables used for persons carrying on medical profession.

**b. Books of accounts (not prescribed) to be compulsorily maintained, as may enable the Assessing Officer to compute the total income:**

No books of accounts are required to be maintained by a business or other non-specified profession when the sales/turnover/gross receipt or income is below the threshold provided above.

Books should be maintained for a period of 6 years from the end of the assessment year and at the place where the profession is carried on.

If the assessment is reopened u/s 147, all the books of accounts kept and maintained at the time of reopening of assessment, must be maintained till the assessment is completed.

### Consequences of default

**Penalty (section 271A):** Failure to maintain books of accounts and other documents or to retain them attracts penalty of **Rs. 25,000**.

## 1.8 Depreciation

### 1.8.1 Applicability

Depreciation must be calculated on the asset owned by the assessee (or beneficial owner) which is used for the purpose of business/profession, on a written down value basis.

If the asset is partially owned, proportionate amount of depreciation would be allowed to the assessee on the basis of his share of ownership.

### 1.8.2 Depreciation Rates

| Asset category | Rate (%) |
|---|---|
| Building | |
| Residential | 5 |
| Others | 10 |
| Temporary structure | 40 |
| Plant and Machinery | |
| Ships | 20 |
| Aircraft | 40 |
| Computer and computer software | 40 |
| Books | 40 |
| Pollution control equipments | 40 |
| Others | 15 |
| Furniture and fixture and other electrical fittings | 10 |
| Intangible assets | 25 |
| Motor cars, lorries and taxis used in the business of running on hire | |
| Acquired between 23rd Aug'19 and 1st Apr'20, put to use after 1st Apr'20 | 45 |
| Others | 30 |
| Motor cars not used in the business of running on hire | |
| Acquired between 23rd Aug'19 and 1st Apr'20, put to use after 1st Apr'20 | 30 |

| Asset category | Rate (%) |
|---|---|
| Others | 15 |

When the asset is put to use for a period ≥ 180 days, asset must be depreciated using the full rate. However, when an asset is used for a period < 180 days, then the rate must be halved.

No depreciation is allowed when the asset is acquired but not put to use.

Depreciation shall not be allowable if payment for the asset in a day is otherwise than through an account payee cheque/account payee DD or use of electronic clearing system exceeding Rs. 10,000.

**Additional depreciation u/s 32(1)(iia) at 20% or 10%**: Assessee engaged in the business of manufacture/production of any article or engaged in the business of generation, transmission or distribution of power, is allowed a further sum of depreciation on the acquisition of new plant and machinery, other than ships and aircrafts. The rate of additional depreciation is 20% of the actual cost if asset is acquired and put to use for 180 days or more, and 10% if the period is less than 180 days, but the remaining sum of 10% is allowed in the immediate next year.

**Unabsorbed depreciation** can be carried forward for an indefinite period and can be set off against any head of income except salary. Business losses are given priority over unabsorbed depreciation for the purpose of set off.

**Depreciation and GST:** If Input Tax Credit has been (or will be) claimed for the GST paid, depreciation must be calculated on the amount net of GST, else gross amount including GST.

**Deferred Tax**: Provisions for deferred tax must be created under the balance sheet approach, to account for difference in depreciation value as per IT Act and Companies Act.

## Disallowance of an expense u/s 40A(3)

### Applicability

Expenditure incurred by an assessee above **Rs. 10,000** other than by account payee cheque/draft or use of electronic clearing system through a bank account will not be allowed as a deduction.

However, if the payments are made for hiring or leasing carriages for goods, then the limit is **Rs. 35,000**.

This section extends to single payments or aggregate of payments made to a single person in a day.

Where payment is made in the subsequent years after deduction has been claimed in an earlier year, the payment will be deemed to be income under the head business & profession for the previous year in which payment is made (section 40A(3A)).

Payment made for purchasing stock-in-trade and advance payments made are covered as expenditure.

This section will not apply in certain cases:

Expenses not claimed as a deduction u/s 30 to 37

Cases where books of accounts are rejected

Where income of the assessee is determined by applying a flat percentage.

Where assessee declares the income as per the provisions of section 44AD.

Disclosure in Tax Audit Report must be made.

### 1.9.2 Exceptions under Rule 6DD

Disallowance shall not apply when payment is made,

To banking and other credit institutions (RBI, commercial banks, cooperative banks, LIC).

Through the banking system (letters of credit, mail or telegraphic transfers, bills of exchange).

By way of adjustment against the amount of liability incurred by the payee for goods supplied or services rendered by the assessee.

To growers, producers or cultivators of agriculture, horticulture, fish and animal produce.

To a producer for the purchase of the products manufactured or processed without the aid of power in a cottage industry.

To a person who resides or carries on business in a village not served by banks and financial institutions.

To Government - direct taxes, indirect taxes, duties, cess etc.

By way of gratuity, retrenchment compensation or similar terminal benefit, to an employee of the assessee (or heirs), if the income chargeable under the head salaries of the employee in respect of the current financial year or immediately preceding financial year is < Rs. 50,000.

On the day of bank closure either due to a holiday or strike.

By any person to his agent who is required to make payment in cash for goods or services.

Authorized dealers and foreign exchange money changers registered with RBI who are required to pay cash for purchase of foreign currency.

By an assessee by way of salary to his employee after deducting the income tax when such employee is temporarily posted for a continuous period of 15 days or more in a place other than his normal place of duty or on a ship and does not maintain account in any bank at such place or ship.

## 1.10 RETIREMENT BENEFITS

On retirement, an employee normally receives certain retirement benefits. These benefits are taxable as **profits in lieu of Salaries**. However, in respect of some of them, exemption from taxation is granted u/s 10 (wholly or partly).

**Relief u/s 89** can be claimed if tax payable is higher due to receipt of arrears. Such relief is available in the following cases,

Salary received in arrears or in advance;

Salary received for more than 12 months in one financial year;

Family pension received in arrears;

Gratuity

Compensation on termination of employment; and

Commuted pension

### 1.10.1 GRATUITY u/s 10(10)

Gratuity is **exempt under the following circumstances:**

Exemption is permissible even in cases of termination of employment due to resignation. Taxable portion of gratuity (service period >= 5 years) will quality for relief u/s 89(1).

### 1.10.2 COMMUTATION OF PENSION U/S 10(10A)

### 1.10.3 LEAVE ENCASHMENT U/S 10(10AA)

Leave encashment during service is fully taxable in all cases. Relief u/s 89(1) may be claimed. For the purpose of this section, the term ‘Superannuation or otherwise’ covers resignation. Leave encashmet received at the time of retirement is **exempt under the following circumstances:**

### RETRENCHMENT COMPENSATION U/S 10(10B)

### 1.10.5 COMPENSATION ON VOLUNTARY RETIREMENT U/S 10(10C)

Relief u/s 89 is available only if the employee has not claimed the tax exemption which is available u/s 10(10C).

### 1.10.6 Compensation on Termination of Employment

There is no provision that exempts tax on severance payments to employees other than a qualifying voluntary retirement scheme as per Section 10(10C), subject to fulfilment of conditions.

If the severance payout is not as per any qualifying scheme, the entire amount becomes taxable, but relief u/s 89 can be claimed.

For cases where compensation is received but the employer-employee relation does not exist:

Any compensation or payment due or received in connection with termination of employment or modification of its terms will be taxable under income from other sources under section 56.

### 1.10.7 PAYMENT FROM PROVIDENT FUND U/S 10(11) and 10(12)

Any payment received from a Provident Fund to which the Provident Fund Act, 1925 applies, is exempt.

Any payment from any other provident fund notified by the Central Govt. is exempt. Public Provident Fund established under the PPF Scheme, 1968 has been notified.

Accumulated balance due and becoming payable to an employee participating in a Recognised Provident Fund is exempt to the extent provided in Rule 8 of Part A of the Fourth Schedule of the Income Tax Act.

**Rule 8 of Part A of the Fourth Schedule of the Income Tax Act:**

The exemption is available if -

The employee has rendered continuous service with employer for a minimum period of 5 years.

The employee has not rendered continuous service for 5 years and his service has been terminated by

reason of the employee’s ill-health, or

by the contraction or discontinuance of the employer's business, or

any other cause beyond the control of the employee.

On the cessation of employment, the employee obtains employment with any other employer, and accumulated balance due and becoming payable is transferred to the individual account in any recognized provident fund maintained by other employer.

The entire balance standing to the credit of the employee is transferred to the account under NPS referred in section 80CCD and notified by the central government.

**TDS on EPF Withdrawal:**

TDS is deductible on withdrawal of the accumulated balance if the amount is not exempt in the hands of the employee.

TDS is deducted at the time of payment of the accumulated balance.

TDS is not deductible if the aggregate amount of withdrawal is less than Rs. 50,000.

Applicable rate is 10%. If the PAN of the recipient is not available, then TDS is deductible at the maximum rate.

### 1.10.8 PAYMENT FROM APPROVED SUPERANNUATION FUND US/ 10(13)

Payment from an Approved Superannuation Fund will be exempt if the payment is made under the circumstances of **death, retirement and incapacitation**.

## 1.11 Income from other sources (Section 56)

Income from other sources is the residual head of income. Any income which is not specifically taxed under any other head of income will be taxed under this head.

**Certain incomes which are always taxed as income from other sources:**

Dividends

Winnings from lotteries, crossword puzzles, races including horse races, card game and other game of any sort, gambling or betting of any form.

Interest received on compensation or enhanced compensation (deemed to be the income of the year in which it is received, irrespective of the method of accounting followed). A deduction of a sum equal to 50% is allowed.

Gifts received by an individual or HUF which are chargeable to tax.

Following incomes if they are not taxed as profits and gains of business or profession:

Any contribution to a fund for welfare of employees.

Income by way of interest on securities.

Income from letting out or hiring of plant, machinery or furniture.

Income from letting out of plant, machinery or furniture along with building when both the lettings are inseparable.

Any sum received under a Keyman Insurance Policy including bonus.

### 1.11.1 Tax on Dividend

Dividend received from an Indian company was ***exempt until 31 March 2020 (FY 2019-20)***, as the company declaring dividend already paid dividend distribution tax (DDT).

The Finance Act, 2020 changed the method of dividend taxation. All dividend received **on or after 1 April 2020** is taxable in the hands of the investor or shareholder.

The DDT liability on companies and mutual funds has been withdrawn. The tax of 10% on dividend receipts of resident individuals, HUF and firms in excess of Rs. 10 lakh (Section 115BBDA) also stands withdrawn.

#### TDS on dividend income

The Finance Act, 2020 imposes a TDS on dividend distribution by companies and mutual funds, on or after 1 April 2020.

The normal rate of **TDS is 10% on dividend income paid in excess of Rs. 5,000** from a company or mutual fund (as a COVID-19 relief measure, the government reduced the TDS rate to 7.5% for distribution from 14 May 2020 until 31 March 2021).

The tax deducted will be available as a credit from the total tax liability of the taxpayer while filing ITR.

For non-residents, TDS is required to be deducted at the rate of 20% subject to the DTAA (double taxation avoidance agreement), if any. To avail the benefit of lower deduction due to beneficial treaty rate with country of residence, the non-resident has to submit documentary proof such as Form 10F, declaration of beneficial ownership, certificate of tax residency, etc. If the documents are not submitted, higher TDS would be deducted which can be claimed at the time of filing ITR.

#### Deduction of expenses from dividend income

The Finance Act, 2020 provides for deduction of **interest expense incurred** against the dividend.

The deduction should not exceed 20% of the dividend income received.

No deduction can be claimed for any other expenditure like commission or salary expense incurred for earning the dividend income.

#### Advance Tax on dividend income

Advance tax provisions apply if the total tax liability of the taxpayer is equal to or more than Rs. 10,000 in a particular financial year.

Interest and penalty is levied in case of non-payment or short payment of the advance tax liability.

#### Submission of Form 15G/15H

A resident individual receiving dividends whose estimated annual income is below the exemption limit can submit form 15G to the company or mutual fund paying the dividend.

A senior citizen whose estimated annual tax payable is nil can submit Form 15H to the company paying the dividend.

The company or mutual fund informs the shareholder about the dividend declaration on their registered mail id and requires submission of form 15G or form 15H to claim dividend income without TDS.

#### Dividend Received from Foreign Company

Dividend received from a foreign company is taxable. It will be included in the total income of the taxpayer and will be charged to tax at the rates applicable to such taxpayer.

The investor can claim deduction only for the interest expense restricted to 20% of the gross dividend income.

The company declaring the dividend must deduct TDS u/s 194 of the Act. 10% TDS is applicable for dividend income above Rs. 5,000 for an individual which will be increased to 20% in the absence of PAN.

#### Relief from Double Taxation

If the tax on an international company's dividend has been paid in both the nations, then the taxpayer can claim double taxation relief.

The relief can either be claimed as per the provisions of double taxation avoidance agreement or as per Section 91 if no such agreement exists.

## 1.12 Taxation of Gifts

The Government introduced gift tax in April 1958 regulated by Gift Tax Act, 1958 (GTA) with an objective to impose taxes on giving and receiving gifts under certain specific circumstances. However, the GTA was abolished in October 1998 and made all gifts tax-free. But, Gift Tax was reintroduced in a new form and included in the Income-tax provisions in 2004.

### 1.12.1 Gift taxation in India

Gifts received by any person by any person or persons are **taxed in the hands of the recipient** under the head Income from other sources at normal tax rates. The provisions relating to gift tax have been dealt with under Section 56(2)(x) of the Income-tax Act, 1961.

| Kind of gift covered | Monetary threshold | Quantum taxable |
|---|---|---|
| Any sum of money without consideration | Sum > 50,000 | Entire sum of money received |
| Any immovable property such as land, building, etc without consideration | Stamp duty value > Rs 50,000 | Stamp duty value of the property |
| Any immovable property for inadequate consideration | Stamp duty value exceeds consideration by > Rs 50,000 | Stamp duty value minus consideration |
| Any property (jewellery, shares, drawings, etc) other than immovable property without consideration | Fair market value > Rs 50,000 | Fair market value of such property |
| Any property other than immovable property for a consideration | Fair market value exceeds consideration by > Rs 50,000 | Fair market value minus consideration |

### 1.12.2 Provisions relating to Stamp Duty

For the purpose of computing gift tax in case of immovable property, stamp duty value needs to be considered.

However, stamp duty value can be higher due to varied reasons and one of such reasons can be a considerable time gap between agreement fixing the consideration and date of registration. Therefore, for the purpose of gift tax, stamp duty value as on the date of agreement fixing the consideration needs to be considered if the following conditions are satisfied:

Date of such agreement and the date of registration are different; and

Consideration either fully or in part is paid by way of an account payee cheque or bank draft or by using an electronic mode of transfer through bank account on or before the date of agreement for transfer

Further, in case the taxpayer has questioned or disputed the stamp duty value adopted by stamp duty valuation authority as per Section 50C, the tax officer is required to refer the valuation to a valuation officer who is required to call for records and give an opportunity of being heard to the taxpayer and pass an order in writing of value arrived.

For the purpose of gift tax, a lower stamp duty value or value arrived by the valuation officer is required to be adopted.

### 1.12.3 Exemptions from gift tax

| Category of donee (recipient of gift) | Category of donee (recipient of gift) | Category of donor | Occasions covered |
|---|---|---|---|
| Individual | Relative – spouse, brother and sister of self and spouse, brother or sister of parents or parents in law, any lineal ascendant or descendant of self or spouse, spouse of any of the relatives mentioned above. | Relative – spouse, brother and sister of self and spouse, brother or sister of parents or parents in law, any lineal ascendant or descendant of self or spouse, spouse of any of the relatives mentioned above. | Not Applicable |
| Individual | Any person | Any person | Marriage of individual |
| Any person | Any person | Any person | Under a will or by way of inheritance |
| Any person | Individual | Individual | In contemplation of death of donor/payer |
| Any person | Local authority – Panchayat, Municipality, Municipal Committee and District Board, Cantonment Board | Local authority – Panchayat, Municipality, Municipal Committee and District Board, Cantonment Board | Not Applicable |
| Any person | Any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to Section 10(23C) | Any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to Section 10(23C) | Not Applicable |
| Any person | Any person | Any charitable or religious trust registered u/s 12A or 12AA | Not Applicable |

| Category of donee (recipient of gift) | Category of donee (recipient of gift) | Category of donor | Occasions covered |
|---|---|---|---|
| Any fund or trust or institution or any university or other educational institution or any hospital or other medical institution established for char itable/religious/educational /philanthropic purpose and approved by the prescribed authority (Section 10(23C) (iv) (v) (vi) and (via)) | Any fund or trust or institution or any university or other educational institution or any hospital or other medical institution established for char itable/religious/educational /philanthropic purpose and approved by the prescribed authority (Section 10(23C) (iv) (v) (vi) and (via)) | Any person | Not Applicable |
| Members of HUF | Members of HUF | HUF | Any distribution of capital assets on total or partial partition of a HUF |
| Trust created or established solely for the benefit of relative of the Individual | Trust created or established solely for the benefit of relative of the Individual | Individual | Not Applicable |

## 1.13 Chapter VI-A

### 1.13.1 Deductions available u/s 80

| Section | Deduction on | Applicable to | Maximum allowable limit |
|---|---|---|---|
| 80C | Investment in PPF | Individual & HUF | Up to Rs. 1,50,000 |
| 80C | Employee’s share of PF contribution | Individual & HUF | Up to Rs. 1,50,000 |
| 80C | National Saving Certificates | | Up to Rs. 1,50,000 |
| 80C | Life Insurance Premium payment | | Up to Rs. 1,50,000 |
| 80C | Children’s Tuition Fee | | Up to Rs. 1,50,000 |
| 80C | Principal Repayment of home loan | | Up to Rs. 1,50,000 |
| 80C | Investment in Sukanya Samridhi Account | | Up to Rs. 1,50,000 |
| 80C | Unit Linked Insurance Plans, ELSS | | Up to Rs. 1,50,000 |
| 80C | Sum paid to purchase deferred annuity | | Up to Rs. 1,50,000 |
| 80C | Five year deposit scheme | | Up to Rs. 1,50,000 |
| 80C | Senior Citizens Savings scheme | | Up to Rs. 1,50,000 |
| 80C | Subscription to Notified securities/notified deposits scheme Home Loan Account scheme of the National Housing Bank | | Up to Rs. 1,50,000 |

| Section | Deduction on | Applicable to | Maximum allowable limit |
|---|---|---|---|
| 80C | Deposit scheme of public sector/company engaged in providing housing finance<br>Equity shares/debentures of an approved eligible issue<br>Notified bonds of NABARD | | Up to Rs. 1,50,000 |
| 80C | Contribution to notified Pension Fund set up by Mutual Fund/UTI<br>Annuity Plan of LIC | | Up to Rs. 1,50,000 |
| 80CCC | Amount deposited in annuity plan of LIC or any other insurer for a pension from a fund referred to in Section 10(23AAB) | Individual & HUF | |
| 80CCD(1) | Employee’s contribution to NPS account (maximum up to Rs 1,50,000) | Individual & HUF | |
| 80CCD(2) | Employer’s contribution to NPS account | Individual & HUF | Up to 10% of salary |
| 80CCD(1B) | Additional contribution to NPS | Individual & HUF | Up to Rs. 50,000 |
| 80TTA(1) | Interest income from savings account | Individual & HUF | Up to Rs. 10,000 |
| 80TTB | Exemption of interest from banks, post office, etc. | Resident Senior Citizen | Up to 50,000 |
| 80GG | For rent paid when HRA is not received from employer | Individual | Least of : |
| 80GG | For rent paid when HRA is not received from employer | Individual | Rent paid less 10% of total income; |
| 80GG | For rent paid when HRA is not received from employer | | Rs. 5000 pm; |
| 80GG | For rent paid when HRA is not received from employer | | 25% of total income |
| 80E | Interest on education loan | Individual | Interest paid for 8 years |
| 80EE | Interest on home loan for first time home owners | Individual | Rs. 50,000 |
| 80D | Medical Insurance – Self, spouse, children | Individual & HUF | Rs. 25,000 |
| 80D | Medical Insurance – Parents more than 60 years old or uninsured parents more than 80 years old<br>Preventive health checkup | Individual & HUF | Rs. 50,000<br>Rs. 5,000 |
| 80DD | Medical treatment for handicapped dependent or payment to specified scheme for maintenance of handicapped dependent | Resident Individual & HUF | |

| Section | Deduction on | Applicable to | Maximum allowable limit |
|---|---|---|---|
| 80DD | Disability is 40% or more but < 80% | | Rs. 75,000 |
| 80DD | Disability is 80% or more | | Rs. 1,25,000 |
| 80DDB | Medical expenditure on self or dependent relative for diseases specified in Rule 11DD | Individual & HUF | Lower of: |
| 80DDB | For less than 60 years old | | Rs. 40,000 or amount paid; Rs. 1,00,000 or amount paid |
| 80DDB | For more than 60 years old | | Rs. 40,000 or amount paid; Rs. 1,00,000 or amount paid |
| 80U | Self-suffering from disability : | Resident Individual | |
| 80U | Individual suffering from physical disability or mental retardation | Resident Individual | Rs. 75,000 |
| 80U | Individual suffering from severe disability | | Rs. 1,25,000 |
| 80G | Donation to certain funds or institutions | All assessees | 100% or 50% of the amount |
| 80GGA | Donations for Scientific research or rural development | All assessees except those who have an income or loss from business or profession | No limit |
| 80GGB | Contribution by companies to political parties | Companies | Amount contributed (not allowed if paid in cash) |
| 80GGC | Contribution by individuals to political parties | Individuals | Amount contributed (not allowed if paid in cash) |
| 80RRB | Deductions on Income by way of Royalty of a Patent | Resident Individual | Lower of Rs. 3,00,000 or income received |

### NPS deduction to State government employees

The State government employees will now be able to claim deduction under Section 80CCD(2) for NPS contribution by the employer up to 14% of their basic salary and dearness allowance, which is in line with the deduction available to the Central government employees.

### Tax Relief to the Persons with Disability

Currently, Section 80DD provides a tax deduction to the parents or guardians of the disabled person who have paid any amount under the insurance scheme specified.

The deduction is available only if such insurance scheme provides for the payment of annuity and lump sum amount to the differently-abled person on the death of the subscriber.

The section is amended to include insurance schemes that allow the payment of annuity and lump sum amount to the differently-abled dependant during the lifetime of the parent and guardians on attaining their age of sixty years or more, and the payment or deposit to such scheme has been discontinued.

### Other recent amendments

**Section 80-IBA deduction to rental housing projects -** Section 80-IBA provides for deduction of an amount equal to 100% of the profits and gains derived by an assessee from the business of developing and building affordable housing project approved on or before 31-03-2021. This date has been extended to 31-03-2022 and the scope of the section has been expanded to allow a deduction in respect of notified rental housing projects as well.

**Extension in the due date for incorporation of start-up company for Section 80-IAC** - A start-up is eligible for deduction u/s 80-IAC upon satisfying certain conditions. One of the conditions provide that it should be incorporated between 01-04-2016 and 31-03-2021. This outer date of incorporation has been extended to 31-03-2022.

**Extension in the time limit for sanction of housing loan for deduction u/s 80EEA** - Additional deduction u/s 80EEA for the interest on housing loan is allowed if the loan is sanctioned on or before 31-03-2021. This outer date for sanction of such housing loan has been extended by one year to 31-03-2022.

### 1.13.2 Deduction of profits and gains from housing projects u/s 80iba

Conditions to be fulfilled:

**Any assessee** (individual, HUF, AOP, BOI, firm, company or any other person).

Assessee has derived profit from the **business of developing and building a housing project** (includes **rental housing project** w.e.f. 01-04-2022).

*(Time period is applicable for obtaining the approvals for the project and not for commencement of the construction, or completion of construction for the project)*

Project is **approved by the competent authority** after 01-06-2016 but on/before 31-03-2021 (substitute as ‘on/before 31-03-2022’ w.e.f. 01-04-2022) (date of first approval).

Project must be **completed within a period of 5 years** from the date of approval by the competent authority (deemed to be complete where certificate of completion of project **as a whole,** is obtained from competent authority in writing).

Project is the **only housing project on the plot** of land.

**Carpet area** of the shops and other commercial establishments included in housing project **cannot exceed 3% of aggregate carpet area.**

Where a residential unit in the housing project is allotted to an individual**, no other residential unit** in the housing project **shall be allotted to the individual or the spouse or the minor children** of such individual.

Assessee maintains **separate books of accounts** in respect of the housing project.

Other conditions prescribed w.r.t project size and residential unit:

**Definitions:**

Housing project: a project consisting predominantly of **residential units** with such other facilities and amenities as the competent authority may approve subject to the provisions of this section.

Residential unit: an independent housing unit with **separate facilities** for living, cooking & sanitary requirements, **distinctly separated** from other residential units within the building, which is **directly accessible** from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household

### 1.13.3 TAX INCENTIVE FOR START-UPS U/S 80iac

**Eligibility Criteria for applying to Income Tax exemption (80IAC):**

The entity should be a DPIIT recognized Startup.

Only Private limited or a Limited Liability Partnership is eligible for Tax exemption under Section 80IAC.

The Startup should have been incorporated on or after 1st April 2016.

Start-up is engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation.

**What is a DPIIT recognized Startup?**

The Startup should be incorporated as a private limited company or registered as a partnership firm or a limited liability partnership in India and satisfies following 3 conditions:

Turnover should be less than INR 100 Crores in any of the previous financial years.

An entity shall be considered as a startup up to 10 years from the date of its incorporation.

The Startup should be working towards innovation/ improvement of existing products, services and processes and should have the potential to generate employment/ create wealth.

An entity formed by splitting up or reconstruction of an existing business shall not be considered a Startup. A business entity shall cease to exist as a startup once it completes 10 years from the date of incorporation or registration and if its turnover for any of the previous financial years exceeds Rs. 100 crores.

**Benefits:** Tax holiday for 3 consecutive financial years out of its first ten years since incorporation. In order to get tax exemption under section 80 IAC of the Income Tax Act, the startup must register on the Startup India portal.

**Procedure for Registration:**

The interested entities are required to create a login id on Startup India portal using the following details:

Memorandum of association (for Pvt Ltd) or LLP Deed (for LLP).

Board resolution (if any).

Annual accounts & income tax returns of the startup for the last three financial years. (balance sheet and the profit and loss statement must be CA certified).

If your startup was incorporated on 1st April 2018 or later, Income Tax Return is not mandatory. For startups incorporated earlier, ITR is mandatory.

Startup Video Link: The video should cover the following aspects:

The video should ideally be of 2-3 minutes and be no longer than 5 minutes showcase the working of the products, prototype/proof-of-concept developed by startup.

If startup is a product or software-based startup then showcasing a demonstration/prototype/walk-through of the products/software products developed by startup is compulsory.

If startup provide software or technology services such as website development, application development, developing white-label software products for clients, then showcase a demonstration/prototype/walk-through of the products developed for key clients.

Pitch Deck – the pitch deck shall include the following details:

Information about the product/service offering of your startup brief about how is your startup innovative and/or scalable (uniqueness of the startup differentiating it from its competitors).

Director details and their educational qualification, professional experience, and formal role in the startup/current designation (if any).

Shareholding pattern as on the date of filling this application.

Directors and Shareholders' citizenship details.

Team details – current role, education, and professional experience.

Details about adherence to the specific government approvals required by the startups such as FSSAI registration, and guidelines set by Bureau of Indian Standards Revenue model, etc.

**Budget 2022: Start-ups Tax Incentive Period Extended**

Citing the start-ups as drivers for the economy's growth, the benefit of tax incentives under Section 80-IAC was available to the start-ups that were incorporated up to 31st March 2022. However, the benefit of tax incentives is further extended to start-ups incorporated up to 31st March 2023.

## 1.14 Measures to curb black money

### 1.14.1 Section 269SS and 269T

Sections 269SS and 269T were introduced restricting cash payments and repayment of loans & deposits to curb the increasing cash transactions leading to accumulation of black money.

| Section | Description | Exceptions | Penalty |
|---|---|---|---|
| 269SS | A person cannot accept cash loan or deposit of Rs. 20,000 or more from another person. | Transaction with the below mentioned entities.<br>Transaction between persons earning only agriculture income.<br>Receiving cash from relative during emergencies.<br>Partners contributing cash capital into partnership firm | 100% of the loan or deposit amount |
| 269T | A person cannot repay the loan or deposit in cash, if the amount is Rs. 20,000 or more. | Transaction with the below mentioned entities. | 100% of the loan or deposit amount |

**Specified Entities:**

Government and Government company

Banking company, post office savings bank or co-operative bank

Corporation established by a Central, State or Provincial Act

Institution, association or body or class, notified in Official Gazette.

**Reporting of 269SS & 269T Transactions:**

Transactions hit by the provisions of Sections 269SS and 269T must be reported in Form 3CD Tax Audit Report. Both the parties (payer and receiver) must report the transactions.

### 1.14.2 Income Declaration Scheme 2016

The government has brought-in the Income Declaration Scheme, 2016 to provide an opportunity to those who haven't declared their income properly. The scheme allows a citizen to disclose the undeclared income and pay the applicable taxes.

**Who can disclose income & assets under The Income Declaration Scheme 2016?**

All persons are eligible to make declaration under the scheme. Citizens who have not declared their income wholly or partially and paid their taxes in full in the past can come forward and declare their undisclosed income/assets. They have to pay the corresponding taxes, surcharges, and penalties as applicable.

**Income tax penalty rate:**

Income tax at 30% of undisclosed income

Surcharge at 7.5% of undisclosed income

Penalty at 7.5% of undisclosed income

A total of 45% of the undisclosed income is required to be paid to the government.

**Forms to be filed:**

**Form 1:** Declaration form to be filled and submitted by the taxpayer within the due date.

**Form 2:** Acknowledgement of declaration to be issued within 15 days from the end of the month in which declaration is filled.

**Form 3:** Imitation of payment of tax, surcharge, and penalty must be submitted by the declarant within the specified date.

**Form 4:** Certificate of declaration to be provided by PCIT/CIT within 15 days from the date of intimation of payment.

**Immunity for the income declarant:**

No enquiry/scrutiny under the Income Tax/Wealth Tax Act with respect to such declarations.

No prosecution under the Income Tax/Wealth Tax Act.

Immunity from Benami Transactions (Prohibition) Act, 1988.

**Mode of declaring such income:**

Online through the e-filing portal.

Submit printed form to jurisdictional Principal Commissioner or Commissioner of Income Tax.

**Recent amendment**

**No interest on refund of the excess sum paid under IDS -** Board can specify a class of persons who can claim a refund of excess tax paid under the IDS. However, the excess amount of tax, surcharge or penalty paid in pursuance of a declaration made under this scheme will be refundable to the specified class of persons without payment of any interest.

## 1.12 Section 115BAA - New tax rate for domestic companies

Section 115BAA was inserted to give the benefit of a reduced corporate tax rate to the domestic companies. Domestic companies have the option to pay tax at a rate of 22% plus surcharge of 10% and cess of 4% (optional scheme).

The effective tax rate would be 25.17% from AY 2020-21 onwards if the domestic companies adhere to the conditions specified. The company need not pay tax under MAT.

### Conditions specified under eligibility criteria

Companies should not avail any exemptions or incentives under different provisions of income tax. Therefore, the total income of the company must be computed **without deduction under the following sections:**

| Sl No. | Section | Description |
|---|---|---|
| 1 | Section 10AA | Special provisions in respect of established units in Special Economic Zones |
| 2 | Section 32(1)(iia) | Additional depreciation |
| 3 | Section 32AD | Investment linked deduction- new plant and machinery made in notified backward areas in the states of Andhra Pradesh, Bihar, Telangana, and West Bengal |
| 4 | Section 33AB | Tea, coffee, and rubber manufacturing companies |
| 5 | Section 33ABA | Deposits made towards site restoration fund by companies engaged in extraction or production of petroleum or natural gas or both in India |
| 6 | Section 35 | Expenditure on scientific research, or amount paid to a university/research association/national laboratory/IIT |
| 7 | Section 35AD | Capital expenditure incurred by any specified business |
| 8 | Section 35CCC | Expenditure incurred on an agriculture extension project |
| 9 | Section 35CCD | Expenditure incurred on a skill development project |
| 10 | Chapter VIA | Deductions under Chapter VIA are not allowed, except: |
| | | Section 80JJAA - Deduction in respect of employment of new employees |

| Sl No. | Section | Description |
|---|---|---|
| | | Section 80LA- Persons having eligible unit in the International Financial Services Centre |
| | | Section 80M - Deduction in respect of inter-corporate dividends (w.e.f. AY 2021-22) |

Companies will have to **exercise this option** to be taxed u/s 115BAA **on or before the due date** of filing income tax. Once the company opts for section 115BAA in a particular financial year, it cannot be withdrawn subsequently.

If in any previous year the company fails to satisfy any of the conditions, the scheme under 115BAA becomes invalid for that assessment year and subsequent assessment years. The company will not be eligible to exercise this option in future.

The option must be exercised in **Form 10-IC,** to be submitted online under a digital signature or under an electronic verification code.

There is **no restriction on turnover** and the company need not be a new company, any existing company can migrate into this section at any point.

The option of reduced rate of tax can be exercised only by a Domestic Company that satisfies these conditions. Individuals, LLPs, Partnership Firms, AOP, BOI, Foreign Companies and Societies are not eligible to avail this option.

**Can taxpayer utilise MAT credits if section 115BAA option is exercised?**

The domestic companies opting for section 115BAA will not be able to claim MAT credits for taxes paid under MAT during the tax holiday period.

**Adjustment of brought forward losses and unabsorbed depreciation u/s 115BAA:** Brought forward losses and depreciation from previous years can be set off against the income on the condition that **they must not be attributable to the deductions** mentioned above. Otherwise, the domestic company opting for section 115BAA will not be allowed to claim set-off of any brought forward loss or depreciation for the assessment year in which the option has been exercised and future assessment years.

There is no timeline for the domestic companies to choose a lower tax rate under section 115BAA. So, such companies can avail the benefit of section 115BAA after claiming the brought forward loss on account of additional depreciation and also utilising the MAT credit against the regular tax payable.

**Will Section 115BAA impact Capital Gain tax?**

Even if the company opts to exercise the option u/s 115BAA, there will be no impact on the rates of tax of LTCG, STCG and brought forward losses under the head capital gains.

## 1.13 Section 115BAB – Corporate tax rate for new manufacturing companies

Section 115BAB offers a low tax rate of 15% plus surcharge and cess to new manufacturing companies to promote the new manufacturing start-ups. The new effective tax rate that will apply to domestic companies availing the benefit of 115BAB is 17.16%. Domestic company satisfying specified conditions can claim this benefit from AY 2020-21. Companies will not be required to pay MAT.

### Conditions specified under eligibility criteria

The company has been set up and registered on or after 1 October 2019 and has commenced manufacturing on or before 31 March 2023.

Company should not be formed by the splitting up and reconstruction of a business already in existence except in case of a business re-established under section 33B (rehabilitation allowance).

Company does not use any plant or machinery previously used for any purpose. However, the company can use plant and machinery used outside India and used in India for the first time, whose value does not exceed 20% of the total value of the plant and machinery used by the company.

Company does not use a building previously used as a hotel or a convention centre for which deduction u/s 80ID has been allowed.

Company should be engaged in the business of manufacture or production of any article or thing, and research in relation to such article or thing, or its distribution.

Company is not engaged in the following businesses:

Software Development

Mining

Conversion of marble blocks or similar materials into slabs

Bottling of gas into cylinders

Printing of books

Production of cinematograph films

Other notified business

The total income of the company should be calculated **without claiming the tax exemptions and incentives** as mentioned above under Section 115BAA (1.12.1)

The company cannot set off any loss carried forward from earlier years if such losses were incurred in respect of these deductions.

The company has to exercise the option on or before the due date of filing income tax returns. Once the company opts for section 115BAB in a particular financial year, it cannot be withdrawn subsequently.

### Applicability of transfer pricing provisions

When the company earns more than ordinary profits due to a close connection with any other person, or for any other reason, the assessing officer may ignore the excess profits. The assessing officer will take only the amount of profits **reasonably deemed** to be derived from the business.

In case a business transaction involves a specified domestic transaction referred to in section 92BA, the profits of the transaction will be determined having regard to the arms-length price.

Hence, transactions between companies claiming lower rate under this section and other group and related parties must be at arm’s length or reasonable basis and not in a manner to evade or reduce tax liability for the group as a whole.

### Taxability at higher Income Tax rates

Adjustment to profits as mentioned above will be taxed at 30% rate of income tax.

Any income derived from other business activities apart from manufacture or production of an any article or thing or research or distribution, will be taxed at 22% rate of income tax and no deduction of any expenditure will be allowed against such income.

Short term capital gains on which depreciation is claimed will be taxable at 22% tax rate.

If in any previous year the conditions mentioned are not satisfied, the option of lower tax rate will cease to apply from that assessment year.

**Budget 2022: Newly incorporated manufacturing entities will be incentivized under concessional tax regime for one more year**

Clause (a) of sub-section (2) of the Section 115BAB requires that the domestic company should be set-up and registered on or after the 1st day of October, 2019, and should have commenced manufacturing or production of an article or thing on or before the 31st day of March, 2023 for availing the benefit of concessional rate.

It is proposed to amend the said clause so as to extend the date of commencement of manufacturing or production of an article or thing from 31st March, 2023 to 31st March, 2024.

## 1.15 Tax Computation Table for Individual & HUF

**Grouping of Income:**

| Sl No. | Taxable Income | Rs. | Rs. |
|---|---|---|---|
| I | Income from Salary | XX | |
| II | Income from House Property | XX | |
| III | Income from Business or Profession | XX | |
| IV | Income from Capital Gain | XX | |
| V | Income from Other Sources | XX | |
| A | Gross Total Income (I + II+ III + IV + V) | Gross Total Income (I + II+ III + IV + V) | XXX |
| | Less: LTCG, Casual Income and STCG u/s 111A, taxed separately | Less: LTCG, Casual Income and STCG u/s 111A, taxed separately | XX |
| | Less: Deductions under Chapter VIA (from 80C to 80U) | Less: Deductions under Chapter VIA (from 80C to 80U) | XX |
| B | Other Taxable Income, excluding Capital Gain and Casual Income | Other Taxable Income, excluding Capital Gain and Casual Income | XXX |

| Sl No. | Taxable Income | Rs. | Rs. |
|---|---|---|---|
| | Add: Short Term Capital Gain liable for STT | Add: Short Term Capital Gain liable for STT | XX |
| | Add: Long Term Capital Gain (Other than liable for STT) | Add: Long Term Capital Gain (Other than liable for STT) | XX |
| | Add: Casual Income | Add: Casual Income | XX |
| C | Total Taxable Income, rounded off to nearest ten | Total Taxable Income, rounded off to nearest ten | XXX |

### Computation of Tax:

| Sl No. | Tax Liability | Rs. | Rs. |
|---|---|---|---|
| i | Tax on Casual Income @ 30% | XX | |
| ii | Tax on LTCG (other than liable for STT) @ 20% | XX | |
| iii | Tax on STCG liable for STT @ 15% | XX | |
| iv | Tax on Other Taxable Income(J) at slab rates mentioned in Para 1.1 | XX | |
| D | Tax Liability (i + ii + iii + iv) | Tax Liability (i + ii + iii + iv) | XXX |
| | Add: Education cess @ 3% (L*3%) | Add: Education cess @ 3% (L*3%) | XX |
| | Less: Relief u/s 89 | Less: Relief u/s 89 | XX |
| E | Total Tax Liability | Total Tax Liability | XX |
| | Less: TDS, TCS & Advance Tax | Less: TDS, TCS & Advance Tax | XX |
| F | Tax Payable/(Refundable), rounded off to nearest ten | Tax Payable/(Refundable), rounded off to nearest ten | XX/(XX) |

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CHAPTER 02 · COMPLIANCE MANUAL · 2024 EDITION

# Demonetisation

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Demonetisation is an act of stripping the legal tender status of currency units. It happens whenever there is a change of any national currency. It involves the withdrawal of the current form or forms of money from being circulated usually replaced with new notes or coins.

### Understanding Demonetisation

Removing the legal tender status of a unit of currency is a drastic intervention into an economy because it directly affects the medium of exchange used in all economic transactions. It can help stabilize existing problems, or it can cause chaos in an economy, especially if undertaken suddenly or without warning.

**Example 1**

The Coinage Act of 1873 demonetized  as the legal tender of the United States, in favor of fully adopting the , in order to stave off disruptive inflation as large new silver deposits were discovered in the American West. Several coins, including a two-cent piece, three-cent piece, and half-dime were discontinued. The withdrawal of silver from the economy resulted in a contraction of the , which contributed to a recession throughout the country. In response to the recession and political pressure from farmers and from silver miners and refiners, the Bland-Allison Act remonetized silver as legal tender in 1878.

**Example 2**

In a more modern example, the Zimbabwean government demonetized its dollar in 2015 as a way to combat the country’s hyperinflation, which was recorded at annualized rates of up to 231,000,000 %. The three-month process involved expunging the Zimbabwean dollar from the country’s financial system and solidifying the the, and the  as the country’s legal tender in a bid to stabilize the economy.

**Example 3**

Some countries have demonetized currencies in order to facilitate trade or form currency unions. An example of demonetization for trade purposes occurred when the nations of the  officially began to use the  as their everyday currencies in 2002. When the physical euro bills and coins were introduced, the old national currencies, such as the , the , and the Italian lira were demonetized. However, these varied currencies remained convertible into Euros at  for a while to assure a smooth transition.

**Uses of Demonetisation:**

To stabilise the currency and fight inflation

To promote trade and access to markets

To bring transparency in informal economic activities, away from black and grey markets

### Demonetisation in India

Demonetisation was tried as a tool to modernise the developing economy which is cash-dependent and to fight crime and corruption involving counterfeiting and tax evasion. Accordingly, the Indian government demonetised the Rs. 500 and Rs. 1,000 face-valued currency notes in 2016, the two most prominent denominations in the currency system. These notes accounted for 86% of the country's circulating cash. With no indications, India's Prime Minister announced to the country's citizens on 8th of November 2016, that those notes would have no value with immediate effect. As an alternative arrangement, citizens could deposit or exchange these old notes for newly introduced Rs. 2000 and Rs. 500 bills by the end of the year.

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CHAPTER 03 · COMPLIANCE MANUAL · 2024 EDITION

# Factories Act – To be subsumed with New Labor code

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Factories Act, 1948, is a central act which is enforced by the state governments making the relevant rules to extend scope and objectives of the Act. Karnataka state has formulated its rules under the Act called "The Karnataka Factories Rules, 1969".

## 3.1 Applicability

All the entities engaged in manufacturing activities satisfying below conditions:

| Use of Power | No. of Workers |
|---|---|
| Yes | 20 or more workers |
| No | 40 or more workers |
| *Applicable even if less than 10 workers, if such activity is notified by State Govt* | *Applicable even if less than 10 workers, if such activity is notified by State Govt* |

## 3.2 Compliances

### 3.2.1 Registration & Licensing

Application for registration & grant of license is required to be made within 15 days of starting a manufacturing activity, to the concerned area inspector (Form-2).

Application made with necessary documents will be scrutinized and replied within 30 days of acceptance or rejection. If no such reply is received till 3 months from the date of application, the application is deemed to be granted.

License to be renewed annually within 31st October (default will attract a surcharge of 25% on license fee).

If the applicant wants to avail the benefit of renewal of factory licence for 3 years at once, he can do so by paying three years licence fee along with the relevant documents.

### 3.2.2 Maintenance of Books

| Form No. | Name of Register |
|---|---|
| Form 22 | Muster Roll/Register of Wages |
| Form 11 | Register of Adult Workers |
| Form 14 | Register of Leave with Wages |
| Form 23 | Register of Accident or Dangerous Occurrence |

| Form No. | Name of Register |
|---|---|
| Form 9 | Overtime Registers, in case of exempted workers |
| Form 16 | Health Registers, in case of factories involving hazardous processes and dangerous operations |
| Form 6, 28 & 29 | Inspection Book |

### 3.2.3 Filing of Returns

| Periodicity | Form No. | Due Date |
|---|---|---|
| Annually | Form 20 | 1st February of subsequent year |
| Half Yearly | Form 21 | 15th July / 15th January |
| Monthly | Form 23 | 5th of subsequent month |

## 3.3 Exemption Provisions

### 3.3.1 Exemption to work on overtime

Application must be made on a stamp paper narrating the reasons for working overtime, number of workers, and their willingness to work for overtime.

Application must be made 15 days prior to such engagement.

Exemption is granted after scrutiny for a period of 3 months each time and this exemption is restricted to 125 hours in a quarter.

Exemption is prohibited for women workers.

### 3.3.2 Exemption to employ women worker upto 10pm

This exemption is available only for the 15 categories of factories specified by the Government with the following conditions:

Written consent from the willing women workers must be obtained.

No overtime can be extracted from them.

Every women worker must have an uninterrupted rest for atleast 9 hours from cessation of work on a day to beginning of fresh work on the following day.

They would be allowed to work only upto 10pm and free transport must be provided to return to their homes.

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CHAPTER 04 · COMPLIANCE MANUAL · 2024 EDITION

# section 4 - KARNATAKA SHOPS & COMMERCIAL ESTABLISHMENT ACT, 1961

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Karnataka Shops and Establishment Act registration is a mandatory requirement for all companies, persons, and legal entities planning to set up a shop or commercial establishment in the state.

The Act is an important document for employers and their human resources (HR) departments in the state.

## 4.1 Applicability

All business establishments *(with or without any employees)* in Karnataka are required to register under the Karnataka Shops & Commercial Establishments Act, 1961.  This is an important state level compliance requirement.

***However, the establishments registered under Factories Act, 1948 need not register under the Act***.

## 4.2 Renewals and Changes

In case of any changes such as increase in, change in Address etc same form – Form A to be used. Certificate of registration is required to be renewed once in 5 years. If the company has more than one office/ branches each branch has to be registered separately.  Each Company / branch has to be registered in different circles based on their locality *(Locality will be on PIN code basis).*

## 4.3 Compliances

### 4.3.1 Important Registers to be maintained

Register of leave with wages Form–F

Visit book

Appointment order in Form –Q

Notice to be exhibited on weekly holidays in Form P

Registration certificate to be exhibited in Form C

Combined Annual return in Form-U for the period January-December each year ***(Due date – 31st January)***

### 4.3.2 Prohibited Activities

The employment of children below 14 years is prohibited.

Young persons and woman shall not be employed during night, between 8 pm to 6 am. Establishment requiring them to work between 8 pm to & 6 am are required to obtain a special permission after fulfilling certain welfare measures such as providing security & transport facilities for employees engaged in Night shift, etc.

### 4.3.3 Rules & Conditions to be followed

Business establishments in Bangalore should not open before 6.00 am and the closing hours cannot be after 8.00 pm.  Business establishments in other cities were permitted to open upto 9.00 pm. If any organization requires working beyond the closing hours, a separate permission from Labour Officer is required to be obtained.

The name board of every establishment shall be in Kannada.  If any other language is used, it should be below Kannada version.

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CHAPTER 05 · COMPLIANCE MANUAL · 2024 EDITION

# Payment of Wages Act

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

The Payment of Wages Act, 1936 regulates payment of wages to employees (direct and indirect).

The act is intended to be a remedy against unauthorized deductions made by employer and/or unjustified delay in payment of wages.

## 5.1 Applicability

Persons employed in registered factories, drawing earned wages not exceeding Rs. 24,000 p.m.

## 5.2 Compliances

### 5.2.1 Books Maintenance

Wages Register

Register of Advance

Register of Fines

Register of Deductions

### 5.2.2 Filing of Returns

| Form No | Periodicity | Due Date |
|---|---|---|
| Form IV | Annual | 15th Feb of subsequent year |

### 5.2.3 Disbursment of Wages

Payment of wages in time

| No. of Employees | Time Limit |
|---|---|
| Less than 1,000 employees | 7th of subsequent month |
| 1,000 or more employees | 10th of subsequent month |

Wages must be paid only on a working day and not on a holiday.

All wages must be paid in current coin or currency notes or by cheque or by crediting the wages in the bank account of the employee.

In case, employment of any person is terminated, the wages earned by him must be paid before the expiry of the second working day from the date of termination.

**Delay in payment of wages or unauthorized deduction:**

When there is delay in payment of wages or any deduction has been made from the wages, an application can be made to the authority.

The authority may direct the employer to refund the excess deduction or may direct to make payment of wages together with the payment of compensation.

## 5.3 Penalty for Contravention

**Penalty for not maintaining records:**

When a person required to maintain any records/register or furnish any information/return, fails to do so or willfully refuses or neglects, he would be punishable with a fine of Rs. 1,500 upto Rs. 7,500.

**Penalty for serial offenders:**

Where a person who has been convicted of an offence punishable under this Act is again guilty of an offence involving contravention of the same provision, he would be punishable with an imprisonment for a term of 1 month upto 6 months and fine payable would be Rs. 3,750 upto Rs. 22,500 or both.

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CHAPTER 06 · COMPLIANCE MANUAL · 2024 EDITION

# Professional Tax

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Professional Tax is a tax on all kinds of professions, trades, and employment, levied based on their income. It is levied on employees, a person carrying on business including freelancers and professionals, if the income exceeds the monetary threshold, by the State Government.

## 6.1 Applicability

| Criteria | Time Limit | Form |
|---|---|---|
| Every employer who pays a salary or wage to his employees more than Rs.25,000/- per month | Within 30 days from the liability to pay tax | Form-1 |
| Every person other than an employer liable to pay tax under the Act | Liable for enrolment within 30 days from the liability to pay tax | Form-2 |

Self-employed persons who carry out their profession/trade on their own are liable to pay the tax themselves to the state government by obtaining a Certificate of Enrolment.

Commercial Taxes Department of a state is the nodal agency which collects professional tax, calculated on the annual taxable income of the individual, to be paid annually or monthly.

In case of salaried individuals and wage earners, the employer is liable to deduct professional tax from the employee’s salary on a monthly basis and deposit with the state government after obtaining a Certificate of Registration.

## 6.2 Exemptions

Specific exemption

Senior citizens (60 years) & Profession carried out for less than 120 days in the year

All charitable and philanthropic hospitals or nursing homes situated in places below the taluk level in all districts of the state except Bangalore and Bangalore rural district.

Directors of the company registered in Karnataka and nominated by the financing agencies owned and controlled by the state government or other statutory bodies.

Foreign technicians employed in the state whose appointmet is approved for the purpose of tax exemption for the defined period of 2 years from the date of joining.

Combatant and civilian non-combatant members of the armed forces who are governed by the Army Act, Navy Act and Air Force Act.

Salaried or wage earning blind persons, deaf and dumb persons.

Holders of permits of single taxi or single three wheeler good vehicles.

Institutions teaching Kannada or English shorthand or typewriting.

Physically handicapped persons with at least 40% of permanent disability (subject to production of certificate from the HOD of Government Civil Hospital).

An ex-service man not receiving salary income exceeding Rs. 10,000 p.m.

Persons running educational institution in respect of their branches teaching classes up to twelth standard or pre-university education.

Parents of a single child who underwent sterilisation operation, subject to production of a certificate from the district Surgeon, Government Civil Hospital, for having undergone such operation.

Central Para-Military Force (CPMF) personnel.

## 6.3 Compliances

### 6.3.1 Rates chart

| Sl No. | Class of Persons | Tax Rate (in Rs.) |
|---|---|---|
| I | Salary or wage earners whose salary or wage or both, as the case may be, for a month is | |
| | Less than Rs. 25,000 | Nil |
| | Rs. 25,000 & above | Rs. 200 p.m |
| II | Contractors executing works contract (as defined under Karnataka Goods and Services Tax Act, 2017) where total consideration in relation to the supply of goods or services or both in a year is Rs. 20 lakhs or more<br>Persons registered or liable to be registered under the Karnataka Goods and Services Tax Act, 2017 where the total consideration in relation to the supply of goods or services or both in a year is Rs. 20 lakhs or more | Rs. 2,500 p.a |
| III | Employers of establishments defined under the Karnataka Shops & Commercial Establishments Act, where number employees is/are | |
| III | One or more, but not more than 5 | Rs. 1,000 p.a |
| III | More than 6, but not more than 10 | Rs. 1,500 p.a |
| III | More than 10 | Rs. 2,500 p.a |
| IV | Companies registered under Companies Act, 1956 or Companies Act, 2013 and engaged in any trade, calling or profession | Rs. 2,500 p.a |

As per the amended provision of Karnataka Tax on Profession, Trades, Callings, and Employments (Amendment) Act, 2023, various simplified tax rates are as follows;

As per the amended schedule, All GST-registered persons are liable for professional tax payment of Rs 2500/-.

Other than GST-registered persons, those who are falling in the serial numbers 3 to 12 of the above schedule are also liable for discharging the professional tax before 30th April (Section 10(2)).

Those who paid income tax under the income tax act, 1961 having trade, profession and calling is also liable for payment of PT.

Professionals/traders who are in the profession/trade for more than 2 years or companies registered under the companies act 2013 or co-operative societies registered under the Co-operative society Act are also liable for professional tax payment as per the latest amendment in the act.

Every Additional place of business (Except godown) is considered a separate person. PT shall be separately paid for those additional places.

For further details please refer **Karnataka Tax on Professions trades, Callings and Employment Act, 1976**.

**Branch – Separate Assessee**: Every branch of a firm, company, club, association, society or other corporate body, is treated as a separate person for the purpose of tax liability.

## 6.4 Due Date of Payment

### 6.4.1 Registered Person - Employment

**Monthly:** 20th of following month

*For the month of April 2021, the due date had been extended to 20th June, 2021.*

**Quarterly:** If the total tax to be deposited under the Act, in a month is less than **Rs. 5,000**, the employer can opt for **quarterly** payment.

| Quarter | Due Date |
|---|---|
| March-May | 20th June |
| June-August | 20th Sept |
| September-November | 20th December |
| December-February | 20th March |

### 6.4.2 Enrolled Person - Others

**Annually:** 30th April

*For the financial year 2021-22, in respect of person who enrols before the commencement of the year, the payment of the amount of tax can be made by 30th June, 2021.*

## 6.5 Due Date of Filing

| Form No | Description | Due Date |
|---|---|---|
| 4A | Return for enrolled person | 30th April of every year |
| 5 | Return of tax payable by employer | 20th of succeeding month |
| 5A | Statement of tax payable by employer | 30th May of every year |

The state government of Karnataka has facilitated the option of paying tax and filing the returns through a website, **e-PRERANA.**

## 6.6 Consequences of Default

**Registration**: Penalty of Rs. 1,000 in case of employers and Rs. 500 for others.

**Non-payment**: In case of late payment, **interest** is payable at **1.25% per month** or part thereof for the period of default, limited to maximum 100% of tax due. (10% of tax in case of unintentional delay)

**Non-filing of Returns**: Penalty of Rs. 250 for every month of delay.

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CHAPTER 07 · COMPLIANCE MANUAL · 2024 EDITION

# PROVIDENT FUND (PF)

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

The provident fund is a combined contribution from the employee as well as the employer that is deducted from the salary every month and put away in a PF account where it grows into a sizeable sum that can be availed after retirement.

## 7.1 Applicability

Every establishment which is engaged in any one or more of the industries specified in Schedule I of the Act or any activity notified by Central Government in the Official Gazette.

Employing 20 or more persons

Cinema Theatres employing 5 or more persons

**Note:**

The co-operative societies employing less than 50 persons & working without the aid of power.

The establishment to which this Act applies shall continue to be governed by this Act, even if the number of employees falls below 20 at a later date.

Voluntary registration can be availed with the consent of Employee & Employer.

## 7.2 Compliances

### 7.2.1 Due date for FILING & PAYMENT

15th of following month

Return is to be filed through electronic means mandatorily from 1st April’2012 in ECR (Electronic Challan cum Return) form.

Filing of Annual Return is exempted from FY 2012-13.

### 7.2.2 Deduction & Payments Computation Chart

| Contributor | Particulars | Rate On Emoluments# |
|---|---|---|
| Employee | EPF | 12%* |
| Employer | EPS – Pension | 8.33% |
| Employer | EPF | 3.67% |
| Employer | EDLI charges | 0.50% |
| Employer | EPF Admin charges | 1.10% |
| Employer | EDLI Admin charges | 0.01% |

#Emoluments refer to Basic wages, Dearness allowance, cash value of food concession and retaining allowance. However, the amount of Emoluments is Restricted to Rs.15,000/- for EPS and EDLI Calculation Purpose.

**Rate of contribution by Employee shall be 10%* in case of following -**

Any establishment covered prior to 22.9.1997 in which less than 20 persons are employed.

Any sick industrial company as defined in clause(0) of sub-section (1) of section 3 of the sick industrial companies (special provisions) Act 1985 and which has been declared as such by the Board for Industrial and Financial Reconstruction.

Any Establishment which has at the end of any financial year accumulated losses equal to or exceeding its entire Net worth.

Any Establishment engaged in manufacturing of (a) Jute, (b) Beedi, (c) Brick, (d) Coir (other than spinning sector),(e) Guar Gum Industries/Factories.

## 7.3 Consequences of default

Interest US 7Q @ 12% p.a. needs to be paid for late remittance of PF amount for the period of delay.

Damages u/s 14B up to 25% of PF amount (5%/ 10%/ 15% Or 25% based of days of delay)

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CHAPTER 08 · COMPLIANCE MANUAL · 2024 EDITION

# Employee State Insurance (ESI)

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Employees' State Insurance Corporation is a statutory body under the ownership of Ministry of Labour and Employment, Government of India.

The fund is managed by the Employees' State Insurance Corporation according to rules and regulations stipulated in the ESI Act, 1948.

## 8.1 Applicability

Non-seasonal factories using power employing 10 or more employees.

Non-seasonal and non-power using establishments and factories employing 20 or more employees (Not applicable to Nagaland, Manipur, Tripura, Sikkim, Arunachal Pradesh and Mizoram).

## 8.2 Compliances

### 8.2.1 Due date of payment

**15th** of the following month

### 8.2.2 Due date of Filing

| Form | Period | Due Dates |
|---|---|---|
| ECR | Monthly | 15th of next month *(along with paid challan)* |

### 8.2.3 Contribution chart

| Contribution Rate | Contributor |
|---|---|
| 0.75% of Wages | Employee |
| 3.25% of Wages | Employer |

**Note:** Employees in receipt of a daily average wage upto Rs.70 are exempted from payment of contribution. However, Employers will contribute their own share in respect of these employees.

The Term ‘**Wages**’ includes Basic, All allowances, Overtime allowance, Annual Bonus, Incentive Bonus, Inam/Ex-Gratia payment, Wages paid during Lay-off, Commission, Interim Relief, Amount paid to Hamals/ Coolies employed at a particular time, Regular Honorarium or salary or remuneration paid to Director.

**Wage Ceiling limit**: ESI contribution need not be deducted from employees earning more than Rs. 21,000 p.m. (w.e.f. 1st Jan 2017). However, the limit for Employee with ‘disability’ is Rs. **25,000** p.m.

### 8.2.4 Maintenance of Records

In addition to Muster Roll and Wage record, Employee Register (Form 6), Accident Register (Form 11) and Inspection book to be maintained.

### 8.2.5 Consequences of default

**False Statement:** Imprisonment up to six months or Penalty up to Rs. 2000 or with both.

**Failure to contribute:** Imprisonment up to 3 years or a penalty up to Rs. 4000 or both.

**Delay in payment:** An interest at the rate of 12%p.a. will be levied on the ESI payable. In case of non-payment, Corporation may levy and recover damages at following rates –

| Period of delay | Rate of damages p.a. |
|---|---|
| Less than 2 months | 5% |
| 2-4 months | 10% |
| 4-6 months | 15% |
| 6 months and above | 25% |

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CHAPTER 09 · COMPLIANCE MANUAL · 2024 EDITION

# BONUS (Payment of Bonus Act, 1965)

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

The Payment of Bonus Act, 1965 provides for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and matters connected there with.

## 9.1 Applicability

| Particulars | Criteria |
|---|---|
| Factory with aid of power | 10 or more employees |
| Establishment without aid of power | 20 or more employees |

*Condition is considered to be satisfied if the specified numbers of employees are appointed on any day during an accounting year.

## Compliances

### 9.2.1 Eligibility of Bonus

An employee will be entitled only when he has worked for **30 working days** in that specific year (Section 8)

Employees drawing wages Rs. 10,000 or less p.m. However, wages is limited to Rs. 3,500 for the purpose of calculation.

**Components of Bonus:** Salary includes Dearness allowance but no other allowance.

**Rate:** 8.33% of salary or Rs. 100, however is higher.

**Time limit:** Within 8 months from close of accounting year (Section 19).

**Return:** Form-D to be filed to inspector within 30 days from expiry of time limit given as per Section 19.

### 9.2.2 Maintenance of Records

Register showing computation of Allocable surplus in Form-A.

Register showing set on and set off of the allocable surplus in Form-B.

Register showing details of amount of bonus due to each employee, deductions u/s 17 & 18 and amount actually disbursed in Form-C.

### 9.2.3 Consequences of Default

Contravention of any provision of the Act attracts a penalty of up to Rs. 1,000 or upto 6 months imprisonment.

**NOTES**

***End of Chapter.*** *For the complete Compliance Manual, additional chapters, or a tailored briefing for your finance and compliance teams, contact* ***info@rstandco.co.in****.*

CHAPTER 10 · COMPLIANCE MANUAL · 2024 EDITION

# GRATUITY (Payment of Gratuity Act, 1972)

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

The Payment of Gratuity Act, 1972 is **an Indian law that makes certain industries pay a one-time gratuity to retired employees**.

The law applies to railways, ports, factories, oilfields, plantations, mines and shops. The gratuity is 15 days' wages for every year of employee service, or partial year over six months.

## 10.1 Applicability

All employees engaged in factories, mines, oil fields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental with.

Every shop or other establishments or such other establishment specified by CG by notification where **10 or more employees*** are/were employed on any day of the preceding twelve months.

*The term 'Employee' doesn't include -

Apprentice.

Any such person who holds a post under the Central Govt or State Govt.

Any person governed by any other Act or other rules providing for payment of Gratuity.

## 10.2 Compliances

### 10.2.1 Eligibility

Every employee who has rendered continuous service# for not less than **5 years** shall be entitled on his superannuation, retirement, resignation, death or disablement.

*#Completion of continuous service of 5 years is not necessary in case of employment termination due to death/ disablement due to accident or disease.*

### 10.2.2 Maintenance of Records

Notice in Form A & B.

Notice in Form C (Closure of units).

Display of the abstract of the Act and Rules.

Nomination in Form-F.

### 10.2.3 Gratuity amount

For every completed year of service or part thereof in excess of 6 months, the employer shall pay gratuity to an employee at the rate of 15 days' wages based on the rate of wages last drawn by the employee concerned.

Amount of gratuity payable to an employee shall not exceed Rs. 10,00,000/- (Ten Lakhs).

In case of seasonal establishments, 7 days wages for each season.

### 10.2.4 Forms

| Form No. | Purpose | Responsible | Due Date |
|---|---|---|---|
| F | Nomination | Employee | 30 days after completing 1 year service |
| I | Payment of Gratuity | Employee | 30 days from the date gratuity becomes payable |
| J | Payment of Gratuity | Nominee | 30 days from the date gratuity becomes payable |
| K | Payment of Gratuity | Legal heir | 1 year from the date gratuity becomes payable |

#### NOTES

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CHAPTER 11 · COMPLIANCE MANUAL · 2024 EDITION

# Real Estate (Regulation and Development) Act, 2016

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

RERA is an act passed by the Parliament in 2016 that came into effect wholly from 1st May, 2017. It protects homebuyers and boosts investments in the real estate sector by bringing efficiency & transparency in the sale/purchase of real estate.

The Act establishes Real Estate Regulatory Authority in each state for regulation of the real estate sector and acts as an adjudicating body for dispute resolution. Karnataka government approved the Karnataka Real Estate (Regulation and Development) Rules in July 2017.

## 11.1 Applicability

**Parties to the transaction** – Applies to promoters and real estate agents, including builder, developer, contractor, development body or any other public body which constructs or develops land/building/apartment for the purpose of sale (Land owner in case of Joint development).

**Type of properties** – Commercial buildings, residential apartments and plot developed for sale.

**Area** – Real estate projects exceeding 500 sq. meters or having more than eight apartments.

## 11.2 Main features of RERA

Mandatory public disclosure norms for all registered projects: details of the promoters, layout plan, plan of development works, land status, status of the statutory approvals, disclosure of proforma agreements, disclosure of names and addresses of real estate agents, contractors, architect, structural engineer, etc.

**Escrow – Compulsory deposit of 70 percent** (or lesser percent notified) of the amounts realized for the real estate project from the allottees in a separate account in a scheduled bank within a period of 15 days to cover the cost of construction.

Compulsory for builders to update the status of their projects on a **quarterly basis**.

Any structural or workmanship defects brought to the notice of a promoter within a period of 5 years from the date of handing over possession must be rectified by the promoter, without any further charge, within 30 days.

Developers and buyers must pay the same **penal interest of SBI's Marginal Cost of Lending Rate plus 2%** in case of delays.

## 11.3 Registration

### 11.3.1 Mandatory Registration

For all builders developing a project where the land exceeds 500 sq. metre or number of proposed apartments in all phases is more than 8.

Developers will have to submit and upload project details, including approved layout plan, timeline, cost, and the sale agreement.

Before applying for registration, the layout of the real estate project has to be approved by the local authority.

### 11.3.2 Registration requirement for ongoing projects

The promoter of an ongoing project has to compulsorily register it within 90 days from the date of commencement of the Act in the state, by furnishing following information,

Status of the project

Original time period disclosed to the allottee for completion of the project at the time of sale including the delay and the time period within which he undertakes to complete the pending project.

This information shall be certified by an engineer, an architect and a chartered accountant.

The promoter must disclose the size of the apartment based on carpet area even if it is sold on any other basis.

Applicable for ongoing projects,

Where all development works have been completed as per the Act and certified by the competent agency and sales/lease deeds of 60% of the apartments/houses/plots have been registered and executed.

In respect of layouts where the streets and civic amenities sites and other services have been handed over to the Local Authority and Planning Authority.

In respect of apartments where common areas and facilities have been handed over to the registered Association consisting of majority of allottees.

Where all development works have been completed as per the Act and certified by the competent agency and application has been filed with the competent authority for issue of completion certificate/occupation certificate.

Where partial occupancy certificate is obtained, upto that particular extent.

### 11.3.3 Process of RERA Registration and Documentation

RERA registration is a state-wise & Project-wise registration process.

The process is online and can be applied from the official website of the state.

The promoters and the real estate agents have to submit the relevant documents along with the application for registration to the Regulating Authority of the respective state.

Real estate agents engaged in the sale and purchase of properties can get the RERA registration that will remain valid throughout the state.

Promoter will be issued a registration rumber, login ID, and password after receipt of the application for registration, which can be used for updating the status of the project.

RERA registration is valid for the period within which the promoter undertakes to complete the project. It can be extended in case of a natural calamity (valid for a period of one year).

## 11.4 Registration Fees & Charges

The fee for promoters is based on the area of the project subject to a maximum limit. The fees for agents are based on the entity type.

| Type of Project | Applicable Fees | Applicable Fees |
|---|---|---|
| **Type of Project** | **Area of proposed land for development is 1,000 sq. meters** | **Area of proposed land for development is > 1,000 sq. meters** |
| Group Housing Project | Rs. 5 per sq. meter | Rs. 10 per sq. meter<br>(maximum of Rs. 5 lakh) |
| Mixed Development Project (commercial and residential) | Rs. 10 per sq. meter | Rs. 15 per sq. meter<br>(maximum of Rs. 7 lakh) |
| Commercial Projects | Rs. 20 per sq. meter | Rs. 25 per sq. meter<br>(maximum of Rs. 10 lakh) |
| Plotted Development Projects | Rs. 5 per sq. meter<br>(maximum of Rs. 2 lakh) | Rs. 5 per sq. meter<br>(maximum of Rs. 2 lakh) |
| Real Estate Agents | Rs. 25,000 (individual)<br>Rs. 2 lakh (other cases) | Rs. 25,000 (individual)<br>Rs. 2 lakh (other cases) |
| | | |

## 11.5 Quarterly Compliance

Karnataka RERA has a different procedure for quarterly return filings where it has divided the section into two parts - for plots and for apartments.

Architect Certificate (Form 1), Engineer Certificate (Form 2) and Chartered Accountant Certificate (Form 3) are categorized as RERA Return.

Details of number of flats sold, booked and leased along with their construction status need to be submitted as well.

## 11.6 Filing of Complaint

Any person may file a complaint with the Adjudicating Officer or Regulatory Authority for any violation under the Act. He would have to provide a fee of Rs. 1,000 in the form of a Demand Draft.

Complaints can be filed online at **https://rera.karnataka.gov.in/home.**

## 11.7 Penalty for Contraventions

### For Promoters

| Section | Offence | Penalty |
|---|---|---|
| Section 59 | Non-registration<br>Fails to comply with the rule and continues to be unregistered | 10% of the project's estimated cost<br>Up to 3 years' imprisonment or a fine up to 20% of the estimated cost of the property, or both |
| Section 60 | Giving false information | 5% of the project's estimated cost |

| Section | Offence | Penalty |
|---|---|---|
| Section 61 | Contravention of other provisions | 5% of the project's estimated cost |
| Section 63 | Non-compliance with Authority | Daily penalty up to 5% of the project's estimated cost |
| Section 64 | Non-compliance with the Appellate Tribunal | Up to 3 years' imprisonment or a fine of 10% of the estimated cost of the property, or both |

### For Agents

| Section | Offence | Penalty |
|---|---|---|
| Section 62 | Non-registration of projects (Section 9 & 10 of RERA) | Rs. 10,000 per day, up to 5% of the approximate cost of the project |
| Section 65 | Non-compliance with Authority | Daily penalty up to 5% of the project's estimated cost |
| Section 66 | Non-compliance with the Appellate Tribunal | Imprisonment up to 1 year or 10% of the project's estimated cost, or both |

### For Buyers

| Section | Offence | Penalty |
|---|---|---|
| Section 67 | Non-compliance with RERA | Daily penalty up to 5% of the approximate cost of the project |
| Section 68 | Non-compliance with the Appellate Tribunal | Imprisonment up to 1 year or 10% of the approximate cost of the project, or both |

### Recent amendments

The Real Estate Regulatory Authority of Karnataka has recently announced that it will impose a **fine of Rs. 10,000 per month on the builders** across the state who fail to file the quarterly updates on the status of their projects.

### NOTES

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CHAPTER 12 · COMPLIANCE MANUAL · 2024 EDITION

# Micro, Small and Medium Enterprises

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

MSME stands for Micro, Small, and Medium Enterprise that was introduced by the Government of India in agreement with Micro, Small & Medium Enterprises Development (MSMED) Act, 2006. MSME is initiated and managed under the Ministry of MSME (MoMSME).

MSME sector is considered as the backbone of the Indian economy that has contributed substantially to the socio-economic development of the nation.

## 12.1 Classification of Enterprises

| Sector/Enterprise Type | Micro Enterprise | Small Enterprise | Medium Enterprise |
|---|---|---|---|
| Manufacturing & Services Sector, both | Investment less than Rs. 1 crore<br>Turnover less than Rs. 5 crore | Investment less than Rs. 10 crore<br>Turnover up to Rs. 50 crore | Investment less than Rs. 50 crore<br>Turnover up to Rs. 250 crore |

*Investment: Investment in Plant and Machinery or Equipment*

*Turnover: Annual Turnover*

Key takeaways of new MSME definition introduced in **Aatm Nirbhar Bharat Abhiyan** (Self-reliant India Scheme, 2020) -

Collateral free loans to MSMEs and unsecured loans up to Rs. 1 crore

Secured loans of up to Rs. 500 crore (lease rental discounting)

Moratorium period offered is 12 months, can exceed as per bank

Manufacturing and Service MSMEs are considered as the same entities

Repayment tenure up to 60 months

100% credit guarantee, for several loan schemes

### Value of Plant and Machinery or Equipment

There are clarifications sought by the entrepreneurs regarding valuation of plant and machinery or equipments on cost or purchase price while filing the Udyam Registration.

It is clarified that online form for Udyam Registration captures depreciated cost as on 31st March each year of the relevant previous year.

Therefore, the value of Plant and Machinery or Equipments for this purpose and for all the enterprises mean the Written Down Value (WDV) as at the end of the Financial Year as defined in the Income Tax Act and not the cost of acquisition or original price.

## 12.2 Registration of Enterprises

Registration of MSME is optional but it is advisable to complete the registration for availing various benefits.

The new process for registration of micro, small and medium enterprises came into effect in the name of **Udyam Registration** from July 1, 2020.

Udyam Registration can be filed online based on self-declaration with no requirement for documents of proof, except Aadhar and PAN. Udyam Registration is fully integrated with the IT and GST systems.

Businesses which have the EM-II (Entrepreneurs Memorandum) or Udyog Aadhaar Memorandum or any other registration issued by an authority under the MSME ministry, will have to re-register themselves.

Existing enterprises registered prior to 30th June, 2020 are valid only up to **31st December, 2021 (**extended from 31st March, 2021**)**.

The ministry has clarified that except the Indian government portal (**www.udyamregistration.gov.in**) and its single window facilitation systems, no other private online or offline system, service, agency or person is authorized or entitled to do MSME Registration or undertake any activity related to the process.

There are no fees or charges to be paid to Government.

## 12.3 Benefits of Registration

**Government Tender's:** Government is providing exclusive tenders to MSME's. While applying for government tenders, they are exempted from payment of earnest money, waiver of security deposit up to a certain monetary limit, issue of tender sets free of cost. Udyam Registration Portal is integrated with Government e-Marketplace and various other State Government portals which give them easy access.

**Concession in Electricity Bills:** MSME's can get a concession in electricity bills by making an application to respective department.

**Lower Loan Rates:** MSME's can get loan at lower rate of interest as compared to other banks.

**Subsidy on Trademark Registration:** MSME's can get up to 50% concession.

**Subsidy on Patent Registration:** MSME's can get up to 50% concession.

**Subsidy on ISO Certification:** MSME's can get subsidy on ISO Certification.

**Counter Guarantee:** MSME's are eligible for counter guarantee from the Government.

**Exemption from Stamp Duty & Registration Fees:** All new industrial units in public IT parks are exempted from payment of stamp duty and registration fees.

**Preference on Government Licenses:** MSME's are given higher preference and an easy way to obtain government licenses, approvals and registrations.

**Loan Availability:** Aadhar Udyog Certificate is a business proof for MSME. Probability of obtaining a loan availability is higher in case of registered MSME's than those unregistered.

**Credit for Minimum Alternate Tax** can be carried forward for up to 15 years instead of 10 years.

## 12.4 MSME Schemes

Prime Minister's Employment Generation Programme (PMEGP)

Credit Guarantee Trust Fund for Micro & Small Enterprises (CGT SME)

Interest Subsidy Eligibility Certificate (ISEC)

Market Promotion & Development Scheme (MPDA)

Scheme of Fund for Regeneration of Traditional Industries (SFURTI)

Coir Industry Technology Upgradation Scheme (CITUS)

Science and Technology (S&T) for Coir

Skill Upgradation and Mahila Coir Yojana (MCY)

Export Market Promotion (EMP)

Domestic Market Promotion (DMP)

Trade and Industry Related Functional Support Services (TIRFSS)

Welfare Measures (Pradhan Mantri Suraksha Bima Yojana (PMSBY)

Financial Support to MSMEs in ZED Certification Scheme

A Scheme for promoting Innovation, Rural Industry & Entrepreneurship (ASPIRE)

Credit Linked Capital Subsidy for Technology Upgradation (CLCSS)

Marketing Support/Assistance to MSMEs (Bar Code)

Lean Manufacturing Competitiveness for MSMEs

Design Clinic for Design Expertise to MSMEs

Technology and Quality Upgradation Support to MSMEs

Entrepreneurial and Managerial Development of SMEs through Incubators

Enabling Manufacturing Sector to be Competitive through QMS & QTT

Building Awareness on Intellectual Property Rights (IPR)

International Cooperation Scheme

Marketing Assistance Scheme

Procurement and Marketing Support Scheme (P&MS)

Entrepreneurship Skill Development Programme (ESDP)

Assistance to Training Institutions (ATI)

Micro & Small Enterprises Cluster Development (MSE-CDP)

### 12.4.29 Other Schemes

Scheme of Surveys, Studies and Policy Research

National SC-ST-HUB

Scheme of Information, Education and Communication

## 12.5 Important Provisions

**Section 15**

Buyer of goods makes payment for the goods supplied to him immediately or before the date agreed between the buyer and supplier. The agreed period should not exceed 45 days from the day of acceptance of goods or deemed acceptance.

Supplier means a micro or small enterprise which has filed a memorandum with concerned authorities.

### Section 16

If the buyer fails to make payment to the supplier within the agreed period, then the buyer will be liable to pay compound interest at 3 times of the bank rated notified by the RBI from the date immediately following the date agreed.

The buyer should specify the unpaid amount with interest in his annual statement of accounts.

Interest payable or interest paid will not be allowed as deduction for the purpose of computation of income under the Income Tax Act, 1961.

### Establishment of Micro and Small Enterprises Facilitation Council

The council will have jurisdiction to act as an Arbitrator or Conciliator in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.

### Penalty

Penalty of Rs.10,000 one time and Rs.1,000 per day is prescribed for non-filing of memorandum and non-specification of unpaid amount.

### Reservation of products for exclusive manufacture

There are items reserved for exclusive manufacture by MSME sector where there is techno-economic justification.

Large/medium units can manufacture such reserved items provided they undertake to export 50% or more of their production.

### NOTES

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***End of Chapter.*** *For the complete Compliance Manual, additional chapters, or a tailored briefing for your finance and compliance teams, contact* ***info@rstandco.co.in****.*

CHAPTER 13 · COMPLIANCE MANUAL · 2024 EDITION

# SPECIAL ECONOMIC ZONE

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

SEZ is **designated areas that possess special economic regulations** that are in different from the areas in the same country. Regulation contain measures that conductive to Foreign Direct Investment treated as Foreign Country in India Set for Export Purpose.

Exemption is available for both SEZ Unit and SEZ Unit Developer.

## 13.1 Meaning

**SEZ Unit** : Unit set up for Manufacturing, Trading, Production, Processing, Assembling, Repairing, Re-Engineering, Processing, etc.

**SEZ Developer:** Setting up, Operation, and Maintenance of Zone.

## 13.2 Exemptions/Benefits

Exemption is available for both SEZ Unit & SEZ Unit Developer under Income Tax Act, 1961 as follows -

### 13.2.1 Exemption to SEZ Unit

| Particulars | First 5 years | Next 5 years | Last 5 years |
|---|---|---|---|
| SEZ units engaged in manufacturing or providing services on or after april 1, 2005 (Export profits) | 100% | 50% | 50% |
| **Off Shore Banking Units u/s 80LA:** | | | |
| Scheduled banks or Foreign banks | 100% | 50% | Nil |
| Other than Scheduled or Foreign banks | 100% - 3 yrs | Nil | Nil |
| Other than Scheduled or Foreign banks | 50% - 2 yrs | Nil | Nil |
| Capital Gains u/s 54GA | 100% | | |

### 13.2.2 Exemption to SEZ Developer

| Particulars | First 5 years | Next 5 years | Last 5 years |
|---|---|---|---|
| Business of SEZ Developer u/s 80-IAB on or after April 1 ,2005 (available only for aggregate period of 10 consecutive yrs) | 100% | 100% | 100% |

| Particulars | First 5 years | Next 5 years | Last 5 years |
|---|---|---|---|
| Dividend Distribution Tax [DDT] u/s 115-O (if paid out of Current Income) | 100% | 100% | 100% |
| Minimum Alternative Tax (MAT) on or after April1, 2005 u/s 115JB | Would not be attracted | Would not be attracted | Would not be attracted |

Service Tax is not payable by SEZ units.

External Borrowings by SEZ units up to $500 million in a year without any Maturity Restriction through any Recognized bank channels.

Managerial Remuneration with an Enhanced Limit of INR 2.4 crore is allowed.

Units of SEZ can Import Raw Materials without payment of Customs Duty.

Units of SEZ can manufacture without payment of Excise Duty.

Any dealer/ trader are exempted from sales tax/GST if sales made to SEZ Unit or SEZ Developer.

## 13.3 Compliances

### 13.3.1 Applications / Reports / Returns:

Application for setting up of Special Economic Zones (FORM-A)

Letter of Approval of For SEZ Developer (FORM-B)

Letter of Approval for Providing Infrastructure Facilities in SEZ (FORM-C)

Application For setting up Units in SEZ (FORM –F)

Annual Performance Report for Units (FORM – I)

### 13.3.2 OTHER compliances

SEZ may export goods or services on the basis of Letter of Approval. in case of services are exported in non-physical form, export value is to furnished by the units on the self-certification basis as per instructions of RBI.

Annual Performance Report in FORM – I to Development Commissioner, up on Development Commissioner Place the same before Approval Committee for Consideration.

**Budget 2022: Amendments in Customs**

Customs administration in SEZs will be fully IT-driven.

Phasing out concessional rates in capital goods and project imports gradually and applying the initial rate of 7.5%.

More than 350 exemptions on importing some Agri products, drugs, chemicals, etc., will be phased out.

Customs duty exemption on steel scrap is extended by a year to help MSME.

Petrol and diesel to be costlier with the levying of additional excise duty at Rs.2 per litre on unblended fuel for encouraging fuel blending.

Cut and polished diamonds gems to become cheaper as customs duty is reduced to 5%.

***End of Chapter.*** *For the complete Compliance Manual, additional chapters, or a tailored briefing for your finance and compliance teams, contact* ***info@rstandco.co.in****.*

CHAPTER 14 · COMPLIANCE MANUAL · 2024 EDITION

# KARNATAKA STATE POLLUTION CONTROL BOARD (KSPCB)

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

The **Karnataka State Pollution Control Board** (**KSPCB**) is a legal entity entrusted for control of pollution in the Indian State of Karnataka.

The Board regulates air, water and environmental pollution.

## 14.1 Applicabilty

Industries falling under RED, GREEN and ORANGE categories should be registered under the Act.

## 14.2 Compliances

| FORMS | DESCRIPTION |
|---|---|
| **E-Waste Management & Handling Rules, 2011** | **E-Waste Management & Handling Rules, 2011** |
| Form-1 | Application for obtaining authorisation for generation / collection / storage / dismantling / recycling / of E-waste |
| Form-2 | Form for maintaining records of e waste handled/generated |
| Form-3 | Form for filing annual returns of waste (to be filed within 30th June of following year) |
| Form-4 | Application form for registration of facilities possessing environmentally sound management practice for recycling e waste |
| Form-5 | Form for annual report to be submitted by the state pollution control board/committees to the central pollution control board |
| **Batteries Management & Handling Rules, 2001** | **Batteries Management & Handling Rules, 2001** |
| Form I | Form for filing annual returns of sale of new batteries and collection of used batteries (to be submitted by Manufacturers / Importer / Bulk consumer) Due date: October-March 30th June; April-September 31st December |
| Form II | Form for registration of importer of new lead acid batteries/primary lead |
| Form III | Undertaking |
| Form IV | Form for registration of dealers |
| Form V | Form for filing Returns of Sale of New batteries and collection of old batteries (by dealers to manufacturers)<br>Due date: October-March 31st May; April-September 30th November |

| FORMS | DESCRIPTION |
|---|---|
| Form VI | Form for application for registration of facilities possessing environmentally sound management practice for recycling of used lead acid batteries (to be submitted in triplicate) |
| Form VII | Form for filing returns by RECYCLERS of used batteries Due date: 30th June and 31st December |
| Form VIII | Form for filing returns for CONSUMERS of batteries Due date: October-March 30th June; April-September 31st December |
| Form IX | Form for filing returns by AUCTIONEER of used batteries Due date: 30th June and 31st December |
| **Water (Prevention and Control of pollution) Act, 1974** | **Water (Prevention and Control of pollution) Act, 1974** |
| Form XIII | Application for Consent for establishment/ Expansion/ Diversification for Red, orange and green Category industries irrespective of capital investment |
| **Air (Prevention and Control of pollution) Act, 1981** | **Air (Prevention and Control of pollution) Act, 1981** |
| Form I | Application for Consent for establishment/ Expansion/ Diversification for Red, Orange and Green Category industries irrespective of capital investment |
| Form OG | Combined Application Form For Consent For Establishment Under Water (Prevention & Control Of Pollution) Act, 1974 and Air (Prevention & Control Of Pollution) Act, 1981 |
| **Plastics manufacture, sale and usage rules, 1999** | **Plastics manufacture, sale and usage rules, 1999** |
| Form I | Application for registration of a unit for Manufacture of Plastic Bags & Containers |
| **Water prevention and control of pollution cess Act** | **Water prevention and control of pollution cess Act** |
| Form I | Form for filing monthly returns regarding water consumption |
| **Plastic Rules** | **Plastic Rules** |
| Form I | Application for registration of a unit for the manufacture of plastic carry bags and multilayered plastics |
| Form 2 | Application form for registration of facilities possessing environmentally sound management practices for recycling plastic waste |

## NOTES

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CHAPTER 15 · COMPLIANCE MANUAL · 2024 EDITION

# Goods & Service Tax Act (GST)

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

The goods and services tax (GST) is **a tax on goods and services sold domestically for consumption**.

The tax is included in the final price and paid by consumers at point of sale and passed to the government by the seller. The GST is a common tax used by the majority of countries globally.

## 15.1 Applicability

**Criteria for Registration**

Every Person whose total Gross receipts from Service/Works Contract is greater than/who reasonably expects his total turnover exceeds 20 lakhs rupees during any year *(Exception: Dealers specified in points 3 to 7 below)*.

Every Person whose total Gross receipts from Manufacturing/Trading is greater than / who reasonably expects his total turnover exceeds 40 lakhs rupees during any year.

In case of Online Aggregating Business/E commerce operators like Flipkart, Amazon, Myntra etc, from rupee one, registration shall be mandatory.

In case of a person making interstate taxable supply/Casual supply of taxable goods/service, dealer payable GST on Reverse Charge Mechanism(RCM) no basic exemption shall apply.

All OTT service providers providing service from outside India to a person in India, No basic exemption shall apply.

All Non resident taxable persons making taxable supply in India.

Online Traders & Service providers on own or through online aggregators.

## 15.2 Compliance

Every Entity must hang NAME BOARD (Displaying Registered Name) in front of Business Premises along with GSTIN.

GST registration certificates must be hanged in Business Premises.

### 15.2.1 Maintenance of Records

Stock Register

Maintaining Vouchers: With continuous serial numbers, following vouchers shall be maintained: purchase invoices with date wise, sales invoices with tax in serial number, cash receipt vouchers, cash payment vouchers, bank receipt vouchers, bank payment voucher, debit note if any, credit note, if any.

### 15.2.2 Maintaining Books of Accounts

Purchase Books, Sales Books, Cash Books, Credit & Debit notes, Separate Register for Exempted Sales, Journals, Bank Books, Stock Register, GST Returns, GST Audit Report.

### 15.2.3 Due Dates & Forms under the GST ACT

| Form | Subject | Due Date |
|---|---|---|
| REG-01 | Application for Registration | End of the Month in case if falls in above criteria |
| REG-14 | Amendments for Registration | Within 30days from such changes |
| GSTR-01/ IFF | Monthly Form of Reporting Outward supply | Within 11th of the following month in Karnataka<br>For QRMP/IFF opted quarterly returns, due date is 13th following month |
| GSTR-3B | Monthly Summary Returns | 20th of Following month<br>QRMP-23rd of following month |
| REG-06 | GST Registration certificate | GST Registration certificate |
| CMP 08 | Returns to be submitted - Composition Dealer | Quarterly 18th day of the month following the relevant quarter |
| GSTR-09 | GST Annual Return for Turnover > 2 Crore | 31st Dec of following year |
| GSTR-9C | GST Reconciliation statement for TO >5Cr. | 31st Dec of following year |
| EWB-01 | E way bill | Immediately on dispatch |

Details once submitted cannot be altered or modified under any circumstances. However, E-way bills can be cancelled within 24hrs.

All the Forms as said above has to be compulsory filed online through departmental website

Dealer whose total turnover does not exceed Rs. 5 Crores in a year can opt and file returns quarterly.

*Revised Return (Section 35)*: No return can be revised.

### 15.2.4 Other compliances

Invoice to be raised immediately.

Credit note and Debit note can be raised within 6 months.

**Budget 2022: Key Changes in GST**

The last date to make corrections, upload missed sales invoices or notes, or claim any missed Input Tax Credit (ITC) of one financial year is extended to 30th November of the following year.

Suppose a person registered under the composition scheme fails to file an annual return within three months after the due date of 30th April of the following year. In that case, his registration can be cancelled by the officer. Likewise, for any other taxpayer, the six months consecutive default in return filing is replaced with defaulting consecutively for tax periods as may be prescribed.

Section 38, earlier called furnishing of inward supplies, is amended completely to remove reference of earlier GSTR-2 and replace it with GSTR-2A and GSTR-2B with new provisions on ‘Communication of details of inward supplies and input tax credit'.

The due date to file GSTR-5 by non-resident taxable persons is revised from the 20th of next month to the 13th of next month.

Sections 42, 43, and 43A pertaining to matching reversal of input tax credits have been removed.

**Budget 2022: Key Changes in GST**

Composition Scheme and E-commerce Operators

ITC on Corporate Social Responsibility (CSR) not available

Schedule III transactions to be included in the exempt supply

Alignment of Interest on payment beyond 180 days: Section 50

## 15.3 Consequences of default

**Interest on late payment** of GST or delay in GST Return is **18% p.a.** on the GST declared in the return or to be declared. Interest is to be computed proportionately in case of part of the month. For this purpose, a month refers to 30 days.

**Fee for late returns** (Section 72) :

Nil payable – Rs. 20 per day, maximum Rs. 1,000.

Other txase - Rs. 50 is to be paid for each day of default.

**Penalty for late payment**: 10% of Tax due subject to minimum Rs. 10,000 on SCN.

## 15.4 Prosecution of dealers

Evasion Tax/Fake Billing/Non-payment of collected GST for 3 months/Fraudulent Refunds/Fake Records/Obstruction of officer/False Information, etc.

1 crore to 2 crores - bailable, imprisonment up to 1 year

2 crores to 5 crores - bailable, imprisonment up to 3 years

above 5 crores - bailable, imprisonment up to 5 years

If the offence continues, imprisonment up to 5 years with fine.

## 15.5 Audit under GST - NONE

## 15.6 E–Way Bill

All the supplies shall ensue e-way bill when value of the invoice exceeds Rs. 50,000. In case of failure to raise e-way bill, a penalty of 100% of tax or Rs. 10,000 whichever is higher shall be levied.

All the movement of goods for more than 10km & Invoice value more than 50,000, raising e-way bill is mandatory.

Validity of the e-way bill shall be as per bulk and/or distances.

**Note:** All taxable goods which are transported for purposes other than as a result of sale are mandated to raise E-sugam irrespective of value.

## 15.7 ACTS SUBSUMED WITH GST

Entry Tax; Luxury Tax; Excise Duty; Service Tax

***End of Chapter.*** *For the complete Compliance Manual, additional chapters, or a tailored briefing for your finance and compliance teams, contact* ***info@rstandco.co.in****.*

CHAPTER 16 · COMPLIANCE MANUAL · 2024 EDITION

# COMPANY LAW MATTERS

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Corporate law (also known as business law or enterprise law or sometimes company law) is **the body of law governing the rights, relations, and conduct of persons, companies, organizations and businesses.**

The term refers to the legal practice of law relating to corporations, or to the theory of corporations

## 16.1 Applicability

Entities Registered under the above Acts.

## 16.2 INCORPORATION Forms

| Form | Purpose |
|---|---|
| DIR- 3 | Availability of DIN |
| INC 1 | Reservation of Name |
| INC 7 | Declaration for incorporation |
| INC 22 | Situation of Registered Office |
| DIR 12 | Appointment of Director |
| INC 29 | Integrated form for Incorporation of All Companies |
| INC-2 | Incorporation of OPC (one person company) |
| INC-12 | Application for grant of licence under Section 8 |
| FC-1 | Information to be filed by foreign company |

## 16.3 POST INCORPORATION Forms

| Form | Events | Due Date |
|---|---|---|
| DIR-6 | Intimation of changes in Directors' particulars | 30 days |
| PAS-3 | Return of Allotment of shares | 30 days |
| INC-24 | Application of Change of Name of Company | 30 days |
| SH -7 | Increase in Share Capital/Member | 30 days |
| CHG-1 | Creation/Modification of charges | 30 days |
| CHG-4 | Satisfaction of Charges | 30 days |
| MGT 14 | Registration of Resolution/Agreement | 30 days |

| Form | Events | Due Date |
|---|---|---|
| DIR 12 | Change in Director/Secretary | 30 days |
| ADT-3 | Resignation of Statutory Auditor | 30 days |
| RD-1 | Application to the regional director | 30 days |
| INC-22 | Change in situation of Registered Office | 15 days |
| CHG-8 | Application to Central Government for extension of time for filing of FORM CHG-1/CHG-4 | Not applicable |

## 16.4 Compliances

### 16.4.1 AGM

| Particulars | Time Limit |
|---|---|
| First AGM | Within 9 months from the balance sheet date |
| Subsequent AGMs | Within 6 months from the balance sheet date |
| Notice to AGM | “21 clear days” notice to be sent to all members |

A shorter period notice to AGM is valid if acceptd by all members (Section 101).

### 16.4.2 Annual ROC Filing

| Sl No. | Document | Form | Applicable To | Time Limit |
|---|---|---|---|---|
| 1 | Financial Statements | AOC 4 | All companies u/s 137 | 30 days from the date on which the document was laid before AGM or AGM was due to be held |
| 2 | Annual Return | MGT 7 | Companies having/not having share capital | 60 days from the date of AGM or AGM due to be held |
| 3 | Information by auditors to Registrar | ADT 1 | All companies | Within 30 days from the date of appointment |
| 4 | Annual accounts of foreign company | FC-3 | Foreign Companies | 9 Months from the closure of FY |

### 16.4.3 Document / Form Required to be filed for Names Availability (Before Incorporation)

| Form | Purpose | Fees |
|---|---|---|
| INC 1 | Availability of Name for a New Company | Rs. 1,000 |

### 16.4.4 Documents / Forms Required at the time of Incorporation

| Document Name | Event | Due Date Of Filing | Required Fee (Refer Section 403 ) |
|---|---|---|---|
| INC -7 | Registration of a Company | At the time of Incorporation | Based on Authorised capital |
| INC -22 | Details of Registered office of the company | At the time of Incorporation | Based on Authorised capital |
| DIR-12 | Appointment of a Director/Secretary | At the time of Incorporation | Based on Authorised capital |
| AOA | Articles of Association | At the time of Incorporation | Based on Authorised capital |
| MOA | Memorandum of Association | At the time of Incorporation | Based on Authorised Capital |

### 16.4.5 Documents / Forms Required After Incorporation

| Form No | Event | Due Date Of Filing | Addl Fee Is Req? |
|---|---|---|---|
| INC- 22 | Change in Situation of Registered office | Within 30 days | Yes |
| DIR-12 | Changes In Director/Manager | Within 30 days | Yes |
| SH-7 | Increase in Share Capital / Members | With in 30 days | Yes |
| MGT-14 | Registration of Resolution / Agreement | With in 30 days | Yes |
| MGT -7 | Annual Return | Within 60 Days of AGM | Yes |
| AOC 4 | Financial Statements | Within 30 Days of AGM | Yes |
| CHG-1 | Creation/modification of charge | Within 30 days | Yes |
| CHG-7 | Register of Charges | NA | No |
| CHG-4 | Memorandum & Complete Satisfaction of Charges | Within 30 days | Yes |
| INC-28 | Notice of Court / CLB Order / RD | Notice of Court / CLB Order / RD | Within 30days |
| PAS-3 | Return of Allotment | Within 30 days | Yes |
| SH 4 | Share Transfer Form | NA | No |
| INC-27 | Conversion of Public to Private application | Conversion of Public to Private application | Yes |
| PAS 3 | Particular of Contract Relating toShare alloted for considration on than cash | With in 30 days | Yes |
| AOC-5 | Address at which Books of A/c of CO are maintained | With in 7 days | Yes |
| FTE | Striking off the name of company under fast track exit mode | With in 30 days | No |

## 16.5 Penalties under Companies Act, 2013

| Sl No. | Section | Nature of Default | Penalty | Persons held responsible |
|---|---|---|---|---|
| 1 | 99 | Failing to hold AGM according to sec 96 to sec 98 | Rs. 100,000 + 5,000 per day | Company and every officer of the company who is in default. |
| 2 | 137 | Failure to file financial statements with MCA | Refer **Note 1** at the end of table **Company:** Lower of Rs. 1,000 per day or Rs. 10 Lakh **Officer:** Imprisonment upto 6 months or with fine Rs. 1 lakh to Rs. 5 lakh or with both | Company and every officer of the company who is in default. |
| 3 | 129 | Default in laying Accounts at the AGM | Imprisonment up to 12 months or with fine of Rs. 50,000 to Rs. 5,00,000 or with both. | Officers and Directors of the company |
| 4 | 136 | Failure to file members Annual Accounts/Auditors Report 21 days before meeting | **Company:** Rs. 25,000 **Officer:** Rs. 5,000 | Company & Officer in default |
| 5 | 92 | Non compliance with the Annual Return | **Company:** Rs. 50,000 to Rs. 5,00,000 **Officer:** Imprisonment up to 6 months or with fine of Rs. 50,000 to Rs. 5,00,000 or with both. | Company & Officer in default |
| 6 | 117 | Failure to file with MCA certain Resolutions or Agreements | **Company:** Rs. 5,00,000 to Rs. 25,00,000 **Officer & Liquidator:** Rs.1,00,000 to Rs. 5,00,000 | Company & Officer in default |
| 7 | 134 | Default in complying with Boards report and financial statements | **Company:** Rs. 50,000 to Rs. 25,00,000 **Officer:** Imprisonment up to 3 years or with fine of Rs. 50,000 to Rs. 5,00,000 or with both | Company & Officer in default |
| 8 | 102 | Contents & manner of service of notice in contravention of the provisions of the Act | **Promoter/Director/Manager/KMP or any relatives of KMP:** Rs. 50,000 or 5 times the amount of benefit W.I.M | Company & Officer in default |
| 9 | 118 | Minutes of proceedings of General Meeting | Fine up to Rs. 500 | The company and every officer of the company who is in default |

| Sl No. | Section | Nature of Default | Penalty | Persons held responsible |
|---|---|---|---|---|
| 10 | 129 | Failure to prepare Annual Accounts in the form & contents specified in the section | **MD/WTD(finance)/CFO/other person charged by the board/All directors:** With or without imprisonment with a term upto 1 year Rs. 50,000 to Rs. 5,00,000 | The company and every officer of the company who is in default |
| 11 | 86 | If any company contravenes any provisions of this chapter | **Company:** Rs. 1 Lakh to Rs. 10 Lakh **Officer in default:** Imprisonment upto 6 months or with fine Rs. 25,000 to Rs. 1,00,000 or both | The company and every officer of the company who is in default |
| 12 | 85 | Wilfully omission of any entry in the Registrer of charges / Refusal for inspection of registar of charge | **Company:** Rs.1 Lakh to Rs.10 Lakh **Officer in default:** Imprisonment upto 6 months or with fine Rs. 25,000 to Rs. 1,00,000 or both | The company and every officer of the company who is in default |
| 13 | 12 | Failure to intimate Registrar about change of Registered Office | Fine upto Rs. 1,000 for every day during which the default continues. Max Rs. 1,00,000 | Company & Officer in default |
| 14 | 60 | Failure to publish Authorised, Subscribed and Paid – up Capital simultaneously | **Company:** Rs. 10,000 for each default **Officer:** Rs. 5,000 for each default | The company and every officer of the company who is in default |
| 15 | 88 | Failure to maintain Register of members Failure to maintain Index of members Failure to maintain Index of Debenture holders Failure to maintain other security holders | **Company:** Rs. 50,000 to Rs. 3,00,000 Where failure is continuing one further fine which may extend to Rs. 1,000 for every day | The company and every officer of the company who is in default |
| 16 | 8 | Failure to comply with the conditions with relation to Sec 8 companies (Sec-8 formation of companies with charitable objects,etc) | **Company:** Rs. 10 lakh to Rs.1 Crore **Directors and every officer of the company in default:** Imprisonment upto 3 years or fine Rs. 25,000 to Rs. 25,00,000 or both | The company and every officer of the company who is in default |
| 17 | 15 | Default in alteration is made in memorandum or articles in each copy after the alteration in MOA and AOA | Company & officer in default: Rs. 1,000 for each copy so issued | The company and every officer of the company who is in default |

| Sl No. | Section | Nature of Default | Penalty | Persons held responsible |
|---|---|---|---|---|
| 18 | 187 | Investments of company to be held in its own name | **Company:** Rs.25,000 to Rs. 25 Lakhs **Officer in default:** Imprisonment upto 6 months or with fine Rs. 25,000 to Rs. 1,00,000 or both | |
| 19 | 91 | If the register of members and debenture holders is closed without giving notice or giving a notice of atleast 7days | Fine upto Rs. 5,000 for every day during which the register is so closed (maximum penalty is Rs. 1,00,000) | The company and every officer of the company who is in default |
| 20 | 92 | Failure in complying with the provisions of section – 159, 160, 161 *(regarding filing of Annual Return)* | Fine upto Rs. 500 for every day during which the default continues | Every officer of the company who is in default |
| 21 | 94 | If any inspection, or the making of any extract u/s 163 is not sent | Fine upto Rs. 500 for every day during which the refusal or default continues | The company and every officer of the company who is in default |
| 22 | 99 | If default is made in holding an AGM or in complying with any directions of the CG *(Sec 167)* | Fine upto Rs. 50,000 + Rs. 2,500 for every day after the first during which such default continues | The company and every officer of the company who is in default |

**Note:** Following fees were applicable from 1stApril, 2014

| Period of delay | Penal fees |
|---|---|
| Upto 30 days | 2 times of normal fees |
| More than 30 days & upto 60 days | 4 times of normal fees |
| More than 60 days & upto 90 days | 6 times of normal fees |
| More than 90 days& upto 180 days | 10 times of normal fees |
| More than 180 days | 12 times of normal fees |

*Normal fees varies on the basis of Authorised capital of the company. The above fees is to be paid in addition to the normal fees.*

## NOTES

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***End of Chapter.*** *For the complete Compliance Manual, additional chapters, or a tailored briefing for your finance and compliance teams, contact* ***info@rstandco.co.in****.*

CHAPTER 17 · COMPLIANCE MANUAL · 2024 EDITION

# Corporate Social Responsibility

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Corporate social responsibility (**CSR**) benefits the society at large and the company in many ways - brand recognition, reputation, increased sales and customer loyalty, better financial performance, greater ability to attract talent and retain staff, organisational growth and easier access to capital.

On August 29, 2013, CSR was legislated by introducing section 135 in the Companies Act, 2013 which was made applicable from the financial year 2014-15.

The question that has always been litigated is whether expenditure on CSR activity is eligible for tax deduction under the Income Tax Act, 1961.

**What is Corporate Social Responsibility under the Companies Act, 2013?**

CSR provisions are currently applicable to companies with -

an annual turnover of Rs. 1,000 crore and more, or

a net worth of Rs. 500 crore and more, or

a net profit of Rs. 5 crore and more.

Qualifying company is mandated to **spend 2% of the average profits of the last three years** on CSR activities. CSR includes,

Projects or programmes relating to activities specified in schedule VII to the Companies Act;

Projects or programmes relating to activities undertaken by the board of directors of a company in pursuance of recommendations of CSR committee as per declared CSR policy, subject to the condition that the policy covers subjects enumerated in schedule VII of the Companies Act.

There are separate regulations provided for CSR committee, functions to be formed by the committee, functions of the board, ways to carry on the CSR activities and disclosure of the CSR expenditure in the annual accounts.

**Tax deductibility for CSR expenditure:**

As CSR expenses have a philanthropic nature and are not necessarily a business expense, the parliament legislated that CSR expenses would not be eligible for deduction u/s 37 (general deductions) of the IT Act.

Explanation 2 to section 37(1) was inserted in 2014 which provided that any expenditure incurred by an assessee on the activities relating to CSR referred to in section 135 of Companies Act 2013, will not be deemed to be an expenditure incurred by the assessee for the purpose of business or profession and will not be allowed as deduction u/s 37(1) of the IT Act.

But the CSR expenditure which is of the nature described in section 30 to section 36 of the IT Act will be allowed as deduction under those sections subject to fulfillment of conditions specified.

**Whether deduction u/s 80G is allowable for CSR contribution?**

After the 2014 amendment, some tax authorities have disallowed the expenditure u/s 37(1) and have also disputed the claim of deduction u/s 80G for eligible donations, qualifying for CSR.

The tax authorities contended that the intention of the legislature was never to allow deduction for CSR expenditure, else it would result in subsidizing the CSR expenditure by one-third amount. Furthermore, CSR expenditure is not voluntary, but mandatory in nature.

The Bangalore Tribunal, in some of the cases allowed the deduction u/s 80G and held that taxpayer cannot be denied the benefit of claim under Chapter VI-A, which is considered for computing total taxable income. If taxpayer is denied this benefit, merely because the payment forms part of CSR, it would lead to double disallowance, which is not the intention of legislature.

The Tribunal held that there are two specific exceptions provided u/s 80G (Bharat Kosh and Clean Ganga Fund) to disallow sum spent by the taxpayer in pursuance of CSR. Thus, other contributions made u/s 135(5) of the Companies Act would be eligible for deduction u/s 80G subject to taxpayer satisfying the conditions prescribed for the deduction.

***End of Chapter.*** *For the complete Compliance Manual, additional chapters, or a tailored briefing for your finance and compliance teams, contact **info@rstandco.co.in**.*

CHAPTER 18 · COMPLIANCE MANUAL · 2024 EDITION

# LIMITED LIABILITY PARTNERSHIP

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Limited liability partnerships (LLPs) **allow for a partnership structure where each partner's liabilities are limited to the amount they put into the business**.

Having business partners means spreading the risk, leveraging individual skills and expertise, and establishing a division of labor.

## 18.1 Incorporation documents

| Form No | Purpose | Fee |
|---|---|---|
| 7 | Application for DPIN | Rs. 500 |
| 1 | Reservation of Name | Rs. 200 |
| 2 | Incorporation | Refer para 18.3 |
| 3 | LLP Agreement | Refer para 18.3 |
| 4 | Appointment of Partner | Refer para 18.3 |

## 18.2 Important Post Incorporation Forms

| Form No | Events | Due Date | Fee |
|---|---|---|---|
| 3 | Change in LLP agreement | 30 days | Refer para 18.3 |
| 4 | Change of partner | 30 days | Refer para 18.3 |
| 5 | Notice of change in name | 30 days | Refer para 18.3 |
| 6 | Change of particular of partner | 30 days | No fee |
| 8 | Statement of account/solvency | 30 days from the end of 6 months from the end of the financial year | Refer para 18.3 |
| 9 | Consent to act as designated partner | Before appointment | No fee |
| 10 | Change of particulars of designated partner | 30 days | No fee |
| 11 | Annual return | 60 days from the end of the financial year | Refer para 18.3 |
| 13 | Notice of ceasing of partner | 30 days | No fee |
| 15 | Change in office | 30 days | Refer para 18.3 |

## 18.3 Other Compliances

**Statutory Audit -** If the contribution of partners is above Rs. 25 lakhs or if annual turnover is above Rs. 40 lakhs.

**Tax Audit –** Only if turnover exceeds Rs. 500 or Rs. 1,000 lakhs for business entities and Rs. 15 lakhs for professional entities.

The particulars of statement of accounts and solvency statement have to be filed with ROC in **form no. 8** on or before **30th October** each year with the prescribed fees.

An annual return is to be filed with ROC on or before **30th May** each year in **form no. 11** with the prescribed fees.

**NOTES**

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CHAPTER 19 · COMPLIANCE MANUAL · 2024 EDITION

# INSOLVENCY AND BANKRUPTCY CODE, 2016

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

Insolvency and Bankruptcy Code (IBC) was enacted by the Parliament with the intention of bringing uniformity to bankruptcy laws in 2016.

IBC is an all encompassing law that deals with the bankruptcy of corporations, partnerships and individuals. IBC has established the Insolvency and Bankruptcy Board of India as the nodal agency to regulate all matters relating to insolvency and bankruptcy with an intent to complete insolvency resolution process in a fast and transparent manner.

## 19.1 Objectives of the Code

The primary objective of IBC is to provide a balance between an interest of all the stakeholders of the company to enjoy the availability of credit and the loss that a creditor might have to bear on account of default. Other key objectives are:

Consolidate and amend the laws relating to re-organization and insolvency resolution of corporate persons, partnership firms and individuals.

Fix time periods for execution of the law for time-bound settlement of insolvency (180 days).

Maximize the value of assets of interested persons.

Promote entrepreneurship and increase the availability of credit.

Balance all stakeholder’s interest, including alteration, in the order of priority of payment of Government dues.

Establish an Insolvency and Bankruptcy Board of India as a regulatory body for insolvency and bankruptcy law.

Establish higher levels of debt financing across a wide variety of debt instruments.

Provide painless revival mechanism for entities.

Deal with cross-border insolvency.

Resolve India’s bad debt problem by creating a database of defaulters.

## 19.2 WHO DOES IT APPLY TO?

Any Company incorporated under the Companies Act, 2013

Any other company incorporated by any special statute

Any Limited Liability Partnership firm registered under Limited Liabilities Partnership Act, 2008

Any Partnership registered under the Partnership Act, 1932

Any Individual person

**Exception:** IBC shall not apply to corporate persons who are regulated financial service providers like banks, financial institutions and insurance companies.

## 19.3 WHEN WILL AN INSOLVENCY RESOLUTION PROCESS TRIGGER?

An insolvency resolution process under the IBC can be initiated by a creditor when there is a minimum default of Rs. 1,00,000 of debt by the corporate debtor and Rs. 1,000 in case of individuals and unlimited partnerships. Central Government by placing a notification may specify the minimum amount of default of higher value which shall not be more than Rs. 1 crore.

Application can be filed by a creditor before the National Company Law Tribunal (NCLT) or Debt Recovery Tribunal (DRT). The NCLT will consider the following elements before admitting the application:

Existence of a debt

Existence of default, and

Notice of default (if the application is filed by an operational creditor).

A **creditor** can be an operational creditor or a financial creditor. A **debtor** is any entity or an individual who owes any liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt.

**Default** is defined as non-payment of debt when whole or any part or installment of the amount of debt has become due and payable but has not been repaid by the debtor.

## 19.4 CATEGORIES OF CREDITORS UNDER THE IBC

### 19.4.1 Financial Creditor

Financial creditor is any person to whom a financial debt is owed. The relationship between the financial creditor and the debtor is a pure financial contract, such as a loan. A financial debt is a debt along with interest which is disbursed against the consideration for the time value of money.

Examples of **financial debt:**

Money borrowed against repayment of interest.

Money raised against any accepted credit facility.

Money raised through instruments like bonds, notes, debentures or similar instruments.

Any amount raised through transactions like forward sale or purchase agreements.

Financial creditors may either be **secured creditors or unsecured creditors**. In the event of liquidation and asset distribution proceedings, secured creditors are given a higher priority than unsecured creditors. Secured financial creditors are given the same priority of repayment as workmen and employee dues and are given a higher priority than other operational creditors, who are treated as unsecured creditors for the purposes of liquidation.

Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 has **included home buyers** within the definition of financial creditor.

### 19.4.2 Operational Creditors

Operational creditor is a person to whom operational debt is owed or to whom such debt has been assigned. Operational debt is a claim in respect of the provision of goods or services, including employment or dues payable to any governmental authority.

## 19.5 HOW DOES THE CORPORATE INSOLVENCY RESOLUTION PROCESS WORK?

*(For Companies and Limited Liability Partnerships)*

**Step 1: Corporate Insolvency Resolution Process (CIRP)**

During this process, the financial creditors investigate the corporate debtor to determine whether it is viable to continue its business. The creditors also come up with a plan to restructure the corporate debtor.

**Application to the NCLT**: The creditor has to file an application with the NCLT for initiating insolvency resolution proceedings. The NCLT will be required to either accept or reject the application within 14 days of filing the application.

**Initiation of the insolvency process and suspension of management**: Once the application has been accepted by the NCLT, the management of the debtor is suspended and the intermediate authority, appointed by the NCLT referred to as Interim Insolvency Resolution Professional takes over the management of the corporate debtor. A moratorium takes effect on the corporate debtor, which prohibits the continuation or initiation of any legal proceedings against the debtor, the transfer of its assets, or the enforcement of any security interest.

**Appointment of the committee of creditors:** The interim resolution professional investigates the claims made by the creditors and constitutes the committee of creditors within 30 days of the NCLT admitting the application.

**Appointment of the resolution process:** The committee of creditors appoints an independent person as the resolution professional, referred to as Insolvency Resolution Professional (IRP) to take over the management of the corporate debtor.

**Approval of the resolution plan:** Within 180 days of the initiation, the IRP is required to draw up a resolution plan for the revival of the corporate debtor. The plan needs to be approved by creditors holding at least 75% of the debt of the corporate debtor.

**Step 2: Liquidation Process**

If the CIRP fails, the financial creditors have the option to wind up the corporate debtor, liquidate and distribute its assets in the order of liquidation preference prescribed under IBC.

**Priority of Claims**

After the costs of insolvency resolution including any interim finance, secured debt together with workmen dues for the preceding 24 months rank highest in priority.

Central and state Government dues stand below the claims of secured creditors, workmen dues, employee dues and other unsecured financial creditors.

Upon liquidation, a secured creditor may choose to realise his security and receive proceeds from the sale of the secured assets in first priority.

If the secured creditor enforces his claims outside the liquidation, he must contribute any excess proceeds to the liquidation trust.

In case of any shortfall in recovery, the secured creditors will be junior to the unsecured creditors to the extent of the shortfall.

## 19.6 Insolvency Resolution Process for Individuals/Unlimited Partnerships

**Step 1: Automatic Fresh Start**

Eligible debtors on the basis of gross income can apply to the Debt Recovery Tribunal (DRT) for discharge from certain debts which do not exceed the specified threshold, allowing them to start afresh.

**Step 2: Insolvency Resolution**

This process consists of preparation of a repayment plan by the debtor, for approval of creditors. If the plan is approved, the DRT passes an order binding the debtor and creditors to the repayment plan. If the plan is rejected or fails, the debtor or creditors may apply for a bankruptcy order.

## 19.7 Institutional Infrastructure

### 19.7.1 The Insolvency Regulator

IBC provides for the constitution of insolvency regulator, the Insolvency and Bankruptcy Board of India. Its role includes -

overseeing the functioning of insolvency intermediaries (insolvency professionals, insolvency professional agencies and information utilities), and

regulating the insolvency process.

### 19.7.2 Insolvency Resolution Professionals

IBC provides for insolvency professionals as intermediaries who play a key role in the efficient working of the bankruptcy process. IBC contemplates insolvency professionals as a class of regulated but private professionals having minimum standards of professional and ethical conduct.

In the resolution process, the insolvency professional verifies the claims of the creditors, constitutes a creditors committee, runs the debtor's business during the moratorium period and helps the creditors in reaching a consensus for a revival plan.

In liquidation, the insolvency professional acts as a liquidator and bankruptcy trustee.

### 19.7.3 Information Utilities

IBC has created information utilities to collect, collate, authenticate and disseminate financial information of debtors in centralised electronic databases.

IBC requires creditors to provide financial information of debtors to multiple utilities on an ongoing basis. This information would be available to creditors, resolution professionals, liquidators and other stakeholders in insolvency and bankruptcy proceedings.

### 19.7.4 Adjudicatory authorities

The adjudicating authority for corporate insolvency and liquidation is NCLT. Appeals from NCLT orders lie to the National Company Law Appellate Tribunal and thereafter to the Supreme Court.

For individuals and other persons, the adjudicating authority is the DRT, appeals lie to the Debt Recovery Appellate Tribunal and thereafter to the Supreme Court.

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CHAPTER 20 · COMPLIANCE MANUAL · 2024 EDITION

# TRUST (Indian Trust Act )

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

A trust is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner.

A trust may be private or public. A public charitable & religious trust enjoys many exemptions/benefits under Indian income tax laws and GST laws on endowments and donations received.

A trust may be formed by competent persons who are trustees of the trust by means of deed of trust where property of the trust is entrusted and conditions of creation & carrying of trust is mentioned. It shall be registered with local registrar of trusts.

Under income tax laws, a trust has to be a public charitable trust for availing the benefits of exemptions.

## 20.1 Public Charitable activities

Public charitable activities include:

Relief of the poor

Education

Medical relief

Preservation of environments (including water sheds, forests and wild life) and preservation of monuments or places or objects of artistic or historic interest, and

The advancement of any other object of general public utility.

And, excludes:

Any activity in the nature of trade, commerce or business, or

Any activity of rendering any service in relation to any trade, commerce or business.

## 20.2 Forms

| Forms | Description |
|---|---|
| Form 10A | Application for registration of charitable or religious trust or institution under section 12A(a) |
| Form 10B | Audit report under section 12A(b) of the income tax act, 1961, in the case of charitable or religious trusts or institutions |
| Form 10G | Application for grant of approval or continuance thereof to institution or fund under section 80G (5) (vi) of the income tax act, 1961. |

## 20.3 Trust claiming general exemptions

Income derived from **property held under trust for charitable or religious purposes** to that extent.

Income in the form of **voluntary contributions** made with a specific direction that they should form part of the corpus of the trust or institution.

## 20.4 Conditions to claim the exemption u/s 11

The property from which income is derived should be held under a trust or other legal obligation.

The property should be held for charitable or religious purposes. In the case of charitable trust created on or after April 1, 1962, the further conditions are:

The trust should not be created for the benefit of any particular religious community or caste

No part of the income should enure, directly or indirectly, for the benefit of the settler or other specified persons; and

The property should be held wholly for charitable purposes.

The trust should be registered u/s 12A.

The funds of the trust should be invested or deposited in any one or more of modes or forms mentioned in section 11(5).

## 20.5 Important Section to remember (Income Tax Act)

| Section | Explanation |
|---|---|
| Section 11 | The income arising from property held under Trust constitutes the income of the Trust. It will mean income from property, business, dividends, interest on securities or other interest etc. It will also include donations received by the trust by virtue of the provisions of section 12. In other words, the income for the purpose of section 11 is the income as per the accounts of the trust. |
| Section 12 | Income of trusts or institutions from contributions |
| Section 12A | Conditions for applicability of Section 11 & 12 |
| Section 12AA | Procedure for registration under Income Tax Act |

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CHAPTER 21 · COMPLIANCE MANUAL · 2024 EDITION

# IMPORT EXPORT CODE (IEC)

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

An Importer-Exporter Code (IEC) is **a key business identification number which is mandatory for export from India or import to India**.

No export or import shall be made by any person without obtaining an IEC unless specifically exempted. However, for services exports, IEC shall be not be necessary except when the service provider is taking benefits under the Foreign Trade Policy.

Consequent upon introduction of GST, IEC being issued is the same as the PAN of the firm. However, the IEC will still be separately issued by DGFT based on an application. The nature of the firm obtaining an IEC may be any of the following: Proprietorship, Partnership, LLP, Limited Company, Trust, HUF, Society.

## 21.1 Applicability

An Individual or any entity intends to do International business by means of import or export of goods and/or services.

### 21.1.1 Document Requirements to apply for an IEC

PAN number.

Current account in bank/cancelled cheque having business name.

Application in the prescribed format.

Banker’s certificate in a prescribed form.

Other documents sought in the application.

### 21.1.2 Filing of application from

To the jurisdictional DGFT office where the registered office of the business is located.

No need to obtain IEC branch wise.

## 21.2 Exemptions

Import or export of goods for personal use.

Goods imported or exported from/to Nepal and Myanmar (through Indo-Myanmar border) provident the CIF* value of a single consignment does not exceed Rs. 25,000.

*CIF = Cost, Insurance & Frieght

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CHAPTER 22 · COMPLIANCE MANUAL · 2024 EDITION

# DIGITAL SIGNATURES

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

A digital signature is a code (generated and authenticated by public key encryption) which is attached to an electronically transmitted document to verify its contents and the sender's identity.

A valid digital signature helps the receiver to know the message comes from the authentic sender and is not altered in between.

Digital signature needs a public key system. The sender uses a private key to sign a document and the verifier uses the public key to verify the document.

## 22.1 Features of Digital SignatureS

Message Integrity

Message Authentication

Message Non-repudiation

## 22.2 Types of Digital Signatures

| Classes | Description |
| --- | --- |
| Class I | These signatures are used for identification of username/email ID (stating that, a particular username/email ID belongs to a particular person). However,it is not allowed to sign any Statutory / Business Documents. |
| Class II | Digital Signature for Income Tax Return e-filing, ROC / MCA 21<br>Digital Signature are used by Chartered Accountants or Company Secretary for their clients, for himself, for existing directors, for new company incorporation, for practicing CA or CS or ICWA. |
| Class III | Digital Signature Certificates for e-Tendering/ e-Procurement/ e-Bidding/ e-Ticketing/ e-Auction/ e-Bidding Class 3 Digital Signatures are issued to individuals, organizations and devices and applicable for personal and commercial use. Typically, they are used for Electronic Data Exchange (EDI), internet banking/broking-tendering and other web-based transactions where confidentiality and authenticity are critical. |

### NOTES

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# FORMS prescribed under Income Tax Act

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

## 23.1 Challans

| Purpose | Challan No |
|---|---|
| Income Tax | 280 |
| TDS or TCS tax challan | 281 |
| Misc Direct taxes | 282 |

## 23.2 Charitable & Religious trusts

| Purpose | Form No |
|---|---|
| Application for registration u/s 12A | 10A |
| Application for approval/continuance u/s 80G(5)(vi) | 10G |

## 23.4 Other Forms

| Purpose | Form No |
|---|---|
| PAN Application | 49A |
| TAN Application | 49B |
| STT Payment evidence | 10DB or 10DC |
| Annual Tax Statement | 26AS |

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CHAPTER 24 · COMPLIANCE MANUAL · 2024 EDITION

# SOPs (Standard Operating Procedures)

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

## 24.1 Overview

A Standard Operating Procedure (SOP) is set of written instructions that documents a routine or a repetitive activity followed by an organisation. The development and use of SOPs are an integral part of a successful quality system as it provides staff with an overall framework to perform their functions properly. It facilitates consistency in the quality and integrity in end-result.

## 24.2 Purpose

The purpose of the below FLOWCHARTS is to provide a sequence of activities followed or to be followed for efficient execution of various functions & processes. The chart guides on systematic and timely execution of various activities by the process owners.

## 24.3 PROCESS FLOWS

The following list of process flows and/or policies are drafted below:

Income tax Filing (other than Tax audit)

TDS Filing

GST Filing

Correction of TDS Return

Registration Compliances

Company Registration

Reply to IT Notice

### 24.3.1 INCOME TAX FILING

The chart guides on fililng of ITR of all assesses other than those covered under tax audit u/s 44AB.

NO

YES

**Note 1:**

**Basic information includes** PAN; Voter’s ID; DL; Ration Card; VAT, ST, Excise Registration certificate, Rental Agreements

**Documents checklist includes** Bank & Loan Statements; VAT, Excise, ST login user ID & password; Previous year ITR-V; Investment details

**Note 2:**

**Client documentation includes** ITR-V; IT Computation; Balance Sheet and Profit & Loss Account along with Schedules.

### 24.3.2 TDS FILING

### 24.3.3 GST Filing

This chart guides on filing the GST Returns of all those who have registered under GST Act.

### 24.3.4 CORRECTION OF TDS RETURN

This chart guides on filing correction TDS Return in case where rectifications of data in old return is needed or additions to or deletions from old return is to be made.

### 24.3.5 REGISTRATION COMPLIANCES

This chart guides on the laws under which the entity is to be registered for carrying on a business in the state of Karnataka.

***See also:*** *chart 24.3.6 procedure for company registration*

### 24.3.6 PROCEDURE FOR COMPANY REGISTRATION

**Notes:**

**Note 1: Fee Structure: (Amount in Rs.)**

| Form | If authorised capital is | If authorised capital is | If authorised capital is | If authorised capital is |
|---|---|---|---|---|
| **Form** | **Rs. 1,00,000 to Rs. 4,99,999** | **Rs. 5,00,000 to Rs. 24,99,999** | **Rs. 25,00,000 to Rs. 99,99,999** | **Rs. 1,00,00,000 and more** |
| DIR-3 | 500 | 500 | 500 | 500 |
| INC-1 | 1,000 | 1,000 | 1,000 | 1,000 |
| INC-7 | 300 | 400 | 500 | 600 |
| DIR-12 | 300 | 400 | 500 | 600 |
| INC-22 | 300 | 400 | 500 | 600 |
| AOA | 300 | 400 | 500 | 600 |
| MOA | Rs. 2,000 upto Rs. 10 lakh authorised capital and Rs. 2,000 per every lakh beyond Rs. 10 lakh | Rs. 2,000 upto Rs. 10 lakh authorised capital and Rs. 2,000 per every lakh beyond Rs. 10 lakh | Rs. 2,000 upto Rs. 10 lakh authorised capital and Rs. 2,000 per every lakh beyond Rs. 10 lakh | Rs. 2,000 upto Rs. 10 lakh authorised capital and Rs. 2,000 per every lakh beyond Rs. 10 lakh |

*Only Electronic payments are accepted.

*Stamp duty on MOA , AOA & Form INC-7 are payable as per respective state stamp act.

**Note 2: Documents checklist includes** ID proof and Addres proof of all the directors.

**Note 3:** Fill form DIR-3 > attach self attested copies of ID proof and address proof of the applicant > Affix DSC of applicant and CA/CS/CMA > Submit.

**Note 4**: > Register Digital signature > Director > Provide details as per DIR-3 > select certificate > Submit.

## 24.3.7 REPLYING TO NOTICE

The following serves as guidelines to reply to the notice received from statutory authorities.

### Preliminary homework

Obtain the Copy of the Notice and study the section under which such notice has been issued.

Verify whether such notice issued from relevant Jurisdiction and within prescribed time limit as per the Act or Rules.

### Detailed working

Study the Sections, provisions including Circulars, notifications,amendments, etc.,

Analyse the facts of the case in reference to Act and rules. Make a summary.

A detailed discussion with the client about all the issues in the notice. Providing a clear idea to the client on the consequences of issues dealt

Intimate client of required documents and obtain the same.

Prepare Reply to Notice. Obtain Power of Attorney (POA) and Reply letter duly signed from client.

Present before authority on given date with necessary documents.

Obtain Order copy after all the discussion and providing clarifications.

**Process flow**

***End of Chapter.*** *For the complete Compliance Manual, additional chapters, or a tailored briefing for your finance and compliance teams, contact **info@rstandco.co.in**.*

CHAPTER 25 · COMPLIANCE MANUAL · 2024 EDITION

# Annexures

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

## 25.1 Income Tax

### 25.1.1 Computation Tables

#### Income from Salary

| Particulars | Rs. |
|---|---|
| Basic salary | xxx |
| Add: | |
| 1. Fees, commission and bonus | xxx |
| 2. Allowances | xxx |
| 3. Perquisites | xxx |
| 4. Retirement benefits | xxx |
| **Gross Salary** | **xxx** |
| Less: Deductions from Salary | |
| 1. Standard deduction (upto Rs. 50,000) | xxx |
| 2. Entertainment allowance u/s 16 | xxx |
| 3. Professional tax u/s 16 | xxx |
| **Net Salary** | **xxx** |

#### Income from House Property

| Particulars | Rs. |
|---|---|
| Gross annual value | xxx |
| Less: Municipal taxes | xxx |
| **Net annual value** | **xxx** |
| Less: Standard deduction at 30% [Section 24(a)] | xxx |
| Less: Interest on borrowed capital [Section 24(b)] | xxx |
| **Income from House Property** | **xxx** |

#### Income from Capital Gains

| Particulars | Rs. |
|---|---|
| Full value of consideration | xxx |

| Particulars | Rs. |
|---|---|
| Less: Expenditure incurred wholly and exclusively in connection with transfer of capital asset | (xxx) |
| **Net sale consideration** | **xxx** |
| Less: Indexed cost of acquisition | (xxx) |
| Less: Indexed cost of improvement, if any | (xxx) |
| **Long Term Capital Gain** | **xxx** |
| | |

| Particulars | Rs. |
|---|---|
| Full value of consideration | xxx |
| Less: Expenditure incurred wholly and exclusively in connection with transfer of capital asset | (xxx) |
| **Net sale consideration** | **xxx** |
| Less: Cost of acquisition | (xxx) |
| Less: Cost of improvement | (xxx) |
| **Short Term Capital Gain** | **xxx** |

### Cost Inflation Index

| Sl No. | Financial year | Cost inflation index | Sl No. | Financial year | Cost inflation index |
|---|---|---|---|---|---|
| 1 | 2001-02 | 100 | 14 | 2014-15 | 240 |
| 2 | 2002-03 | 105 | 15 | 2015-16 | 254 |
| 3 | 2003-04 | 109 | 16 | 2016-17 | 264 |
| 4 | 2004-05 | 113 | 17 | 2017-18 | 272 |
| 5 | 2005-06 | 117 | 18 | 2018-19 | 280 |
| 6 | 2006-07 | 122 | 19 | 2019-20 | 289 |
| 7 | 2007-08 | 129 | 20 | 2020-21 | 301 |
| 8 | 2008-09 | 137 | 21 | 2021-22 | 317 |
| 9 | 2009-10 | 148 | 22 | 2022-23 | 331 |
| 10 | 2010-11 | 167 | 23 | 2023-24 | 348 |
| 11 | 2011-12 | 184 | 24 | 2024-25 | 363 |
| 12 | 2012-13 | 200 | | | |
| 13 | 2013-14 | 220 | | | |

## 25.1.2 TDS Rates

### In the case of a person other than a company

| Section | Nature of payment | Threshold limit | TDS Rates (in %) | TDS Rates (in %) |
|---|---|---|---|---|
| **Section** | **Nature of payment** | **Threshold limit** | **Resident** | **Non-Res** |
| 192 | Salary | Slab rate | Slab rate | Slab rate |
| 192A | Accumulated balance of provident fund | Rs. 50,000 | 10 | 10 |
| 193 | Interest on securities | Rs. 5,000 or Rs. 10,000 | 10 | N/A |
| 194 | Dividend | Rs. 5,000 | 10 | N/A |
| 194A | Interest other than interest on securities | Rs. 40,000 or Rs. 50,000 | 10 | N/A |
| 194B | Winnings from lotteries, puzzles, other games | Rs. 10,000 | 30 | 30 |
| 194BB | Winnings from horse races | Rs. 10,000 | 30 | 30 |
| 194C | Payment to contractor/ sub-contractor | Rs. 30,000 single payment or Rs. 1,00,000 aggregate | | N/A |
| | a) HUF/Individuals | Rs. 30,000 single payment or Rs. 1,00,000 aggregate | 1 | |
| | b) Others | Rs. 30,000 single payment or Rs. 1,00,000 aggregate | 2 | |
| 194D | Insurance commission | Rs. 15,000 | 5 | N/A |
| 194DA | Life insurance policy | Rs. 1,00,000 | 5 | N/A |
| 194E | Non-resident sportsmen/sports association | | N/A | 20 |
| 194EE | Deposit under National Savings Scheme | Rs. 2,500 | 10 | 10 |
| 194F | Repurchase of unit by Mutual Fund/UTI | | 20 | 20 |
| 194G | Commission on sale of lottery tickets | Rs. 15,000 | 5 | 5 |
| 194H | Commission or brokerage | Rs. 15,000 | 5 | N/A |
| 194-I | Rent | Rs. 2,40,000 | | N/A |
| | a) Plant & machinery | | 2 | |
| | b) Land or building or furniture or fitting | | 10 | |
| 194-IA | Transfer of immovable property other than agricultural land | Rs. 50 Lakhs | 1 | N/A |
| 194-IB | Rent payment by individual/HUF | Rs. 50,000 | 5 | N/A |

| Section | Nature of payment | Threshold limit | TDS Rates (in %) | TDS Rates (in %) |
|---|---|---|---|---|
| 194-IC | Monetary consideration under Joint Development Agreements | | 10 | N/A |
| 194J | Fees for professional or technical services: | Rs. 30,000 | | N/A |
| | i) Technical services | | 2 | |
| | ii) Royalty for sale, distribution or exhibition of cinematographic films; | | 2 | |
| | iii) Any other sum | | 10 | |
| | iv) Operation of call center | | 2 | |
| 194K | Units payable to resident person | | 10 | N/A |
| 194LA | Compensation on acquisition of certain immovable property | Rs. 2.50 Lakhs | 10 | N/A |
| 194LB | Interest on infrastructure debt fund | | N/A | 5 |
| 194LBA(1) | Business trust distributing interest from SPV or income from real estate assets | | 10 | N/A |
| 194LBA(2) | Distributed income by business trust [5% u/s 10(23FC)(a) and 10% u/s 10(23FC)(b)] | | N/A | 5 or 10 |
| 194LBA(2) | Distributed income by business trust [5% u/s 10(23FC)(a) and 10% u/s 10(23FC)(b)] | | N/A | 5 or 10 |
| 194LBA(3) | Business trust to unit holders u/s 10(23FCA) | | N/A | 30 |
| 194LBB | Investment fund to unit holder other than income exempt u/s 10(23FBB) | | 10 | 30 |
| 194LBC | Investment made in a securitisation trust, specified u/s 115TCA (25% for Individual/HUF, 30% for other person) | | 25 or 30 | 30 |

| Section | Nature of payment | Threshold limit | TDS Rates (in %) | TDS Rates (in %) |
|---|---|---|---|---|
| 194LC | Interest by Indian company/business trust for borrowing in foreign currency | | N/A | 5 or 4 |
| 194LD | Interest on rupee denominated bond of Indian company/Government securities | | N/A | 5 |
| 194M | Commission, brokerage, contractual fee, professional fee to a resident by Individual/HUF | Rs. 50 Lakhs | 5 | N/A |
| 194N | Cash withdrawal during the previous year | Rs. 1 crore | | N/A |
| | i) in excess of Rs. 1 crore | or Rs. 20 Lakhs | 2 | |
| | ii) in excess of Rs. 20 lakhs, for persons who have not filed return of income for 3 previous years and due date for filing ITR has expired: | | 2 or 5 | |
| | a) 2%, withdrawal > Rs. 20 lakhs | | | |
| | b) 5%, withdrawal > Rs. 1 crore | | | |
| 194-O | E-commerce operator to participant | Rs. 5 Lakhs | 1 | N/A |
| 194P | Specified bank in case of senior citizen aged 75+ | | Slab rate | N/A |
| 194Q | Payment to resident for purchase of goods of the aggregate value > Rs. 50 lakhs | Rs. 50 Lakhs | 0.1 | N/A |
| 195 | Payment of other sum to a non-resident | | N/A | |
| | a) Investment made by non-resident Indian | | | 20 |
| | b) Long term capital gain u/s 115E | | | 10 |
| | c) Long term capital gain u/s 112(1)(c)(iii), 112A | | | 10 |
| | d) Short term capital gain u/s 111A | | | 15 |

| Section | Nature of payment | Threshold limit | TDS Rates (in %) | TDS Rates (in %) |
|---|---|---|---|---|
| | e) Any other long term capital gain | | | 20 |
| | f) Interest by Government/Indian concern on borrowing in foreign currency | | | 20 |
| | g) Royalty payable by Government/Indian concern u/s 115A(1A) | | | 10 |
| | h) Royalty payable by Government/Indian concern for matters included in industrial policy | | | 10 |
| | i) Fees for technical services payable by Government/Indian concern for matters included in industrial policy | | | 10 |
| | k) Any other income | | | 30 |
| 196B | Income from units to an offshore fund | | N/A | 10 |
| 196C | Income from foreign currency bonds or GDR of an Indian company | | N/A | 10 |
| 196D | Income of Foreign Institutional Investors from securities | | N/A | 20 |
| | Note: Tax shall be deducted at the rate provided under DTAA if it is lower | | | |
| | Any other income | | 10 | 30 |

### In case of a company

| Section | Nature of Payment | Threshold limit | TDS Rates (in %) | TDS Rates (in %) |
|---|---|---|---|---|
| **Section** | **Nature of Payment** | **Threshold limit** | **Domestic co.** | **Not domestic** |
| 193 | Interest on securities | Rs. 5,000 or Rs. 10,000 | 10 | N/A |
| 194 | Dividend | Rs. 5,000 | 10 | N/A |
| 194A | Interest other than interest on securities | Rs. 40,000 or Rs. 50,000 | 10 | N/A |
| 194B | Winnings from lotteries, puzzles, other games | Rs. 10,000 | 30 | 30 |

| Section | Nature of Payment | Threshold limit | TDS Rates (in %) | TDS Rates (in %) |
|---|---|---|---|---|
| 194BB | Winnings from horse races | Rs. 10,000 | 30 | 30 |
| 194C | Payment to contractor/ sub-contractor | Rs. 30,000 single payment<br>Rs. 1,00,000 aggregate | | N/A |
| | a) HUF/Individuals | Rs. 30,000 single payment<br>Rs. 1,00,000 aggregate | 1 | |
| | b) Others | Rs. 30,000 single payment<br>Rs. 1,00,000 aggregate | 2 | |
| 194D | Insurance commission | Rs. 15,000 | 10 | N/A |
| 194DA | Life insurance policy | Rs. 1,00,000 | 5 | N/A |
| 194E | Non-resident sports association | | N/A | 20 |
| 194EE | Deposit under National Savings Scheme | Rs. 2,500 | 10 | N/A |
| 194F | Repurchase of unit by Mutual Fund/UTI | | 20 | N/A |
| 194G | Commission on sale of lottery tickets | Rs. 15,000 | 5 | 5 |
| 194H | Commission or brokerage | Rs. 15,000 | 5 | |
| 194-I | Rent | Rs. 2,40,000 | | N/A |
| | a) Plant & Machinery | | 2 | |
| | b) Land or building or furniture or fitting | | 10 | |
| 194-IA | Transfer of certain immovable property other than agricultural land | Rs. 50 Lakhs | 1 | N/A |
| 194-IC | Monetary consideration under Joint Development Agreements | | 10 | N/A |
| 194J | Fees for professional or technical services: | Rs. 30,000 | | N/A |
| | i) Fees for technical services | | 2 | |
| | ii) Royalty for sale, distribution or exhibition of cinematographic films; | | 2 | |
| | iii) Any other sum | | 10 | |

| Section | Nature of Payment | Threshold limit | TDS Rates (in %) | TDS Rates (in %) |
|---|---|---|---|---|
| | iv) Operation of call center | | 2 | |
| 194K | Units payable to resident person | | 10 | N/A |
| 194LA | Compensation on acquisition of certain immovable property | Rs. 2.50 Lakhs | 10 | N/A |
| 194LB | Interest on infrastructure debt fund | | N/A | 5 |
| 194LBA(1) | Business trust distributing interest from SPV or income from real estate assets | | 10 | |
| 194LBA(2) | Distributed income by business trust [5% u/s 10(23FC)(a) and 10% u/s 10(23FC)(b)] | | N/A | 5 or 10 |
| | Distributed income by business trust [5% u/s 10(23FC)(a) and 10% u/s 10(23FC)(b)] | | N/A | 5 or 10 |
| 194LBA(3) | Business trust to unit holders u/s 10(23FCA) | | N/A | 40 |
| 194LBB | Investment fund to unit holder other than income exempt u/s 10(23FBB) | | 10 | 40 |
| 194LBC | Investment made in a securitisation trust, specified u/s 115TCA | | 10 | 40 |
| 194LC | Interest by Indian company/business trust for borrowing in foreign currency | | N/A | 5 or 4 |
| 194LD | Interest on rupee denominated bond of Indian company/Government securities | | N/A | 5 |
| 194M | Commission, brokerage, contractual fee, professional fee to a resident by Individual/HUF | Rs. 50 Lakhs | 0.05 | N/A |
| 194N | Cash withdrawal during the previous year | Rs. 1 crore or | | N/A |

| Section | Nature of Payment | Threshold limit | TDS Rates (in %) | TDS Rates (in %) |
|---|---|---|---|---|
| | i) in excess of Rs. 1 crore | Rs. 20 Lakhs | 2 | |
| | ii) in excess of Rs. 20 lakhs, for persons who have not filed return of income for 3 previous years and due date for filing ITR has expired: | | 2 or 5 | |
| | a) 2%, withdrawal > Rs. 20 lakhs | | | |
| | b) 5%, withdrawal > Rs. 1 crore | | | |
| 194-O | E-commerce operator to participant | Rs. 5 Lakhs | 1 | N/A |
| 194P | Specified bank in case of senior citizen aged 75+ | | Slab rate | N/A |
| 194Q | Payment to resident for purchase of goods of the aggregate value > Rs. 50 lakhs | Rs. 50 Lakhs | 0.1 | N/A |
| 194Q | | Rs. 50 Lakhs | 0.1 | N/A |
| 195 | Payment of any other sum | | N/A | |
| | a) Long term capital gain u/s 112(1)(c)(iii), 112A | | | 10 |
| | b) Short term capital gain u/s 111A | | | 15 |
| | c) Any other long term capital gain | | | 20 |
| | d) Interest payable by Government/Indian concern on borrowing in foreign currency | | | 20 |
| | e) Royalty payable by Government/Indian concern u/s 115A(1A) | | | 10 |
| | f) Royalty payable by Government/Indian concern for matters included in industrial policy | | | 50 or 10 |
| | g) Fees for technical services payable by Government/Indian concern for matters included in industrial policy | | | 50 or 10 |

| Section | Nature of Payment | Threshold limit | TDS Rates (in %) | TDS Rates (in %) |
|---|---|---|---|---|
| | h) Any other income | | | 40 |
| 196B | Income from units to an offshore fund | | N/A | 10 |
| 196C | Income from foreign currency bonds/GDR of Indian company | | N/A | 10 |
| 196D | Income of Foreign Institutional Investors from securities (Tax will be deducted at the rate provided under DTAA if it is lower) | | N/A | 20 |
| | Any other income | | 10 | 40 |

### 25.1.3 TCS Rates

| Section | Nature of Goods | TCS Rate (%) |
|---|---|---|
| 206C(1) | Liquor of alcoholic nature, made for consumption by humans | 1 |
| | Scrap; Minerals, being coal or lignite or iron ore | 1 |
| | Timber obtained under a forest lease or any other mode | 2.5 |
| | Any other forest produce not being timber or tendu leaves | 2.5 |
| | Tendu leaves | 5 |
| 206C(1C) | Parking lot, Toll plaza, Mining & quarrying | 2 |
| 206C(1F) | Motor vehicle (any mode of payment) - consideration for sale of a motor vehicle of the value exceeding Rs. 10 lakh | 1 |
| 206C(1G) | Overseas Tour Program Package - every person being a seller who receives an amount from buyer who purchases this package | 5 |
| 206C(1G) | Overseas Tour Program Package - every person being a seller who receives an amount from buyer who purchases this package | (non-furnishing of Aadhar/PAN 10%) |
| 206C(1G) | Remittance under LRS for education loan taken from financial institution mentioned u/s 80E; Amount (or aggregate) > Rs. 7 lakh | 0.5 |

| Section | Nature of Goods | TCS Rate (%) |
|---|---|---|
| 206C(1G) | Remittance under LRS for other purpose - authorised dealer who receives an amount (or aggregate) > Rs. 7 Lakh for remittance out of India from buyer under LRS | 5 |
| 206C(1G) | Remittance under LRS for other purpose - authorised dealer who receives an amount (or aggregate) > Rs. 7 Lakh for remittance out of India from buyer under LRS | (non-furnishing of Aadhar/PAN 10%) |
| 206C(1H) | Sale of Goods - Seller receives amount as consideration for sale of goods of the value (or aggregate) > Rs. 50 lakh in any previous year, other than goods being exported out of India or goods covered in sub-section(1)/(1F)/(1G). If TDS u/s 194Q is applicable, then TCS u/s 206C(1H) is not applicable (w.e.f. 01/07/2021). | 0.1<br>(non-furnishing of Aadhar/PAN 1%) |

***End of Chapter.*** *For the complete Compliance Manual, additional chapters, or a tailored briefing for your finance and compliance teams, contact* ***info@rstandco.co.in****.*

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# REFERENCES

*This chapter is an extract from **The RST Compliance Manual**, a regulator-mapped reference for Indian business entities curated by the partners of R S T & Co.*

| Particulars | Website Address |
|---|---|
| RST & Co | .com |
| Income Tax | www.incometaxindia.gov.in<br>www.incometaxindiaefiling.gov.in<br>www.incometaxindiapr.gov.in<br>www.itat.nic.in |
| GST | www.gst.gov.in |
| KVAT | www.vat.kar.nic.in |
| Professional Tax | www.pt.kar.nic.in |
| Excise Duty | www.cbec.gov.in |
| Service Tax | www.servicetaxindia.gov.in<br>www.aces.gov.in<br>www.cbec.gov.in |
| Provident Fund | www.epfindia.nic.in |
| ESIC | www.esic.in |
| Bonus | www.labour.gov.in |
| Gratuity | www.labour.gov.in |
| ROC Compliance | www.mca.gov.in |
| LLP | www.llp.gov.in |
| Micro, Macro and Small Enterprises | www.msme.gov.in |
| Karnataka State Pollution Control Board | .kar.nic.in |
| Shops & Commercial Establishment *Karnataka* | .kar.nic.in |

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