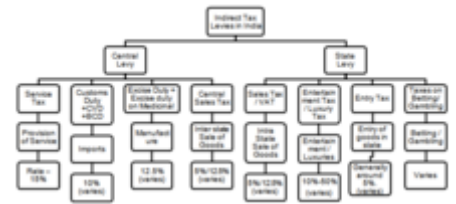


Taxation in India

Taxes in India are levied by the Central Government and the state governments.^[1] Some minor taxes are also levied by the local authorities such as the Municipality.^[2]

The authority to levy a tax is derived from the Constitution of India which allocates the power to levy various taxes between the Central and the State. An important restriction on this power is Article 265 of the Constitution which states that "No tax shall be levied or collected except by the authority of law".^[3] Therefore, each tax levied or collected has to be backed by an accompanying law, passed either by the Parliament or the State Legislature. In 2015-2016, the gross tax collection of the Centre amounted to ₹14.60 trillion (US\$220 billion).^[4]



Tax Regime in India

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History

India has abolished multiple taxes with passage of time and imposed new ones. Few of such taxes include inheritance tax,^[5] interest tax, gift tax, wealth tax, etc. Wealth Tax Act, 1957 was repealed in the year 2015.^[6]

Direct Taxes in India were governed by two major legislations, Income Tax Act, 1961 and Wealth Tax Act, 1957. A new legislation, Direct Taxes Code (DTC), was proposed to replace the two acts.^[7] However, the Wealth Tax Act was repealed in 2015 and the idea of DTC was dropped.

Service tax

It is a tax levied on services provided in India, except the State of Jammu and Kashmir. The responsibility of collecting the tax lies with the Central Board of Excise and Customs (CBEC). From 2012, service tax is imposed on all services, except those which are specifically exempted under law (e.g. Exempt under Negative List, Exempt as exclusion from Service definition as per Service Tax, Exempt under MEN (Mega exemption notification)). In budget presented for 2008-2009, it was announced that all small service providers whose turnover does not exceed ₹10 lakh (US\$15,000) need not pay service tax. Service tax at a rate of 14 percent (Inclusive of EC & SHEC) will be imposed on all applicable services from 1 June 2015.^[8] From 15th November 2015, Swachh Bharat cess of 0.5% has been added to all taxable service leading the new Service Tax rate to be 14.5 percent (Inclusive of EC, SHEC & Swachh Bharat cess).^[9] On 29 February 2016, Current Finance Minister Mr. Arun Jaitley announces a new Cess, Krishi Kalyan Cess that would be levied from the 1st June 2016 at the rate of 0.5% on all taxable services. The purpose of introducing Krishi Kalyan Cess is to improve agriculture activities and welfare of Indian farmers. Thus, the new Service Tax rate would be 15% incorporating EC, SHEC, Swachh Bharat Cess and Krishi Kalyan Cess.^[10]

From 2015 to currently, the gross tax collection of the Centre from service tax has amounted in excess of ₹2.10 trillion (US\$32 billion).^[11]

Central Excise

In 2015-2016, the gross tax collection of the Centre from excise amounted to ₹2.80 trillion (US\$43 billion).^[11]

1. *Central Excise Act, 1944*, which imposes a duty of excise on goods manufactured or produced in India;
2. *Central Sales Tax, 1956*, which imposes sales tax on goods sold in inter-state trade or commerce in India sale of property situated within the state.^[12]

In the 2016 Union budget of India, an excise of duty of 1% without input tax credit and 12.5% with input tax credit was imposed on articles of jewellery with the exception of silver jewellery.^[13] The government had earlier proposed an excise duty in the Budget 2011-12, which had to be rolled back after massive protests by jewellers.^[14]



Logo of Customs and Central Excise

- Central Excise Tariff Act, 1985^[15]
- Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000^[16]

Constitutionally established scheme of taxation

Article 246^[17] of the Indian Constitution distributes legislative powers including taxation, between the Parliament of India and the State Legislature. Schedule VII enumerates these subject matters with the use of three lists.^[18]

- List - I entailing the areas on which only the parliament is competent to make laws,
- List - II entailing the areas on which only the state legislature can make laws, and
- List - III listing the areas on which both the Parliament and the State Legislature can make laws upon concurrently

Separate heads of taxation are no head of taxation in the Concurrent List (Union and the States have no concurrent power of taxation).^[19] The list of thirteen Union heads of taxation and the list of nineteen State heads are given below.^[19]

Central government of India

S. No.	Parliament of India
1	Taxes on income other than agricultural income (List I(Union List), Entry 82)
2	Duties of customs including export duties (List I(Union List), Entry 83)
3	Duties of excise on tobacco and other goods manufactured or produced in India except (i) alcoholic liquor for human consumption, and (ii) opium, Indian hemp and other narcotic drugs and narcotics, but including medicinal and toilet preparations containing alcohol or any substance included in (ii). (List I(Union List), Entry 84)
4	Corporation Tax (List I(Union List), Entry 85)
5	Taxes on capital value of assets exclusive of agricultural land, of individuals and companies, taxes on capital of companies (List I(Union List), Entry 86)
6	Estate duty in respect of property other than agricultural land (List I(Union List), Entry 87)
7	Duties in respect of succession to property other than agricultural land (List I(Union List), Entry 88)
8	Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freight (List I(Union List), Entry 89)
9	Taxes other than stamp duties on transactions in stock exchanges and futures markets
10	Tax on sales or purchase of newspaper and advertisement therein;<PM. BAKSHI>
11	Taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce
12	Taxes on the consignment of goods in the course of inter-State trade or commerce
13	All residuary types of taxes not listed in any of the three lists of Seventh Schedule of Indian Constitution

[20]

State governments

S. No.	State Legislature
1	Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues (List II, Entry 45)
2	Taxes on agricultural income (List II, Entry 46)
3	Duties in respect of succession to agricultural land (List II, Entry 47)
4	Estate Duty in respect of agricultural land (List II, Entry 48)
5	Taxes on lands and buildings (List II, Entry 49)
6	Taxes on mineral rights (List II, Entry 50)
7	Duties of excise for following goods manufactured or produced within the State (i) alcoholic liquors for human consumption, and (ii) opium, Indian hemp and other narcotic drugs and narcotics (List II, Entry 51)
8	Taxes on entry of goods into a local area for consumption, use or sale therein (see <u>Value added tax</u>) (List II, Entry 52)
9	Taxes on the consumption or sale of <u>electricity</u> (List II, Entry 53)
10	Taxes on the sale or purchase of goods other than newspapers (List II, Entry 54)
11	Taxes on advertisements other than advertisements published in newspapers and advertisements broadcast by radio or television (List II, Entry 55)
12	Taxes on goods and passengers carried by roads or on inland waterways (List II, Entry 56)
13	<u>Taxes on vehicles suitable for use on roads</u> (List II, Entry 57)
14	Taxes on animals and boats (List II, Entry 58)
15	<u>Tolls</u> (List II, Entry 59)
16	<u>Taxes on profession, trades, callings and employments</u> (List II, Entry 60)
17	Capitation taxes (List II, Entry 61)
18	Taxes on luxuries, including <u>taxes on entertainments, amusements</u> betting and gambling (List II, Entry 62)
19	<u>Stamp duty</u> (List II, Entry 63)

Any tax levied by the government which is not backed by law or is beyond the powers of the legislating authority may be struck down as unconstitutional.

The **Central Board of Revenue** or **Department of Revenue** is the apex body charged with the administration of taxes. It is a part of Ministry of Finance which came into existence as a result of the Central Board of Revenue Act, 1924.

Initially the Board was in charge of both direct and indirect taxes. However, when the administration of taxes became too unwieldy for one Board to handle, the Board was split up into two, namely the **Central Board of Direct Taxes (CBDT)** and **Central Board of Excise and Customs (CBEC)** with effect from 1 January 1964. This bifurcation was brought about by constitution of the two Boards under **Section 3 of the Central Boards of Revenue Act, 1963**

Central Board of Direct Taxes

The Central Board of Direct Taxes (CBDT) provides essential inputs for policy and planning of direct taxes in India and is also responsible for administration of the direct tax laws through **Income Tax Department**. The CBDT is a statutory authority functioning under the Central Board of Revenue Act, 1963. It is India's official FATF unit.^[21]

Organisational Structure

The CBDT is headed by CBDT Chairman and also comprises six members. The Chairperson holds the rank of Special Secretary to Government of India while the members rank of Additional Secretary to Government of India.^[22]

- Member (Income Tax)
- Member (Legislation and Computerisation)
- Member (Revenue)
- Member (Personnel & Vigilance)
- Member (Investigation)
- Member (Audit & Judicial)

The **CBDT Chairman** and Members of CBDT are selected from Indian Revenue Service (IRS), a premier civil service of India, whose members constitute the top management of Income Tax Department.^[23]

Income Tax Department

Income Tax Department functions under the Department of Revenue in Ministry of Finance. It is responsible for administering following direct taxation acts passed by Parliament.^[24]

- Income Tax Act, 1961
- Various Finance Acts (Passed Every Year in Budget Session)

Income Tax Department is also responsible for enforcing Double Taxation Avoidance Agreements and deals with various aspects of international taxation such as Transfer Pricing. Finance Bill 2012 seeks to grant Income Tax Department powers to combat aggressive Tax avoidance by enforcing General Anti Avoidance Rules.^[25]

Central Board of Excise and Customs

Central Board of Excise and Customs (CBEC) is a part of the Department of Revenue under the Ministry of Finance, Government of India. It deals with the tasks of formulation of policy concerning levy and collection of Customs & Central Excise duties and Service Tax, prevention of smuggling and administration of matters relating to Customs, Central Excise, Service Tax and Narcotics to the extent under CBEC's purview. The Board is the administrative authority for its subordinate organizations, including Custom Houses, Central Excise and Service Tax Commissionerates and the Central Revenues Control Laboratory

Organisational Structure

The CBEC is headed by CBEC Chairman and also comprises six members. The Chairperson holds the rank of Special Secretary to Government of India while the members rank of Additional Secretary to Government of India.^[22]

Collections

In 2015-2016, the gross tax collection of the Centre amounted to ₹14.60 trillion (US\$220 billion).^{[4][11]}

[26]

Income Tax



Arun Jaitley, Finance Minister,
Government of India



Indian Revenue Service Logo



Income Tax Department

The major tax enactment in India is the Income Tax Act, 1961 passed by the Parliament, which imposes a tax on the income of persons. This Act imposes a tax on income under the following five heads:^[27]

1. Income from house property
2. Income from business and profession
3. Income from salaries
4. Income in the form of capital gains
5. Income from other sources

In terms of the *Income Tax Act, 1961*, a person includes^[12]

1. Individual
2. Hindu Undivided Family (HUF)
3. Association of Persons (AOP)
4. Body of Individuals (BOI)
5. Company
6. Firm
7. Local authority
8. Artificial Judicial person not falling in any of the preceding categories

The tax rate is prescribed every year by Parliament in the Finance Act, popularly called the Budget. In terms of the Finance Act, 2015, the rate of tax for individuals, HUF Association of Persons (AOP) and Body of individuals (BOI) is as under;

- A surcharge of 2.50% of the total tax liability is applicable in case the payee is a Non-Resident or a Foreign Company; where the total income exceeds ₹1 crore (US\$150,000).
- Education cess (EC) is applicable @ 2% on income tax, inclusive of surcharge if there is any
- Secondary and Higher Education Cess (SHEC) is applicable @ 1% on Income tax.
- 0.5 percent of swachh Bharat tax
- A marginal relief may be provided to ensure that the additional IT payable, including surcharge, on excess of income over ₹10 lakh (US\$15,000) is limited to an amount by which the income is more than this mentioned amount.

Modi government constituted a six-member task force in November 2017 to redraft the direct tax laws of India.^[28]

Goods and Services Tax

The Rajya Sabha passed the Constitutional Amendment Bill required for introduction of GST bills on 3 August 2016 with more than two-third majority.^[29]

The IT framework and services for implementation of the new taxation system will be managed by "Goods and Services Tax Network (GSTN)", a non-government company set up by the Centre and states.^[30]

GST rates in India ranges from 0% up to 50%: which includes 0%, 5%, 12%, 18%, 28%, 29%, 31%, 43%, 45%, 48%, 50% {Additional cess includes (28%+1%), (28%+3%), (28%+15%), (28%+17%), (28%+20%), (28%+22%)} varying for both goods and services on 1211 items and services.

EV's (Full Electric Vehicles): 12%

Sub 4-Metre Petrol (Less than 1.2-litre Engine Displacement): 29%

Sub 4-Metre Diesel (Less than 1.5-litre Engine Displacement): 31%

Sub 4-Metre Vehicles (Petrol more than 1.2-litre & Diesel more than 1.5-litre): 43%

Hybrid Vehicles: 43%

Above 4-Metre Cars (Non-SUV's): 45%

Above 4-Metre Cars (Luxury non-SUV's): 48%

Custom Duty

1. *Customs Act*, 1962, which imposes duties of customs, countervailing duties, and anti-dumping duties on goods imported in India;

Local Body Taxes

"Local Body Tax", popularly known by its abbreviation as "LBT", is the tax imposed by the local civic bodies of India on the entry of goods into a local area for consumption, use or sale therein.^[31] The tax is imposed based on the Entry 52 of the State List from the Schedule VII of the Constitution of India which reads; "*Taxes on the entry of goods into a local area for consumption, use or sale therein.*"^[32] The tax is to be paid by the trader to the civic bodies and the rules and regulations of these vary amongst different States in India. The LBT is now partially abolished as of August 1, 2015.^[33]

Property Tax

Property tax, or 'house tax,' is a local tax on buildings, along with appurtenant land, and imposed on Possessor (certainly, not true custodian of property as per 1978, 44th amendment of constitution). It resembles the US-type wealth tax and differs from the excise-type UK rate. The tax power is vested in the states and it is delegated by law to the local bodies, specifying the valuation method, rate band, and collection procedures. The tax base is the annual rental value (ARV) or area-based rating. Owner-occupied and other properties not producing rent are assessed on cost and then converted into ARV by applying a percentage of cost, usually six percent. Vacant land is generally exempt. Central government properties are exempt. Instead a 'service charge' is permissible under executive order. Properties of foreign missions also enjoy tax exemption without an insistence for reciprocity. The tax is usually accompanied by a number of service taxes, e.g., water tax, drainage tax, conservancy (sanitation) tax, lighting tax, all using the same tax base. The rate structure is flat on rural (panchayat) properties, but in the urban (municipal) areas it is mildly progressive with about 80% of assessments falling in the first two slabs.^[34]

See also

- History of the British salt tax in India
- Indian tax forms
- Investigation Division of the Central Board of Direct Taxes
- States of India by tax revenues
- Union budget of India
- Value-added taxation in India

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External links

- [Union budget and Economic Survey](#)
- [Department of Public Expenditure and Reform](#)
- [Indian Income Tax Department](#)
- [Electronic Filing of Income Tax returns](#)

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