INDIRECT TAXES

Indirect Taxes are the charges levied by the State on consumption, expenditure, privilege, or right but not on income or property. Customs duties levied on imports, excise duties on production, sales tax or value added tax (VAT) at some stage in production-distribution process, are examples of indirect taxes because they are not levied directly on the income of the consumer or earner. Also called consumption taxes, they are regressive measures because they are not based on the ability to pay principle.

Some of the indirect taxes are:

- Excise Duty
- Customs Duty
- Value Added Tax
- Central Sales Tax
- Service Tax
- Expenditure Tax
- Stamp duties
- Securities Transaction Tax

Various other taxes or rates are levied by the municipal authorities (e.g., on goods entering their jurisdiction and on the annual value of property), by state governments (e.g., on motor vehicles and amusements) and by the central government (e.g., on foreign travel and domestic air travel).
**Excise Duty:**

It is an indirect tax levied and collected on the goods manufactured in India. Generally, manufacturer of goods is responsible to pay duty to the Government. This indirect taxation is administered through an enactment of the Central Government viz., The Central Excise Act, 1944 and connected Rules - which provide for levy, collection and connected procedures. The rates at which the excise duty is to be collected are stipulated in the Central Excise Tariff Act, 1985. It is mandatory to pay duty on all goods manufactured, unless exempted. For example, duty is not payable on the goods exported out of India. Similarly exemption from payment of duty is available, based on conditions such as kind of raw materials used, value of turnover (clearances) in a financial year, type of process employed etc.

The Central Excise Department spread over the entire country administers and collects the central excise duty. The apex body that is responsible for the policy and formulation of connected rules is the Central Board of Excise and Customs which functions under the control of the Union Finance Ministry. There are about 60,000 staff and officers including 1500 officers in Group A level and 5,000 officers in Group B level in the Department.
Custom Duty

The Custom Duty in India is one of the most important tariffs. The custom duty in India is regulated by the Customs Act of 1962. The main purpose of the custom duty in India is the prevention of the illegal export and import of goods. The rates of the custom duty levied on the imported and exported goods are assigned in the Custom Act, 1962.

The Acts under the custom duty in India:

- Foreign Trade (Exemption from application of Rules in certain cases) Order, 1993
- Customs Act, 1962

The Customs Act was formulated in 1962 to prevent illegal imports and exports of goods. Besides, all imports are sought to be subject to a duty with a view to affording protection to indigenous industries as well as to keep the imports to the minimum in the interests of securing the exchange rate of Indian currency.

Duties of customs are levied on goods imported or exported from India at the rate specified under the customs Tariff Act, 1975 as amended from time to time or any other law for the time being in force. For the purpose of exercising proper surveillance over imports and exports, the Central Government has the power to notify the ports and airports for the unloading of the imported goods and loading of the exported goods, the places for clearance of goods imported or to be exported, the routes by which above goods may pass by land or inland water into or out of Indian and the ports which alone shall be coastal ports.

In order to give a broad guide as to classification of goods for the purpose of duty liability, the central Board of Excises Customs (CBEC) brings out periodically a book called the "Indian Customs Tariff Guide" which contains various tariff rulings issued by the CBEC. The Act also contains detailed provisions for warehousing of the imported goods and manufacture of goods is also possible in the warehouses.

For a person who do not actually import or export goods customs has relevance in so far as they bring any baggage from abroad.

Types of duties

Under the custom laws, the following are the various types of duties which are leviable:

- Basic Duty
- Additional Duty (Countervailing Duty) (CVD)
- Anti-dumping Duty
- Protective Duty
- Duty on Bounty Fed Articles
- Export Duty
**VALUE ADDED TAX (VAT)**

A value added tax (VAT) is a form of consumption tax. It is a tax on the estimated market value added to a product or material at each stage of its manufacture or distribution, ultimately passed on to the consumer. It differs from a sales tax, which is levied only at the point of purchase.

Value Added Tax is intended to be levied - or charged - whenever there is some value addition to raw material. The taxpayers on the other hand, will get credit for the amount of tax paid off at the stages of procurement. The value added tax system has proven to be effective in avoiding problems that normally might arise out of the double taxation of goods and services.

The value added tax system is designed to address various problems associated with the conventional sales tax system. In sales tax, there is no provision for input tax credit, which means that the end consumer may pay tax on an input that has already been taxed previously. This is known as cascading and leads to increases consumer tax and price levels, which increases the rate of evasion and can be detrimental to economic growth.

The value added tax system deals with these problems quite efficiently. As VAT is imposed on value addition - at every single stage - there is no incidence of cascading. In this way, the final consumers bear the burden of paying value added tax. This system involves absolute transparency at every stage of taxation, thereby making the tax system quite comprehensible and simple.

In some countries like India, the system of VAT has been designed to change the existing system of sales taxation. Value added tax is different from the conventional system of sales tax, because VAT is charged at every stage of value addition - whereas sales tax is imposed on final value of transaction only.

The value added tax system allows for input tax credit, or ITC, on the amount of tax levied at the preceding stage of the value addition chain. The allowance for ITC is normally appropriated from the value added tax liability imposed on the following stage of the sale of the product.
CENTRAL SALES TAX

Central Sales tax is generally payable on the sale of all goods by a dealer in the course of inter-state trade or commerce or, outside a State.

There can be an interstate sale even if the buyer and the seller belong to the same state; even if the goods move from one state to another as a result of a contract of sale; or, the goods are sold while they are in transit by transfer of documents.

Sales tax is payable to the sales tax authority in the state from which the movement of goods commences. It is to be paid by every dealer on the sale of any goods effected by him in the course of inter-state trade or commerce, notwithstanding that no liability to tax on the sale of goods arises under the tax laws of the appropriate state.

The power to levy Sales tax

1. No state can levy sales tax on any sale or purchase where such sale or purchase takes place
   - outside the state and
   - in the course of import of goods into or export of goods outside India.
2. Only the parliament can levy tax on inter-state sale or purchase of goods

Transactions not amounting to inter-state sales

Not all despatches of goods from one state to another result in inter state sales rather the movement must be on account of a covenant or incident of the contract of sales. There are some instances wherein the goods are moved out of the selling state and yet they are not considered inter state sales :-

- Intra-state sales
- Stock transfer from head office to branch & vice versa
- Import and Export sales or purchases
- Sale through commission agent / on account sales
- Delivery of Goods for executing works contract

Sales Tax ID number

A state sales tax ID number is basically a business version of your Social Security number under which you collect and pay tax for any service or product you sell that qualifies for taxation in your state. The state department of taxation provides sales tax ID numbers and it takes about a month to get one.

The rule of thumb for sales tax is that most services are exempt and most products are taxable except for food and drugs. However, states have been gradually adding to the list of services that are taxable for the last few years. Check with your state department of taxation to determine if the product or service you sell is taxable in your state.

Exception in the sales taxes

- Sales to resellers such as wholesalers and retailers that have a valid state resale certificate.
- Sales to tax-exempt institutions such as schools or charities
**SERVICE TAX**

Tax on services has been in vogue in India since 1994 when it was introduced for the first time. When it was introduced initially there were three services which were liable but over the years various other services have been added and today more than a hundred services are liable under service tax. The basket of services liable to service tax is only expected to grow in the near future as the service sector’s contribution to the country’s GDP is expected to increase even further though possibly most of the services which can be comprehended are already being taxed. Here, a negative list would make more sense to avoid uncertainty caused by frequent changes.

One of the main reasons for the services to be taxed is the fact that the manufacturing sector can be taxed only to a certain extent if we are to ensure the competitiveness of our industry, since ours is no longer a closed economy, all activities are to bear the burden. Services presently forming more than 55% of the GDP are expected to reach 70% in the next decade, which should also bear the burden of tax. This tax would be subsumed into the Goods and Service Tax which maybe in place in the next few years.

Assesseees should note that in order to attract service tax, there should first of all be a service. The concept of service though has not been defined for this purpose under law and one would have to refer the meanings given by dictionary to understand the same.

**Governing provisions**

The provisions pertaining to service tax are given in Chapter V and VA of Finance Act 1994 as amended from time to time. The Central Government has also been empowered to make rules to carry out the provisions of this Chapter, through section 94 of this chapter. This comes along with the power to grant exemptions from Service Tax u/s 93. The Government has consequently notified various sets of rules FOR Service Tax.

The service tax levy is attracted when a taxable service is provided by a defined service provider to a defined service receiver. Unless a service can be regarded as being taxable and being provided by a defined service provider to a defined service receiver, it cannot be taxed. All the three conditions here should be met and even if one of the conditions is not met, the activity in question cannot be taxed. The assessee may however note here that the concept of service receiver now is only of academic interest as the scope of the term is being widened to cover almost all service receivers in the last couple of years (the service receiver can be any person in most of the services). Over the years, the number of services being subject to service tax is also being increased by including all the concerned services in the relevant section discussed above. The service tax levy does not extend to the state of Jammu and Kashmir.

**Payment of service tax**

The service provider providing taxable services shall be required to pay service tax. However, the service provider does not have to pay service tax until he collects the value of service, from the service receiver towards the taxable services provided by virtue of Rule 6 of Service Tax Rules 1994. Once the payments are received, the service tax shall be paid by the 5th of the month following the month in which the sums are received towards such taxable service. However, in respect of the amounts received in the month of March, the payment would have to be made by the 31st of March and not by 5th of April. Where the payment is made electronically, the due date is 6th of the following month instead of 5th.
Expenditure Tax

Expenditure tax is levied under the Expenditure Tax Act, 1987 at the rate of 10 percent on payments made to hotels toward room charges, food, beverages, and other services. This tax is collected by hotels from their customers and deposited with the central government. However, it is not applicable to hotels with room charges of less than Rs 1,200 per day per person.

Stamp duties

Stamp duty is levied at various rates on documents, such as bills of exchange, promissory notes, insurance policies, contracts affecting a transfer of shares, debentures, and conveyances for the transfer of immovable property. Stamp duty on the transfer of shares and conveyances of immovable property is normally payable by the purchaser. The rates are prescribed by central government legislation, the Indian Stamp Act 1899, but rates on some documents have been revised through state government legislation.