India

1. Government requirements

Registration requirements

Permanent Account Number (PAN)

In accordance with the Income-tax Act, 1961, companies should register for a Permanent Account Number (PAN), which is a corporate income taxpayer's identification number. This is a mandatory requirement and the PAN is issued as part of the incorporation process of a private limited company. It is a unique identity number to be quoted by a company for all income tax filings and communications and a mandatory document for undertaking a variety of transactions in India.

Tax Deduction Account Number (TAN)

In accordance with the Income-tax Act, 1961, companies should register for a Tax Deduction Account Number (TAN), which is a corporate number required to be obtained by all persons responsible for collecting or withholding taxes. A company has to remit taxes under this identity when it withholds taxes from its employees or from its vendors. It is a unique identity number to be quoted by the company for all its withholding tax filings and communications. If a company operates at multiple locations, it has the option to register the TAN in multiple locations; however, a company may also choose to have a single TAN registration

Ongoing compliance requirements

Tax compliance

In accordance with the Income-tax Act, 1961, while making certain payments, the employer is required to withhold taxes and deposit the same into the Indian Government Treasury. The tax on payment of salaries needs to be withheld at the prescribed slab rates at the time of payment/credit to the account of the payee or accrual in specific cases, whichever is earlier.

The Indian tax year is the period beginning on 1 April and ending on 31 March of the following year.

The rates in force for the tax year in which payment is made (slab rates) are subject to amendment every year. The withholding should be made proportionately at the time of every salary payment at the average rate of income tax, computed on the basis of slab rates and estimated income for the employee for that tax year.

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Effective April 2020, the Government has introduced a new regime of taxation that provides an option to individual taxpayers to pay taxes at reduced slab rates. However, certain exemptions and deductions are not available to the taxpayer under this new concessional tax regime. Individuals can choose the new concessional regime if it is more beneficial to them.

Quarterly withholding tax returns (Form 24Q)

Every company withholding tax from salaries is required to file quarterly returns electronically using the prescribed form (Form 24Q) within the following time periods:

- Quarter ending June: by 31 July
- Quarter ending September: by 31 October
- Quarter ending December: by 31 January
- Quarter ending March: by 31 May

The above dates are subject to change as prescribed by the Central Board of Direct Taxes.

Issuance of withholding tax certificate (Form 16)

Every company withholding tax from payments is required to issue a certificate to the payee, certifying the amount of taxes withheld and deposited into the Government Treasury. These certificates are required to be downloaded by the company from the Government Tax Office website (called TRACES) and should be issued to the employees after verification and signatures. This has to be issued by 15 June every year for the previous financial year (last date is subject to change by way of notification from the Central Board of Direct Taxes).

2. Social security and pension requirements

Registration requirements

Provident fund registration and pension registration.

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

Whenever an employee joins a company, a declaration needs to be obtained from the employee using Form 11 to analyze the applicability of pension based on the fact pattern of the employees' employment history.

The provident fund and pension requirements are continually undergoing significant change and further guidance should be sought for the latest position.

Ongoing compliance requirements

Provident and pension funds

The provident fund payments (both employee and employer) need to be contributed at 12% of base wages as defined in the Provident Fund Act. This needs to be deposited into the fund by the 15th of every month for the previous month. The employer's contribution is distributed between provident fund and pension fund and withdrawal of this fund is based on certain criteria. The allocation to pension fund is decided based on the employee's declaration in Form 11 and the employee's base wages.

The company will need to generate an Electronic Challan cum Return (ECR) online and subsequently, deposit the contributions into the provident fund account of the employee before the 15th of the subsequent month.

Form IW-1

A statement is required to be filed with details of international workers (IW). A nil statement is required to be mandatorily filed even if there are no IW joiners in the month.
IW is defined as:

- Indian employee working in a foreign country with which India has entered into a social security agreement and being eligible to obtain the benefits under the social security program of that country under the social security agreement, or
- Non-Indian employee (who is not holding an India passport), working for an establishment in India to which the Employees' Provident Funds and Miscellaneous Provisions Act applies (excluding those who have obtained a Certificate of Coverage from the social security authorities of their home country with which India has a social security agreement or those who are contributing to a social security program of their home country with whom India has a bilateral comprehensive economic agreement containing a clause on social security prior to 1 Oct 2008)

3. Employment obligations

Employee State Insurance Registration (ESI)

This is a State-specific mandatory health insurance registration for companies with 10 employees or more (including contract staff, if any). Registration sometimes depends on the jurisdiction of the place of work.

If the employee head count is high, the company may attempt to obtain a centralized registration. In case the location does not have a designated Government hospital, the company may be exempted from participating in this contribution at the discretion of the ESI officer.

The contributions are mandatory for employees drawing a salary below a certain threshold limit, as notified by the authorities. The company has to file “nil” returns if no employees fall under this threshold salary limit. The covered employees are issued a card, which covers hospitalization. The ESI remittance and the returns are due on or before the 15th of the following month.

Profession Tax (PT) registration

This is a State-specific registration and is driven by the law in a particular State for carrying on a profession in that State. Depending on the employee’s work location, the company needs to identify whether there is a requirement to register in that place. If there is a requirement (as per the local State laws), the company needs to file the application with the respective State and complete the registration.

Once registered, based on the profession tax rates in the specific State, the company needs to deduct the profession tax and the remittances are done on a monthly basis to the PT office. In some states, it is done on a half-yearly basis.

Below are remittance and filing details for some of the key States (cities):

- Karnataka (Bangalore): 20th of the following month
- Andhra Pradesh or Telangana (Hyderabad): 10th of the following month
- Maharashtra (Mumbai or Pune): end of the following month
- West Bengal (Kolkata): 15th of the following month
- Tamil Nadu (Chennai): half-yearly — 30 September and 31 March
- Delhi: not applicable

Shops and Establishment Act and Labour Welfare Fund

These are labor-related registrations; they are not mandatory in all States and have different filing deadlines in each State. This will depend on the employee’s work location. Companies may need to register their premises under the Shops and Establishment Act before starting operations in a State.

If the Labour Welfare Fund is applicable, companies and their employees may need to contribute a nominal amount to the Labour Welfare Fund based on the State specific rules.

Below are remittance and filing details for some of the key States (cities):

- Karnataka (Bangalore): 15 January of the following year
- Andhra Pradesh or Telangana (Hyderabad): 31 January of the following year
- Maharashtra (Mumbai or Pune): 15 July and 15 January
- West Bengal (Kolkata): 15 July and 15 January
- Tamil Nadu (Chennai): 31 January of the following year
- Delhi: 15 July and 15 January

There are many other labor related laws like The Maternity Benefit Act, 1961, The Employee Compensation Act, 1923, The Payment of Bonus Act, 1965, The Equal Remuneration Act, 1976, The Payment of Gratuity Act, 1972, The Minimum Wages Act, 1948, The Payment of Wages Act, 1936 etc., under which companies will need to register and comply. However, these labor laws are in the process of being replaced with the New Labour Codes.

New Labour Codes

The Central Government of India is in the process of implementing 4 labor codes in India which will replace/ subsume several current central labor laws. These Codes are: The Code on Wages, 2019, Code on Social Security, 2020, the Industrial Relations Code, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020. These codes will come into force when the associated rules are notified by the Central Government. This is still pending.

4. Payroll requirements

A company needs to determine a compensation structure for its employees based on their roles, responsibilities and levels in the organization.

The salary is derived from this compensation structure and has to be paid to the employee after making statutory deductions like income tax, provident fund or pension, and State-specific taxes (Profession Tax, Labour Welfare Fund and Employee State Insurance). Usually, the payment frequency is once a month and the salary payout is pro-rated in case the employee joins during a month or leaves during a month. A monthly payslip is issued to the employees after salary is credited to their bank accounts. Most companies also provide an annualized tax calculation sheet at the end of each month. Taxes are calculated based on annualized projected income as estimated by the company for the tax year (April to March).

5. Banking requirements related to payroll

Payment is in Indian rupee for all local employees. Any payments to expatriates outside India in any other foreign currency have to follow the requirements of the Foreign Exchange Management Act, 1999 including a requirement to submit several documents to the bank along with certifications, which include the details and nature of payment and the withholding tax details in the income tax website, verified by an independent chartered accountant and attested by the company as well.

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