

INDIRECT TAXES

Indirect taxes are the charges that are levied on goods and services. Some of the significant indirect taxes include Value Added Tax, Central Sales Tax, Central Excise Duty, Customs Duty, stamp duties and expenditure tax. Unlike Direct Taxes, Indirect Taxes are not levied on individuals, but on goods and services. Customers indirectly pay this tax in the form of higher prices. For example, it can be said that while purchasing goods from a retail shop, the sales tax is actually paid by the customers. The retailer eventually passes this tax to the respective authority. The indirect tax actually raises the price of a good and the customers purchase by paying more for that product.

EXCISE DUTY

Excise Duty is tax levied by the Central Government.

The primary and fundamental meaning of "excise duty" or Duty of excise is tax on articles produced or manufactured in the taxing country and intended for home consumption (i.e. consumption within the same country). It is an indirect duty which the manufacture or producer passes on the ultimate consumer, that is, its ultimate incidence will always be on the consumer. What attracts the duty of excise is an activity, namely, the production or manufacture of goods. Central Excise duty is an indirect tax levied on goods manufactured in India. The taxable event under the Central Excise law is manufacture and the liability of Central Excise duty arises as soon as the goods are manufactured. The duty, though it becomes payable on the manufacture of goods, is collected at the time of removal of goods from the factory.

The Central Excise duty is collected under the authority of the Central Excise Act, 1944 at the rates specified under Central Excise Tariff Act, 1985. This duty is commonly referred as the Basic Excise Duty. In addition to this duty a few textile items, like fiber, yarn etc. also attract Additional Excise Duty under Additional Duties of Excise (Textiles and Textile Articles) Act, 1975. The Additional Duties of Excise (Goods of Special Importance) Act, 1957 and Miscellaneous Cess Acts provide authority for collection of Additional Excise Duty and Cess respectively on several manufactured items over and above Basic Excise Duty.

Types of Excise Duty

- Basic Excise Duty (BED)
- Special Excise Duty (SED)
- Excise Duty on clearances by EOU / SEZ in Duty Tariff Area
- National Calamity Contingent Duty (NCCD)
- Duties under other Acts
- Cess under other Acts

VALUE ADDED TAX (VAT)

Though VAT is the common way of collecting Sales Tax in India, each state has its own VAT Act.

One of the important components of tax reforms initiated since liberalization is the introduction of Value Added Tax (VAT). VAT is a multi-point destination based system of taxation, with tax being levied on value addition at each stage of transaction in the production/distribution chain. The term 'value addition' implies the increase in value of goods and services at each stage of production or transfer of goods and services. VAT is a tax on the final consumption of goods or services and is ultimately borne by the consumer. It is a multi-stage tax with the provision to allow 'Input tax credit (ITC)' on tax at an earlier stage, which can be appropriated against the VAT liability on subsequent sale. This input tax credit in relation to any period means setting off the amount of input tax by a registered dealer against the amount of his output tax. It is given for all manufacturers and traders for purchase of inputs/supplies meant for sale, irrespective of when these will be utilized/ sold. The VAT liability of the dealer/ manufacturer is calculated by deducting input tax credit from tax collected on sales during the payment period (say, a month). If the tax credit exceeds the tax payable on sales in a month, the excess credit will be carried over to the end of next financial year. If there is any excess unadjusted input tax credit at the end of second year, then the same will be eligible for refund.

VAT is basically a State subject, derived from Entry 54 of the State List, for which the States are sovereign in taking decisions. The State Governments, through Taxation Departments, are carrying out the responsibility of levying and collecting VAT in the respective States. While, the Central Government is playing the role of a facilitator for the successful implementation of VAT. The Ministry of Finance is the main agency for levying and implementing VAT, both at the Centre and the State level.

The entire design of VAT with input tax credit is crucially based on documentation of tax invoice, cash memo or bill. Every registered dealer, having turnover of sales above an amount specified, needs to issue to the purchaser serially numbered tax invoice with the prescribed particulars. This tax invoice is to be signed and dated by the dealer or his regular employee, showing the required particulars. For identification/ registration of dealers under VAT, the Tax Payer's Identification Number (TIN) is used. TIN consists of 11 digit numerals throughout the country. Its first two characters represent the State Code and the set-up of the next nine characters can vary in different States.

In India's prevalent sales tax structure, there have been problems of double taxation of commodities and multiplicity of taxes, resulting in a cascading tax burden. For instance, in this structure, before a commodity is produced, inputs are first taxed, and then after the commodity is produced with input tax load, output is taxed again. This causes an unfair double taxation with cascading effects. Hence, the VAT has been introduced to replace such sales tax structure. Moreover, it seeks to phase out the Central Sales Tax (CST) and several efforts are being made in this regard.

The main motive of VAT has been the rationalization of overall tax burden and reduction in general price level. Thus, it seeks to help common people, traders, industrialists as well as the Government. It is indeed a move towards more efficiency, equal competition and fairness in the taxation system.

OCTROI

Octroi is local tax that prevails in six states, namely, Gujarat, Haryana, Himachal Pradesh, Maharashtra, Punjab, and Rajasthan. Local Authorities like Municipal Corporation levy it on entry of goods into an urban area for consumption, use or sale. The goods just passing through jurisdiction are not subject to octroi. However, it is applicable to foreign as well as domestic goods. Octroi is check-post based levy. Each Local Authority determines its own rate structure depending on its revenue needs and administrative capacity, but the rates are subject to approval by the state in some way. In general, Octroi rates vary across Local Authorities and commodities. Most of the commodities are taxed on the basis of value while some are taxed on the basis of weight or number of pieces/packets etc.

Commodities are classified into the following nine broad categories:

- articles of food and drinks;
- animals;
- articles used for fuel, lighting, washing etc.;
- articles used in construction and those made of wood or cane;
- perfumes, toilet requisites, colours and household goods;
- tobacco and tobacco requisites;
- piece goods, cotton, yarn, starching and sizing materials, leather and rubber products;
- metals and articles thereof; and
- miscellaneous.

For most commodities, the rates are ad valorem and these vary from 0.50 to 7.00 per cent in Greater Mumbai, from 0.20 to per cent in Kolhapur, from 0.25 to 4.00 per cent in Malegaon and from 0.05 to 5.25 per cent in Mira Bhaindar. Generally, agricultural raw materials and inputs, life saving drugs, sports goods, and animals are exempt; lower rates apply to necessities and raw materials; and higher rates to luxuries.

In the State of Maharashtra, Local Body Tax (LBT) was introduced in the year 2010 in Tier III cities to replace Octroi. In 2013 it was made applicable to Tier II & I cities. The Brihanmumbai Municipal Corporation (BMC) failed to implement as promised earlier due to protests by Trader's Association and continued with Octroi collection. In fact, even where it was introduced like Thane Municipal Corporation (TMC) or Pune Municipal Corporation (PMC) there was lot of opposition for it. Finally, it was abolished in the year 2015.

SERVICE TAX

Service Tax is tax levied by the Central Government. Though it was introduced in 1994 there is still no Separate Service Tax Act governing the same. It's implementation is still based on Finance Act as modified yearly.

Service Tax is a form of indirect tax imposed on services. Service tax now levied on all service except specifically exempt or covered under negative list of services.

Over the past few years, service tax been expanded to cover most of the services. For the purpose of levying service tax, the value of any taxable service should be the gross amount charged by the service provider for the service rendered by him.

Service Tax was first brought into force with effect from 1 July 1994. All service providers in India, except those in the state of Jammu and Kashmir, are required to pay a Service Tax in India.

Initially only three services were brought under the net of service tax and the tax rate was 5%. Gradually most of the services came under the ambit of Service Tax. The rate of tax was increased from 5% to 8% w.e.f. 14 May 2003. From 10 September 2004 the rate of Service Tax was enhanced to 10% from 8%. Besides this 2% education cess on the amount of Service Tax was also introduced. In the year 2006-2007, service tax was increased from 10% to 12%. On February 24, 2009 in order to give relief to the industry reeling under the impact of economic recession, the rate of Service Tax was reduced from 12 per cent to 10 per cent and from 1st April 2012 it has again increased to 12%. The maximum rate of service tax charged is 12.36% which includes 3% of education cess. The rate of Service Tax is increased from 12% to 14% (including cess). The increase in Service Tax rate has come into effect from 1st June, 2015. A Swachh Bharat Cess at the rate of 0.5% is applicable on all services, which are presently liable to service tax, with effect from 15th November 2015, effectively increasing the rate of service tax to 14.5%. An additional cess called as Krishi Kalyan Cess at the rate of **0.5%** is applicable from 01st June, 2016, increasing the effective rate of service tax to **15%**.

The due date for payment of service tax in case of:

An individual/partnership firm: 5th of the following quarter in which the payment has been received. However, in case the service provider opts for online payments, he is given a grace period of 1 day and thus the due date becomes 6th of the following quarter.

Others: The due date is 5th of the following month in which the service tax is collected. If the payment is made online, the due date is 6th of the following month.

ST Return

It is provided that an assessee whose service tax liability was ₹ 25 lakhs or more in the previous year and in case of a newly registered service provider other than individual or firms, will have to file return "Monthly". In few cases it will have to be filed "Quarterly".

And in other cases i.e. Individuals and partnership firm or proprietary firms having paid service tax of less than ₹ 25 lakhs in previous year, will have to file return 'half yearly'.

Service Tax is not applicable for small service providers having turnover of less than ₹ 10 lakhs per year. However, a Service Provider has to register himself once his turnover reaches ₹ 9 lakhs though his liability for tax payment arises beyond turnover of ₹ 10 lakhs. Service Tax is also not levied on Service Providers rendering Services which are included in the negative list e.g. Agricultural Activities.

PROFESSION TAX

Profession Tax is a State Government Tax in India. It is not levied by few states of India.

Profession Tax is a tax which is levied by the State on the income earned by the way of profession, trade, calling or employment. This form of tax was first levied in India in the year 1949 and the power to levy Profession tax has been given to the States by the way of Clause (2) of Article 276 of the Constitution of India.

Any amount paid as Profession Tax to the State Government is allowed as a deduction under section 16 of the Income Tax Act and Income tax on the balance amount is levied as per the Income Tax Slab Rates in force.

In case of Salaried and Wage earners, the profession tax is liable to be deducted by the Employer from the Salary/Wages and the Employer is liable to deposit the same with the State government. In case of other class of individuals, the tax is liable to be paid by the person himself.

Profession tax is collected by some state governments, while in some states which have active Panchayats, the local bodies levy and collect the tax. Every person liable to pay this tax (either for self or on behalf of its employees) shall apply for Profession Tax Registration in the prescribed form.

As the states are empowered to levy and collect this tax, different states levy Profession tax as per different slab rates e.g. In Maharashtra, the profession tax is governed by The Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975. The slab rates on Salary and Wages are:

Monthly Salary	Amount Payable in Maharashtra
Less than ₹ 7500	Nil
₹ 7501 to ₹ 10000	₹ 175 pm
₹ 10001 and above	₹ 200 per month except for the month of Feb and ₹ 300 for the month of Feb

For other class of individuals, the Maharashtra State Govt. has prescribed different slab rates and the Individual himself is liable to pay this tax.

Profession Tax for most self employed individuals is ₹2,500 p.a.

LICENSE UNDER SHOPS AND ESTABLISHMENT ACT

It's a subject matter of States in India which is to be monitored by the Local Authority.

The Shop and Establishment Act is regulated by the Department of Labor and regulates premises wherein any trade, business or profession is carried out. The act not only regulates the working of commercial establishments, but also societies, charitable trusts, printing establishments, educational institutions run for gain and premises in which banking, insurance, stock or share brokerage is carried on.

The Shop and Establishment Act in India is promulgated by the state and may slight differ from state to state. However, as per the Act, all shops and commercial establishments operating within each state are covered by the respective Shop & Establishments Act. Shops are defined as premises where goods are sold either by retail or wholesale or where services are rendered to customers, and include an office, a store-room, godown, warehouse or workhouse or work place. Establishments are defined as shop, a commercial establishment, residential hotel, restaurant, eating-house, theatre or other places of public amusement or entertainment. Further, establishments as defined by the act may also include such other establishments as defined by the Government by notification in the Official Gazette. However, factories are not covered by the shops & establishments act and are regulated by the Factories Act, 1948.

The Shop and Establishment Act regulates a number of aspects relating to the operation of a shop or commercial establishment. Some of the key areas regulated by the shop and establishment act include:

- Hours of work
- Interval for rest and meals
- Prohibition of employment of children

- Employment of young person or women
- Opening and closing hours
- Close days
- Weekly holidays
- Wages for holidays
- Time and conditions of payment of wages
- Deductions from wages
- Leave policy
- Dismissal
- Record keeping

More details relating to the above aspects can be found in the shop and establishment act promulgated by each state government. e.g. Any citizen who wishes to open new shop or a commercial establishment within the jurisdiction of Government of Maharashtra, has to register itself under The Bombay Shops and Commercial Establishment Act, 1948.

There is an annual registration fee under this Act, which is based on the number of employees.

This ranges from ₹100 p.a. to ₹ 4,500 p.a.

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