Compliance Guide

FOR BUSINESSES IN INDIA

When you are interested in setting up a business in India, there are various forms of businesses you can choose from. From the primary form of proprietorship with the least regulations to the regulated corporate structure, you can select a form of business based on your objects and scale of operations.
To set up the business, you need to be aware of the local laws applicable to your business entity. Also, you should comply with the reporting and filings requirements under the applicable laws. Non-compliance can affect your day-to-day business activities, impair your ability to expand the business and can entail high financial costs.

We provide you with a brief of various options for setting up a business, and the laws applicable to set up and carry on your desired form of business.

Need Assistance For Your Business

Need assistance for setting up your business and obtaining applicable registrations? We will help you with the legal procedures, formalities to help you start your business. We also help you with the day-to-day compliances.

Visit **https://cleartax.in/services/business/c**

Get in touch to know more about our business compliance services.

Visit **https://cleartax.in/services/**
Call us **080-67458777** for our CA-Assisted services.

INDEX

Options for Setting up a Business

- **Proprietorship Firm**

  A proprietorship concern or a sole proprietorship is a business run by an individual singly. Proprietorship is the basic form of business, and you can begin and run the business with the minimum registrations. A proprietorship concern obtains registration under the Goods and Service Tax Act (GST Act) and the labour law of the State government. Also, the proprietorship can get any other registrations as and when their business needs.

- **Partnership Firm**

  A partnership firm is a business carried by two or more persons. A partnership deed (agreement) is entered into between the persons describing the nature of the business, details of partners, capital contribution, profit/loss sharing ratio, and so on. A partnership has an option to be registered under the Partnership Act, 1932 under the State government regulations. Also, the partnership can obtain GST registration, labour registration and any other registration as may be required.

- **Limited Liability Partnership (LLP)**

  An LLP is a business run by two or more persons who join in as partners. An agreement is entered into between the partners of an LLP similar to a partnership firm. The LLP is governed by the LLP Act, 2008 and should be registered under the LLP Act. There is no upper limit on the maximum number of partners. The LLP can obtain registration under the GST Act, labour law of the State and any other law as and when their business needs.

- **One Person Company (OPC)**

  A One Person Company (OPC) is formed with one director and one member/shareholder, unlike a private limited company. An OPC can be set up by obtaining registration under the Companies Act, 2013. It is a small company with less number of compliances. The OPC can obtain registration under the GST Act, labour law of the State and any other law as and when their business needs.

- **Private Limited Company (PLC)**

  A Private Limited Company (PLC) can be set up with two or more persons as members or shareholders. The maximum number of members is 50. The PLC should obtain a registration under the Companies Act, 2013. A PLC has to comply with various procedures for the filing of their annual accounts, board meetings, and so on.

Accounting Records

A business entity should maintain accounting records to facilitate their day-to-day business transactions, and calculate their profit/loss at the end of a financial year. The Indian business accounting follows a 12-month financial year beginning from April till March. Accounting records or Books of account refer to ledgers, cashbooks, account-books, day-books, and other books, whether kept as printouts, or in any electronic form, or a written form.

Various statutory laws such as the Companies Act, 2013, Income Tax Act, 1961 and Goods and Services (GST) Act, contain provisions with respect to maintenance of books of accounts, their retention period and other related matters.

- ***Under the Companies Act, 2013 or LLP Act***

As per the provisions mentioned in the Companies Act, 2013 and the LLP Act, 2008, all companies and LLPs which are incorporated in India need to maintain their book of accounts. The books of accounts must be maintained for eight years from the end of the relevant financial year. Further, every company and LLP should prepare and keep the books at its registered office which gives a realistic view of its state of affairs and such books must be kept on the accrual basis of accounting and must comply with a double-entry system.

- ***Income Tax Act, 1961***

The income tax Act mandates individuals to maintain accounting records if their annual income exceeds Rs 2.5 lakh or if their total sales, turnover or gross receipts are likely to exceed Rs 25 lakh in any one of the three years immediately preceding the financial year. Similarly, a partnership firm should also maintain accounting records if their annual income exceeds Rs 1.2 lakh or if their total sales, turnover or gross receipts exceed Rs 10 lakh in any one of the years immediately preceding the financial year. Such books must be maintained for six years from the end of the financial year.

- ***Under the GST Act***

Under the GST framework, businesses need to maintain several accounts and records for instant verification by the authorised GST Authority. Such records have to be maintained for six years starting from the last date of filing an annual return for that year. Documents to be maintained include:

✓ Manufacture or production of goods
✓ Inward as well as the outward supply of the goods/services or both
✓ Record of stock of goods
✓ Output tax payable and paid
✓ Details of input tax credit (ITC) availed
✓ Other particulars as may be prescribed

Furthermore, under the GST regime, the books and related documents must be kept at the principal place of business and at every related place(s) of business, mentioned in the GST registration certificate.

Income Tax Filings

An income tax return is the statement of income and tax on such income, which needs to be furnished by the taxpayer to the income tax department. You are required to file the return in a duly prescribed form and within a specified due date.

	Proprietorship Firm	Partnership Firm	LLP	OPC	PLC
The threshold for filing an income tax return	In case income exceeds Rs 2.5 lakh (for proprietors below 60 years), Rs 3 lakh (60-79 years) and Rs 5 lakh (80 and above)	No such threshold	No such threshold	No such threshold	No such threshold
The due date for filing an income tax return	July 31 (no tax audit required) and October 31 (tax audit required)	July 31 (no tax audit required) and October 31 (tax audit required)	July 31 (no tax audit required) and October 31 (tax audit required)	An income tax return is to be filed on or before 31 October	An income tax return is to be filed on or before 31 October
ITR form to be used	ITR-3 (for business or profession) or ITR-4 (in case of presumptive taxation scheme)	Partnership firms must file an income tax return in form ITR-5	LLPs must file an income tax return in form ITR-5	OPCs must file an income tax return in form ITR-6	PLCs must file an income tax return in form ITR-6 or form ITR-7 (Section 8 Companies)
Income tax rate	Income tax rates applicable to an individual	30%	30%	30%	25% (Turnover up to Rs 400 crore)

					and 30% (Turnover exceeding Rs 400 crore) 22% for domestic companies under section 115BAA (w.e.f. FY 2019-20) 15% for new manufacturing companies under section 115BAB (w.e.f. FY 2019-20)

New tax regime for AY 2021-22 (FY 2020-21)

In case of an individual taxpayer/proprietorship concern, the individual can choose to file their income tax return under alternative tax regime for the AY 2021-22 (FY 2020-21). The alternative new regime has lower slab rates than the existing regime. However, the individual has to forego about 70 exemptions and deductions, including towards housing accommodation, tax savings, insurance for choosing to be taxed under the new regime. The new regime is applicable for income earned from 1 April 2020 to 31 March 2021. An individual can opt for the new regime on or before the due date for filing tax return which is 31 July 2021 (non-audit) or 31 October 2021 (audit).

Tax Audit and Reporting

A taxpayer who is carrying on business or profession has to get their accounts audited if they meet the below conditions:

a) Gross sales, turnover or gross receipts of the business carried on exceed Rs 1 crore (Rs 5 crore from AY 2020-21 if cash transactions are limited to 5%);
b) Gross receipts from profession exercised exceed Rs 50 lakh

	Proprietorship Firm	Partnership Firm	LLP	OPC	PLC
Tax audit	Audit required if threshold conditions are met. Auditor has to file tax audit report within the due date of 30 September 2020 (AY 2020-21)	Audit required if threshold conditions are met. Auditor has to file tax audit report within the due date of 30 September 2020 (AY 2020-21)	Audit under LLP Act if the yearly turnover exceeds Rs 40 lakh or Capital contribution exceeds Rs 25 lakh. A tax audit report has to be submitted if threshold conditions are met. Due date is 30 September 2020 (AY 2020-21)	Audit under the Companies Act, 2013 irrespective of the amount of turnover or receipts. A tax audit report is mandatory if the turnover or gross receipts are above the threshold. Due date is 30 September 2020 (AY 2020-21)	Audit under the Companies Act, 2013 irrespective of the amount of turnover or receipts. A tax audit report is mandatory if the turnover or gross receipts are above the threshold. Due date is 30 September 2020 (AY 2020-21)

Corporate (ROC) Filings

All companies and LLPs which are incorporated within India, need to file specific documents with the Registrar of Companies (ROC) annually. All filings have to be made online using digital signatures.

Generally, companies are required to file their annual returns and financial statements with the Registrar of Companies (ROC) annually. Failing to comply with such regulations would lead to penalties and fines for the Officers and Directors of the company. A delayed filing entails payment of additional filing fee by the LLP or company. Hence, the LLP’s or company’s management must be mindful of all the required compliances.

	LLP	OPC	PLC
Filing annual ROC filing	Required	Required	Required
ROC form to be used	Form 11	Form MGT-7	Form MGT-7
Due to for annual ROC filing	30th May	60 days from the conclusion of AGM	60 days from the conclusion of AGM
Filing financial statements	Required	Required	Required

Form to be used for filing financial statements	Form 8	Form AOC-4	Form AOC-4
Due to for filing financial statements	30th October	30th October	30th October

A company or LLP should also submit forms for updating changes to their directors, partners, place of business, objects of business, and so on. Separate forms are prescribed for reporting the different changes done to the business of a company or LLP. The forms have to be certified by a Chartered Accountant or a Company Secretary, wherever required.

Statutory Audit

A Statutory audit is carried out under the statute or law applicable to a business entity. Statutory Audit refers to an independent confirmation that the accounts of the company show an accurate view, and adhere to all the required accounting requirements. According to the Companies Act, 2013, every company (PLCs, OPCs, Public Companies, Section 8 Company, Producer Company), irrespective of the nature of their business or capital or turnover need to get their book of accounts audited every year. Also, under the LLP Act, 2008, an LLP needs to get their books of accounts audited if the turnover exceeds Rs 40 lakh in a year or if the capital contribution exceeds Rs 25 lakh.

GST Registration

If you are running a business as a Proprietorship, Partnership, LLP, OPC or PLC selling goods or rendering services with the gross annual turnover exceeding Rs 40 lakh for the supply of goods or Rs 20 lakh for the supply of services then you need to get registered under the GST law. In the case of business located in the North East and nearby states, the limit is Rs 20 lakh for the supply of goods and Rs 10 lakh for services. In a case where the business is being carried out in different states, every such business must be registered separately under GST.

Upon obtaining the registration under GST, you should display the GST registration certificate at a prominent or noticeable place inside the premise of the principal place of business and every other place of businesses. You must also display the GST identification number (GSTIN) on the name-board of the entity. All invoices issued must comply with the GST invoicing rules.

Further, as per the GST rules, some taxable persons who don't qualify for registration under aggregate turnover criteria are still required to obtain GST registration mandatorily.

Mandatory GST Registration
• A person previously registered under earlier law viz. VAT, Excise, Service Tax etc.

- A person being a transferee or a successor of any business previously registered under GST.
- A person involved in inter-state supply of goods.
- A person involved in inter-state supply of services (if total gross receipts exceed Rs 20 lakh).
- A person is occasionally supplying goods and services with no fixed place of business.
- Non-residents who are occasionally supplying goods/services to a territory where GST is applicable.
- Agents, brokers, dealers, etc. of a supplier.
- A person who needs to pay tax under reverse charge.
- Input service distributor.
- E-commerce operator or aggregator.
- A person who supplies via e-commerce aggregator (if total sales exceed Rs 20 lakh).
- A person supplying database access, online information, or retrieval services (OIDAR) from a place outside India to a person in India.

E-way bill

Upon GST registration, a business entity which transports goods in a vehicle should generate an e-way bill for the movement of the goods. An e-way bill is required if the invoice value exceeds Rs 50,000.

E-invoicing

From 1 October 2020, a business entity having an aggregate turnover exceeding Rs 100 crore in the previous financial year must generate e-invoices for their business. The e-invoices will be generated under an Invoice Registration Portal (IRP). An identification number will be issued against every invoice by the Invoice Registration Portal (IRP), which will be taken care of by the GST Network (GSTN).

Composition Scheme

Small taxpayers who have a turnover up to Rs 1.5 crore in a financial year can choose the composition scheme over the regular GST scheme. A registered taxpayer has to pay tax at a flat rate and will not be able to claim input credit under GST. The taxpayer has to opt for the composition scheme by filing form GST CMP-02 on the GST portal.

GST Filings

All business entities who are registered under the GST Act need to furnish details of their sales and purchases of goods/services together with tax collected by them and paid to the government. This purpose is served by filing the GST returns.

GST Return Forms (present scheme till 30 September 2020):

Return Form	Particulars	Interval	Due Date	Applicability
GSTR-1	Details of outward supplies of taxable goods or services or both affected	Monthly	11th of the next month (Person with turnover was less than Rs 1.5 crore can file a quarterly GSTR-1)	Regular business
GSTR-2	Details of inward supplies of taxable commodities and/or services claiming an input tax credit	Monthly	15th of the next month (Suspended now)	Regular business
GSTR-3	A monthly return based on the finalisation of inward supplies & outward supplies details along with the tax payment amount	Monthly	20th of the next month (Suspended now)	Regular business
GSTR-3B	Monthly return summarising outward supplies and input tax credit for the months up to March 2020	Monthly	20th of the next month; 22nd (Note 1); 24th (Note 2) of next month	Regular business
CMP-08	Challan-cum-statement for a composition dealer	Quarterly	18th of the month succeeding quarter	Dealer opting for composition scheme
GSTR-4	Return for composition dealer	Quarterly	30th April (beginning FY 2019-20)	Dealer opting for composition scheme
GSTR-5	Return for outward taxable supplies and tax payable for a non-resident foreign taxable person	Monthly	20th of the next month	Specific registered dealers

GSTR-5A	Return for outward taxable supplies and tax payable by non-resident persons providing OIDAR services	Monthly	20th of the next month	Specific registered dealers
GSTR-6	Return for input tax credit distributed by the input service distributor	Monthly	13th of the next month	Specific registered dealers
GSTR-7	Return for persons deducting tax at source.	Monthly	10th of the next month	Specific registered dealers
GSTR-8	Details of supplies effected via an e-commerce operator and the tax collected at source	Monthly	10th of the next month	Specific registered dealers
GSTR-9	Annual return	Annually	31st December of next financial year	Regular business
GSTR-9A	Annual return for composition dealers	Annually	31st December of next financial year	Dealers opting for composition scheme
GSTR-10	Final return	At the time of cancellation or surrender of registration	Within three months of the cancellation date or date of cancellation order, whichever is later.	Specific registered dealers
GSTR-11	Details of inward supplies to be furnished by an individual having UIN and claiming a refund	Monthly	28th of the month following the month for which statement is filed	Specific registered dealers
ITC-04	Details of goods dispatched, received or under job work	Quarterly	25th of the month succeeding quarter	The principal manufacturer

Note 1: Due date for GSTR-3B is 22nd of next month for the states of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union Territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep

Note 2: Due date for GSTR-3B is 24th of next month for the states of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union Territories of Jammu and Kashmir, Ladakh, Chandigarh and New Delhi.

GST Return Forms (New scheme w.e.f 1 October 2020):

Return Form	Particulars	Interval	Due Date	Applicability
GST RET-1	Details of all supplies made, auto-populated input tax credit, and the payment of taxes (with annexures GST ANX-1 and GST ANX-2)	Monthly	20th of the next month	Regular business (for turnover exceeding Rs 5 crore in the previous financial year)
GST RET-1	Details of all supplies made, auto-populated input tax credit, and the payment of taxes (with annexures GST ANX-1 and GST ANX-2)	Quarterly (tax should be paid monthly through a challan PMT-08)	25th of the month succeeding quarter	Regular business (for turnover up to Rs 5 crore in the previous financial year)
GST RET-2	Details of outward supply under B2C category and inward supplies attracting reverse charge only and auto-populated input tax credit, and the payment of taxes (with annexures GST	Quarterly (tax should be paid monthly through a challan PMT-08)	25th of the month succeeding quarter	Regular business (for turnover up to Rs 5 crore in the previous financial year)

	ANX-1 and GST ANX-2)			
GST RET-3	Details of outward supply under B2C and B2B category and inward supplies attracting reverse charge only and auto-populated input tax credit, and the payment of taxes (with annexures GST ANX-1 and GST ANX-2)	Quarterly (tax should be paid monthly through a challan PMT-08)	25th of the month succeeding quarter	Regular business (for turnover up to Rs 5 crore in the previous financial year)
CMP-08	Challan-cum-statement for a composition dealer	Quarterly	18th of the month succeeding quarter	Dealer opting for composition scheme
GSTR-4	Return for composition dealer	Quarterly	30th April (beginning FY 2019-20)	Dealer opting for composition scheme
GSTR-5	Return for outward taxable supplies and tax payable for a non-resident foreign taxable person	Monthly	20th of the next month	Specific registered dealers
GSTR-5A	Return for outward taxable supplies and tax payable by a non-resident person providing OIDAR services	Monthly	20th of the next month	Specific registered dealers
GSTR-6	Return for input tax credit distributed by the input service distributor	Monthly	13th of the next month	Specific registered dealers

GSTR-7	Return for persons deducting tax at source	Monthly	10th of the next month	Specific registered dealers
GSTR-8	Details of supplies effected via an e-commerce operator and the tax collected at source	Monthly	10th of the next month	Specific registered dealers
GSTR-9	Annual return	Annually	31st December of next financial year	Regular business
GSTR-9A	Annual return	Annually	31st December of next financial year	Dealers opting for composition scheme
GSTR-10	Final return	At the time of cancellation or surrender of registration	Within three months of the cancellation date or date of cancellation order, whichever is later.	Specific registered dealers
GSTR-11	Details of inward supplies to be furnished by a person having UIN and claiming a refund	Monthly	28th of the month following the month for which statement is filed	Specific registered dealers
ITC-04	Details of goods dispatched, received or under job work	Quarterly	25th of the month succeeding quarter	The principal manufacturer

GST Audit

In addition to the filing of monthly or quarterly returns and payment of taxes, every business entity with a turnover exceeding Rs 5 crore from the sale of goods or services in the financial year should have their accounts audited under the GST Act. A reconciliation cum certification in form GSTR-9C should be filed for the business audited. The certification must be done by a Chartered Accountant or a Cost Accountant. GSTR-9C should be filed on or before 31 December following the end of the financial year.

Payroll Management

Professional Tax Registration

State governments levy a professional tax on employment, professions and trade carried on in their state. Every employer (Corporates, Partnership firms, LLPs, Proprietorship) is required to deduct professional tax from the salaries of the employees. The professional tax has to be deducted when the payment exceeds a certain limit (Rs 5,000 is the limit in Maharashtra) and deposited with the respective state government.

State governments which have levied professional tax include Karnataka, West Bengal, Bihar, Telangana, Andhra Pradesh, Tamil Nadu, Maharashtra, Assam, Kerala, Gujarat, Odisha, Meghalaya, Madhya Pradesh, Sikkim, and Tripura. For the purpose of same, every business entity paying salaries needs to obtain a professional tax registration certificate in less than 30 days from the date of such liability.

Every state has its own rules and regulations which govern the professional tax of that particular state. However, every state follows a slab system based on income for levying the professional tax. Further, a maximum of Rs 2,500 can be deducted as professional tax beyond which it cannot be charged on anyone. Further, as per an individual state's requirement, professional tax return also is required to be filed.

Shop and Establishment Act

Every business involved in selling goods or rendering of services or both out of a commercial office is liable to register under the Shop and Establishment Act. The municipal authorities of most of the state governments in India need businesses to get the Shops and Establishment License. It's a lifetime license which must be obtained for all the places of business, even if you operate your business from home. This license is provided by the Department of Labour of the state government and has certain conditions/restrictions which regulate the work condition; ensuring workers' rights are protected. Every business establishment has to register itself under Shop and Establishment Act, regardless of the number of employees.

Employees Provident Fund registration

Every business entity employing 20 or more persons should obtain a registration under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The business entity has to register with the Employee Provident Fund Organisation (EPFO). Under the PF Act, an employer has to contribute 12% of the basic wages plus dearness allowance. The employee should also make an equal contribution. In the case of business entities which have less than 20 employees, the contribution is 10% instead of 12%. The PF contributions are calculated on a maximum salary/wage limit of Rs 15,000 per month.

Employees State Insurance registration

Every business entity employing 10 or more persons should obtain registration under the Employees State Insurance Act, 1948. Employees earning monthly salary up to Rs 21, 000 can be covered under the ESI Act. The employer's contribution is 3.25% of the salary or wages. The employees' contribution is 0.75% of wages or salaries.

ESOP allocations

ESOP (Employee Stock Option Plan) is a system under which employees of the company are offered the right of acquiring shares of their company. It's a right which is provided for purchasing the shares at a specified price in the future. A company needs to be complying with the provisions laid down in the Companies Act, 2013 and along with SEBI rules for offering shares to its employees under ESOP.

TDS Applicability and Filing

Tax Deducted at Source (TDS) refers to an indirect way of collecting income tax from persons who receive certain types of payments. The Income Tax Act, 1961 requires business entities to deduct tax in certain payments and deposit the TDS against the PAN of the recipient of such payments. The TDS should be deposited by the prescribed monthly due dates. A person deducting tax/TDS should obtain a Tax Deduction Account Number (TAN) from the income tax department.

The different categories of payments, the rates of TDS and the payer liable for TDS are discussed below:

Nature of payment	% of TDS	Payer (deductor)
Salary payment	Normal slab rate	Any payer
Payment accrued due to EPF scheme by employees which is taxable in their hand	10%	The person authorised under the EPF scheme
Interest on securities	10%	Payer of interest on securities
Dividend	10%	The company paying the dividend
Income received from interest	10%	Any payer*
Income received from winning lotteries, crosswords, and games, etc.	30%	The person paying the winnings

Payment to contractors/sub-contractors	1% for HUFs/individuals and 2% for any other recipient	Any payer*
Insurance commission	5%	The person paying the commission
Payment for life insurance policy	5% on the income comprised in the payment	The person paying the policy amount due
Commission or brokerage	5%	Any payer*
Rent	2% for plant and machinery and 10% for land, furniture and fitting	Any payer*
Payment on transfer of immovable property not including agricultural land	1%	Transferee/purchaser of immovable property
Rent (for personal use)	5%	Individual or HUF
Fees for professional services or fees for technical services	10%; 2% for FTS (w.e.f. FY 2020-21)	Any payer*
Commission or fees or brokerage for professional services (for personal usage)	5%	Individual or HUF
Cash withdrawal above Rs 1 crore	2%	A banking company or a co-operative society or a post office

***Note:** Any payer includes an individual or HUF whose sales, turnover or gross receipts exceed Rs 1 crore in case of business or exceed Rs 50 lakh in case of the profession.

Filing TDS Return

In addition to deducting TDS and depositing it to the government, a deductor also needs to file the TDS returns. A TDS Return refers to a quarterly statement that needs to be furnished to the income tax department. It's mandatory to furnish the TDS returns in case you're a deductor. This return has the details of the TDS deducted and deposited by the deductor. The type of return to be submitted would depend on the nature of payment or type of deductee.

TDS Return Forms	Particulars
Form 24Q	Return for TDS deducted on salary payment
Form 27Q	Return for TDS deducted where the deductee is a non-resident or a foreign company
Form 26QB	Return for TDS deducted on payment for the transfer of immovable property
Form 26Q	Return for TDS deducted in any other case
Form 26QC	Return for TDS on rent
Form 26QD	Return for TDS on commission or brokerage or fees for professional services (for personal use)

Due Date for Filing TDS Return

Quarter	Period	Due Date
Q1	1st April to 30th June	31st July
Q2	1st July to 30th September	31st October
Q3	1st October to 31st December	31st January
Q4	1st January to 31st March	31st May

Other Business Compliances

Transfer pricing

The Income Tax Act, 1961 prescribes transfer pricing law for carrying on related party transactions. The transfer pricing provisions require business entities which are associated with each other or fall under the same management to report their related business transactions. Such business entities are also required to carry out a transfer pricing audit and submit a certificate from a Chartered Accountant.

FDI reporting to RBI in FC GPR Filing

Foreign Direct Investment (FDI) of up to 100% is allowed in the Indian PLCs for most of the sectors today. Every Company with foreign investment needs to furnish a report to the Reserve Bank of India (RBI) for the same. Note that only equity shares, convertible preference shares and convertible debentures are considered under securities under FDI. Investment in any other instrument would be considered as borrowings and company would need to comply with ECB requirements.

Within 30 days from the receipt of the share application money, a company needs to report the RBI through the authorised dealer banker about details of such consideration. The company has to issue shares to the foreign investor within 180 days from the date of inward remittance, in order to avoid any violation of FEMA regulations. Also, in less than 30 days from issue of such shares, the company needs to file form Foreign Currency-Gross Provisional Return (FC-GPR) with the RBI along with the prescribed documents.

Payment and filing of Equalisation levy

In the Finance Bill of 2016, 'Equalisation levy' was inserted to provide for a levy of 6% of the consideration for the prescribed services received or receivable by a non-resident without any permanent establishment in India, from an Indian resident carrying on business/profession, or from the non-resident with a permanent establishment within India. Also, equalisation levy will be levied only if the annual payment which is made to one service provider is more than Rs 1 lakh in a financial year

Currently, only the following services covered for the purpose of equalisation levy:

- Online advertisement;
- Digital advertising space or facilities/service for online advertisement;

The deductor has to furnish the Equalisation Levy Statement in Form-1 on or before 30th June from the end of a financial year.

Customs law (import/export)

A business entity which wants to export goods outside India or import goods from outside India should obtain an import-export license. The license is issued by the DGFT (Director General of Foreign Trade). An entity exporting or importing should also comply with the procedures laid down under the Customs Act, 1962, Import Export policy of the Government of India and other foreign trade regulations.

Customs law (import/export)

A business entity which wants to export goods outside India or import goods from outside India should obtain an import-export license. The license is issued by the DGFT (Director General of Foreign Trade). An entity exporting or importing should also comply with the procedures laid down under the Customs Act, 1962, Import Export policy of the Government of India and other foreign trade regulations.

In case of export of services, an import-export license is required only when the service provider is taking benefits under the Foreign Trade policy.

Secretarial Compliances

In case of a PLC, the Companies Act, 2013 requires maintenance of different types of registers and intimating the ROC about the regular business of the PLC. Such compliances include maintenance of a register of members, Directors, contracts, charges, and so on as may be prescribed. The other compliances include intimating the ROC about the appointment and change in statutory auditors, directors, managing director, the resignation of directors, and so on.

How Can We Help You?

The plethora of compliances needs to keep up with the due dates, audit requirements, and so on can be a challenge for any business. At the same time, a business needs to ensure that its continuity is not affected due to lapses in any compliances. A business can find it difficult to stay updated with the changes in the different laws. Hence, in order to meet the legal compliances on time and avoid undue hardship, a business organisation should seek professional help.

We assist in setting up your business, meeting your day to day compliances and other legal requirements. Visit https://cleartax.in/services/ to know more about our business compliance services. Call us 080-67458777 for our CA-Assisted services.