

# ASA & Associates

chartered accountants (*Murali Associates merged with ASA*)

A member firm of NIS Global



## Regulatory Compliance - India >>

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

## 1 ACCOUNTING & PAYROLL

### 1.1 Accounting

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

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### 1.2 Employee Payroll

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

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## 2 ASSURANCE

### 2.1 Statutory Audit

The Indian Companies Act mandates that businesses have their accounts audited by an Indian firm of chartered accountants. These audited accounts are to be filed with the Registrar of Companies ('ROC') and, in some cases, with the Reserve Bank of India.

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### 2.2 Tax Audit

Businesses with annual turnover exceeding INR 6 million ([USD 132,500 approx](#)) need to additionally have accounts audited under specific provisions of the Indian income tax laws and certified by an Indian firm of chartered accountants.

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### 2.3 Internal Audit

Companies where the paid-up capital exceeds INR 5 million ([USD 110,400 approx](#)) or turnover exceeds INR 50 million ([USD 1,104,100 approx](#)), need to have their internal controls certified. The company may out source this function to an Indian firm of chartered accountants or set-up their own team, the latter being more common in case of large corporate.

CO

### 3 DIRECT TAX

#### 3.1 Corporate Tax

Businesses need to determine their annual tax payment and ensure deposit under an installment plan commonly referred as *Advance Tax*. Delays, deferment or incorrect calculations attract penal provisions. At the year end there is a requirement to submit an annual return together with audited accounts and tax audit report. E.g. in case of Financial Year 2011-12, advance taxes have to be deposited by June 15<sup>th</sup> (15%), September 15<sup>th</sup> (45%), December 15<sup>th</sup> (75%) and March 15<sup>th</sup> (100%). Annual Return for this year is to be submitted by September 30<sup>th</sup>, 2012/November 30<sup>th</sup>, 2012

CO PO BO

#### 3.2 Transfer Pricing

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

CO PO BO

#### 3.3 Withholding Tax

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

PAYEE	WHEN	TAX WITHHOLDING (%)	DATE OF DEPOSIT	REPORTING
Employee	If salary is taxable	Per prescribed slabs*	within 7 days of payment	Quarterly
Contractor	Annual payment exceeds INR 75,000 (USD 1,670 approx)	2 (1 for individual payee)	7 <sup>th</sup> of the month succeeding payments	
Landlord	Annual rental exceeds INR 180,000 (USD 4,000 approx)	10 (2 for plant, machinery or equipments)		
Profession	Annual payment exceeds INR 30,000 (USD 670 approx)	10		

\* Further enhanced by education cess

CO LO PO BO

### 3.4 Expatriate Taxation

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

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## 4 INDIRECT TAX

### 4.1 Excise Duty

Manufacturing units need to pay an *excise duty* on goods produced in India. The duty varies between products and the unit is required to periodically deposit the duty on removal of products. Furthermore, these units are to maintain detailed stock records and accounts in respect of duty payable on final goods, credit claimed on inputs etc and submit annual returns, submission dates being linked to level of operations.

CO

### 4.2 Customs Duty

Businesses engaged in cross border trading need to comply with *customs duty* regulations. The duty varies between products. The compliance requirement includes determination and deposit of duty prior to clearance of goods by the customs authority.

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### 4.3 Service Tax

Businesses rendering specified services are liable to a *service tax* at 10 percent plus education cess on the billable value. They are required to monthly deposit the tax collected and submit bi-annual returns with the tax authorities i.e. by April 25<sup>th</sup> and October 25<sup>th</sup>.

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### 4.4 Central Sales Tax ('CST')/Value Added Tax ('VAT')

Business trading in goods between states are liable to charge CST whereas those trading within the same state are subject to VAT. The rate of VAT/CST varies between products and states. The businesses are required to deposit the tax collected and submit bi-annual/quarterly returns with the sales tax authorities.

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## 5 SECRETARIAL COMPLIANCE

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

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

## 6 LABOUR LAWS

Employer needs to consider the impact of government regulated pension plan scheme referred as *Provident Fund*. Furthermore, an outgoing employee, who has exceeded 5 years of service, is to be paid *Gratuity* calculated as per specified scales.

CO LO PO BO

Besides, industrial units are covered by *Employee State Insurance*, *Industrial Dispute Act*, *Contract Labour Act*, etc.

CO PO BO

## 7 MISCELLANEOUS

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

## 8 KEY DATA

REGULATORY MATTER	DUE DATE
CORPORATE LAW	
Board Meeting	Quarterly (calendar year basis)
Annual General Meeting ('AGM') (adoption of financials)	Within 180 days of closing the accounts
Annual Return with the RoC	Within 30 days of holding the AGM
INCOME TAX	
Corporate Tax Return	September 30 <sup>th</sup> / November 30 <sup>th</sup>
Tax Audit Report	September 30 <sup>th</sup>
Transfer Pricing Report	November 30 <sup>th</sup>
TDS Returns (Tax Withholding)	Quarterly
Employee Tax Return	July 31 <sup>st</sup>
SERVICE TAX	October 25 <sup>th</sup> & April 25 <sup>th</sup>

CO

Non-listed company (whether a wholly owned subsidiary or joint venture)

LO

Liaison Office

PO

Project Office

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Branch Office

**Head Office : New Delhi**

Tel : +91 11 4100 9999

Fax : +91 11 4100 9990

**Ahmedabad**

Tel : +91 79 2657 4985

Fax : +91 79 2657 4986

**Bengaluru**

Tel : +91 80 4151 0751

Fax : +91 80 4113 5109

**Chennai**

Tel : +91 44 2431 2201

Fax : +91 44 2433 4613

**Gurgaon**

Tel : +91 124 4949 350

Fax : +91 124 4949 351

**Hyderabad**

Tel : +91 40 2776 0423

**Kochi**

Tel : +91 48 4232 1015

**Mumbai**

Tel : +91 22 2410 4000

Fax : +91 22 2410 6263

**Singapore**

Tel : +65 6223 3708

Fax : +65 6223 4208

**Tokyo**

Tel : +81 3 6427 0780

Fax : +81 3 6427 0790

**Contact : [info@asa.in](mailto:info@asa.in)**



**Prepared by ASA & Associates, chartered accountants, under guidance of Corporate Catalyst India Pvt. Ltd. (A joint venture with SCS Global)**

**National Affiliates**

Chandigarh, Kolkata, Pune

**International Affiliates**

Australia, China, Dubai, France, Germany, Hong Kong, Indonesia, Ireland, Israel, Italy, Japan, Korea, Malaysia, Mauritius, Myanmar, Netherlands, Philippines, Portugal, Slovenia, Spain, Switzerland, Thailand, United Kingdom, Vietnam