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Annual Audit in India for Foreign Invested Entities (FIE)

Highlights and the procedures that a foreign-invested enterprise (FIEs) in India.

It is important for FIEs about to be audited to make sure that the auditor is familiar with the company's business operations. This means spending some initial time with auditors explaining your regular business activities.

To ensure to receive the best possible approach from the auditor, they should be given some brief background knowledge regarding the nature of the business, the activities you are carrying out, the procedures you follow while making purchases and sales, and to what extent you are following internal control procedures. This latter point the auditor will check as part of the exercise, but it helps if the procedure first explain to them how you think this operates. Their report – even if it contains criticisms – should help manage the better business in the future and fix any potential operational loopholes.

Production Process

You should provide your auditors with a list of the major raw material inputs you are using in production. They will want to note the steps you are following for the conversion of raw material into finished goods, as well as verify internal controls at the time of inputting raw material.

Opening Balances Verification

Your auditor will ask you to provide the opening balances report from your management accounts and will verify whether the opening balances have been carried forward correctly from the previous year's audited financial statements. It is not uncommon for some minor adjustments to be necessary.

Vouching of Purchases

Your auditor will also ask to examine the purchasing procedures and may ask you to draft a flow chart explaining this – which is very relevant for their understanding of company operations. It is common for parasitical employees to insert favoured suppliers into your supply chain in the form of family businesses or those paying back-hand commissions. Your auditors will want to conduct price surveys on your major purchases to ensure that you are not being overcharged for your most popular supplies.

They will also compare purchase vouchers with the pertinent taxable invoices received from the seller, and material received notes (MRNs) to confirm whether or not the quantities and amounts match. This requires a considerable amount of time. As such, it is recommended that you have a properly trained internal accounting team in place to satisfy this request and make it easier for your auditors to evaluate your paper trail.

Countinued

EDITORS NOTE

Dear Reader, this edition features general aspects like Foreign Invested Entities. Tax incentives for various sectors, expecting your valuable suggestions.

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TAX DUE DATES - MAY 2018

Monthly Compliances

Sl. No	Particulars	Due Dates
1.	TDS/TCS Remittance for the month of April 2018	07-May-2018
2.	**GSTR-1** for March 2018 (Registered person with aggregate annual turnover more than 1.50 crores)	10-May -2018
3.	Issue of TDS Certificate for tax deducted under section 194-IA (Form 16B) & 194-IB (Form 16C) in the month of March 2018	15-May-2018
4.	PF Payment for the month of April 2018	15- May-2018
5.	ESIC Payment for the month of April 2018	15- May-2018
6.	GST monthly return for the month of April 2018 (GSTR-3B)	20-May-2018
7.	Form No.**26 QB** - furnishing of challan-cum-statement in respect of tax deducted under Sec 194-IA in the month of April, 2018	30-May-2018
8.	Form No.**26 QC** - furnishing of challan-cum-statement in respect of tax deducted under Sec 194-IB in the month of April, 2018	30-May-2018
9.	GSTR 1 for April 2018	31-May-2018
10.	**Form - 2** Professional Tax (Tax liability more than Rs. 50,000) for the month of April 2018	31-May-2018

Quarterly Compliances

Sl. No	Particulars	Due Dates
1.	**Form 27 EQ** -Quarterly filing of TCS return(JAN-MAR)	15-May-2018
2.	**Form 26 Q,24Q**- Quarterly filing TDS return(JAN-MAR)	31-May-2018

Other Compliances

Sl. No	Particulars	Due Dates
1.	**Form 11**- Annual return filing of LLP-FY 2017-18	30-May -2018
2.	Condonation of Delay Scheme 2018 **[CODS-2018]** - FY 2013-14 to FY 2015-16	01-May-2018

"Don't you think this internal audit's gone too far?"

Auditors will also check whether the rates of materials on invoices tally with purchase orders raised by the company, and whether the dates on MRNs relate to the current accounting period.

Vouching of Journal Vouchers, Tour Bills, Cash and Bank

You may also expect your auditor to verify whether the supporting bills tallied with the journal vouchers and the expenditures relate to the current period. While verifying the journal vouchers, the auditor will ensure that the appropriate tax deduction at source (TDS) was deducted wherever applicable; it is a relatively common internal mistake that TDS is not calculated. Again, the better your internal processes are, the easier it is to go through and pass an audit examination with confidence.

For travel and related expenses, your company should be prepared to provide supporting documentation. Executives racking up air miles and trips overseas may be asked to provide evidence of the necessity of these expenses in their job descriptions and employment terms, so be careful over this issue. Your auditors will want to verify whether these expenses are within the prescribed limits set for the position in question.

When dealing with cash purchases and petty cash, auditors will want to verify whether any cash payments have exceeded INR20,000 (in accordance with regulation Section 40A(3)) and also check for credit balances in cash. They may also spot-check for verification of cash, as well as check whether the Bank Reconciliation Statement is correct.

Reconciliations

During the course of the audit process, your auditors will want to reconcile the following items:

- VAT returns with purchases and sales;
- Provident fund contributions;
- Professional tax contributions; and
- Employee state insurance contributions.

These payments are statutory and applicable to all companies in India.

Inventory Stock Audit – Manufacturers

For manufacturing entities, you will need to demonstrate that your business maintained its RG 23 books and stock registers when manufacturing or processing materials. To do this, your auditors will need to ascertain whether the RG 23 A Part II / RG 23 C Part II are aligned with your purchase registers and that input credits have been recorded correctly.

The auditors will also verify your Personal Ledger Account (PLA) register to determine whether payments were made through PLA after considering your input credit, and will also carry out a Physical Stock Verification to ensure that the physical quantity of goods reconciles with the inventory register.

Miscellaneous

Rental Agreements, PAN Numbers for Contractors

Summary:

For many executives who find themselves having to face unfamiliar audit and financial examination procedures, the annual audit process can appear a frightening proposition. Yet it is actually designed to fulfil two specific functions. Firstly, audits are conducted to ensure that your business is declaring the right amount of finances in the properly prescribed manner, so that the government can properly assess your business for any taxable income. It is important for foreign investors to note that not only can the Indian government levy fines for any untoward accounting behaviour, but poor financial record keeping can now impact upon the liabilities of foreign executives and the head office in terms of compliance with other responsibilities.

Secondly, a good audit will identify areas of weakness and make recommendations as to where these should be resolved. Annual audits are also there to assist and provide tips on how to improve management practices, stay in compliance, and lessen the risk of financial troubles.

Finally, should your audit or procedures come up short, it may be time to examine your internal business processes, including the competency of the staff charged with carrying out the company's operations. This will help ensure that your business operates to audit standards throughout all of its operations. The key to corporate success is a well run internal system, and your annual audit should help provide the guidelines on how to achieve this.

India's Tax Incentives for Business, Industry, and Exports

India provides several tax and non-tax benefits to business and investors investing in the country.

While local jurisdictions, such as states, may also provide tax incentives for businesses, country-wide incentives are most widely applicable, and are broadly organized into four categories: location-based, industry-specific, export-linked, and activity-based.

These benefits, subject to specified conditions, include incentives for units situated in special economic zones (SEZs) or less-developed regions; incentives for specific industries, such as power, ports, highways, electronics, and software; newly set-up Indian companies, startups recognised under the National Startup Policy and establishing a new industrial undertaking. Incentives are also available to non-resident companies in the form of presumptive taxation in areas such as shipping, oil and gas services, aircraft, and power industries, among others.

Tax incentives for start-ups

To strengthen the startup ecosystem in the country and provide support, the Indian government offers several tax benefits to startups recognized under the National Startup Policy.

Benefits include a tax holiday for a period of seven previous years, beginning from the year the startup is incorporated; exemption from tax on long-term capital gains; and approval to set-off carry forward losses and capital gains in case of a change in shareholding pattern.

As a form of further relief, the government also provides an exemption from angel investment tax, introduced in 2012.
Under this, funds from angel investors or family and friends – domestic funds that are not registered as venture capital (VC) funds – or funds which are raised from VC firms set up for the very purpose of backing such ventures, will not be taxed on their investment into a startup firm.

An eligible startup under the National Startup Policy is a company that holds an eligible business certificate from the inter-ministerial board of certification under the Department of Industrial Policy and Promotion (DIPP).
The company must be incorporated on or after April 1, 2016, but before April 1, 2021.

Additionally, the total turnover of such a company must not exceed Rs 250 million (US$3.87 million) in any of the previous years beginning on or after April 1, 2016, and ending on March 31, 2022.

Tax incentives for new companies

For newly set-up Indian companies, the government has announced a discounted CIT rate of 25 percent – plus applicable surcharge and education cess – with effect from FY 2016-17.

The company may avail the discounted rate, provided it fulfills the following conditions:

- The company is registered and set up on or after March 1, 2016;
- The company has not claimed a benefit for establishing its unit in an SEZ, benefit of accelerated depreciation, or benefit of additional depreciation, investment allowances, expenditure on scientific research, and any deduction in respect of certain income; and,
- The company has not claimed set-off of loss carried forward from any earlier assessment years, provided such loss is attributable to the deductions referred in the above condition.

MCA NOTIFICATION

As per the latest notification the delay in filling of forms will attract a additional fee of Rs.100/day. Which is an important factor to consider by the companies. The notification follows:

The Companies (Registration Offices and Fees) Second Amendment Rules 2018 has been notified on 7th May 2018. Accordingly, in case the due date of filings under Section 92 (Annual Return) or 137 (Annual Financial Statement) of the Companies Act, 2013 expires after 30/06/2018, the additional fee @Rs.100 per day shall become payable in respect of MGT-7, AoC-4, AoC-4 XBRL and AoC-4 CFS.

In all other cases where the belated annual returns or balance sheet/financial statement which were due to be filed whether under the Companies Act,1956 (23AC,23ACA,23AC XBRL,23ACA XBRL,20B,21A) or the Companies Act, 2013 (MGT-7, AoC-4, AoC-4 XBRL and AoC-4 CFS) additional fee as per the applicable slab for the period of delay up to 30th June 2018 plus @Rs.100 per day w.e.f 1st July 2018 shall become payable.

GST UPDATES

- Due date of GSTR-6 filing extended - For months from July 2017 to April 2018 is 31st May 2018.
- Filing of TRAN-2 has been extended from 31st March 2018 to 30th June 2018.
- Notification No. 22/2018–Central Tax. New Delhi, the 14th May, 2018

G.S.R. 450(E).– In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby waives the late fee payable under section 47 of the said Act for failure to furnish the return in FORM GSTR-3B by the due date for each of the months from October, 2017 to April, 2018, for the class of registered persons whose declaration in FORM GST TRAN-1 was submitted but not filed on the common portal on or before the 27th day of December, 2017:

Provided that such registered persons have filed the declaration in FORM GST TRAN-1 on or before the 10th day of May, 2018 and the return in FORM GSTR-3B for each of such months, on or before the 31st day of May, 2018.

Loan to directors – Sec 185

Advancing of loan, including any loan represented by a book debt to, or giving of any guarantee or providing any security in connection with any loan taken by following persons is completely restricted-

(a) any director of Company, or of a Company which is its Holding Company or any Partner or relative of any such Director; or

(b) any firm in which any such Director or relative is a Partner.

- The Companies are permitted to give loans to entities in which Directors are interested after passing special resolution.
- If the borrower is a Company then loan should be utilized for its principal business activities only.

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