



COMPLIANCE MANUAL

From



SAMISTI LEGAL LLP

Advocates & Legal Advisors

Compliance Manual

A. Introduction:

1. We present to you this compliance manual (“**Manual**”) detailing the compliances to be complied with by ‘**start-ups**’ / **other entities** of India. The concept of startups was introduced, after the launch of ‘Start-up India Initiative’ in January 2016, to boost entrepreneurship and encourage job creation. Start-ups are regulated by the Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry. DPIIT was initially established in the year 1995 as the ‘Department of Industrial Policy & Promotion (DIPP)’ and thereafter renamed in 2019.
2. A start-up is an entity:
 - i) if it is incorporated as a **private limited company** or registered as a **partnership firm** or a **limited liability partnership** in India,
 - ii) up to a period of ten (10) years from the date of incorporation or registration,
 - iii) turnover of the entity for any of the financial years since incorporation or registration has not exceeded one hundred (100) crore rupees.
 - iv) the entity is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.

For the sake of clarity, an entity formed by splitting up or reconstruction of an existing business shall not be considered as a ‘start-up’. Further, start-ups that are valued at USD 1 Billion and are privately owned and not listed on the share market are termed as ‘unicorns’.

The following are the critical guidelines that have been issued by DPIIT in order to determine whether an entity will be considered as a start-up or not:

- i) Resultant entity or entities formed due to merger, demerger, acquisition, amalgamation, absorption will not be recognised as start-ups. However, merger or amalgamation under Section 233 of the Companies Act, 2013 between any of the following class of companies shall be allowed subject to the fulfilment of norms of DPIIT Notification by the resultant company:
 - (a) Two or more start-up companies, or
 - (b) One or more start-up company with one or more small company.
- ii) Entities formed due to compromise or arrangement as provided under the Companies Act, 2013 shall not be recognized as a start-up,
- iii) Conversion of an entity from one form to another shall not be a bar for availing recognition subject to the fulfilment of condition provided in sub-section (3) of the Section 80-IAC of the Income Tax, 1961,
- iv) Holding and subsidiary companies shall not be permitted for recognition. Further, any start-up becoming a holding or subsidiary of any company after recognition shall be derecognised;
 - (a) Any entity formed by a joint venture shall not be recognised. Further, any start-up entering into any joint venture shall be derecognised,
 - (b) Entities incorporated outside India shall be ineligible for recognition, and

- (c) Shareholding by Indian promoters in the start-up shall be at least 51% as per Companies Act, 2013 and Securities Exchange Board of India (ICDR) Regulations, 2018.
- v) Recognition of an entity having common director or designated partner or partner with any other entity shall be allowed to the extent permissible under the provisions of the Companies Act, 2013. The related party transaction shall not be allowed except transactions on arm's length basis.
- vi) A sole proprietorship shall not be eligible to apply for recognition. If a sole proprietorship changes its type of entity into a type permissible for recognition, then the recognition shall be granted from the date of commencement of business of the sole proprietorship.

B. Coverage:

- 3. This Manual is intended to cover compliances for the following categories of entities:
 - a. the companies registered under the Companies Act, 2013 (“**Companies Act**”);
 - b. limited liability partnerships registered under the Limited Liability Partnership Act, 2008 (“**LLP Act**”); and
 - c. partnership firms governed by the Indian Partnership Act, 1932 (“**Partnership Act**”).with respect to the following aspects of law: (a) compliances under the Companies Act, LLP Act and Partnership Act; (b) Compliances with respect to the direct and indirect taxation under the Indian Income Tax Act, 1961 and Central Goods and Service Tax Act, 2017; (c) municipal laws as applicable in the State of Gujarat; and (d) labour laws related compliances as applicable in Gujarat.
- 4. The object of this Manual is to highlight the ongoing and/or time-based compliances and obligations of entities located in Gujarat in line with the aforementioned areas of law. The compliances and obligations covered under this Manual are generally applicable to all entities, except as specifically mentioned under this Manual.

C. Exceptions:

- 5. This Manual does not cover the industry or sector specific compliances or compliances which are based on certain financial thresholds. Further, the compliances listed under applicable labour laws have been laid down irrespective of the number of employees of the entity. Further, the scope of this Manual doesn't include any event-based compliances to be done by the companies, limited liability partnerships or partnership firms incorporated under the Companies Act, LLP Act and Partnership Act respectively. You are hereby advised to approach your legal advisor for any industry / sector specific/event based/threshold-based compliances.
- 6. In the event that the entity is a company, please refer to Section I (1), for a limited liability partnership (LLP), refer to Section I (2), and for a partnership firm, refer to Section III, in addition to the other relevant chapters.
- 7. All the information provided in this Manual has been compiled based on the applicable laws as on August 24, 2024. This Manual does not constitute any legal advice from Samisti Legal LLP.

8. All the information provided in this compliance Manual has been compiled based on the applicable laws. Although reasonable care has been taken to ensure that the information in this compliance Manual is true and accurate, however we do not guarantee the accuracy and completeness of any such information provided herein. This compliance Manual does not constitute any legal advice from Samisti Legal LLP and we shall not be liable for any losses incurred by any person from any use of the contents of this compliance Manual.
9. This Manual is based and should be strictly construed in accordance with the laws of India and should be read with the Compliance Calendar which is available at <https://samistilegal.in/compliance-calendars-manual/#>.
10. This Manual is updated as of November 24, 2025.

**Yours sincerely,
Samisti Legal LLP**



I. COMPLIANCES UNDER COMPANIES ACT AND LLPACT

1.) FOR COMPANIES:

Form MSME [MSME Return]

Law governing this webform:	Order dated January 22, 2019 issued under Section 405 of the Companies Act, 2013 (“ Companies Act ”).
Purpose of the webform:	All companies, who get supplies of goods or services from micro and small enterprises and whose payments to micro and small enterprise suppliers exceed 45 days from the date of acceptance or the date of deemed acceptance of the goods or services as per the provisions of Section 9 of the Micro, Small and Medium Enterprises Development Act, 2006 (“ Specified Companies ”) shall submit a return to the Ministry of Corporate Affairs (“ MCA ”).
Timeline for filing webform:	Every company is required to file the MSME Form I as half yearly return by 31 st October, effective for the period from April to September and once again by 30 th April for the period October to March every year, relating to the outstanding payments to Micro, Small and Medium Enterprises (“ MSMEs ”) exceeding 45 days.

Form DPT-3 [Return of Deposits]

Law governing this webform:	Rule 16 of the Companies (Acceptance of Deposits) Rules, 2014
Purpose of the webform:	Every company other than a government company is required to file return of deposits in form DPT-3 in respect of deposits or particulars of transaction not considered as deposit or both with Registrar of Companies (“ ROC ”) on or before 30 th day of June every year, furnishing all information therein as on the 31 st day of March of that year.
Timeline for filing webform:	Form DPT-3 in respect of deposits accepted by the company has to be filed with the ROC on or before 30 th day of June every year.
Mandatory Attachments of the webform:	<u>In respect of Deposits:</u> • Auditor’s certificate; • Copy of trust deed, if applicable; • Deposit insurance contract, wherever applicable and mentioned in the form; • Copy of instrument creating the charge; • List of depositors - List of deposits matured and cheque issued but not yet cleared to be shown separately; • Details of liquid assets.

Form AOC-4/ AOC-4 CFS/ AOC-4 XBRL [Filing of Financial Statements]

Law governing this webform:	Pursuant to Section 137 of the Companies Act and Rule 12(2) of the Companies (Accounts) Rules, 2014 read with Companies (Filing of documents and forms in Extensible Business Reporting Language) Rules, 2015.
Purpose of the webform:	Every company needs to file its financial statements and mandatory attachments, via e-Form AOC4 within the prescribed time limit as per Section 137 of the Companies Act. In case financial statements are not adopted in Annual General Meeting (“AGM”) then un-adopted financial statements shall be filed within 30 days of date of AGM (or due date of AGM if AGM is not held or extended due date if any). Once financial statements are adopted then company shall file the adopted financial statements via e-form AOC-4 within 30 days of the date of convening of AGM (actual or adjourned whichever is applicable).
Timeline for filing webform:	As per the Companies Act, Form AOC-4 must be filed with the ROC within 30 days from the date of AGM or due date of conducting AGM, if not held.
Mandatory Attachments of the webform	• Financial Statements along with Auditor’s Report and Board’s Report • Approval letter for extension of AGM (if extension granted).

Form MGT-7/ Form MGT-7 A [Filing of Annual Return]

Law governing this webform:	Section 92(1) of the Companies Act and rule 11(1) of the Companies (Management and Administration) Rules, 2014.
Purpose of the webform:	Every company needs to file an annual return every year with ROC. This return contains the basic information related to company, its shareholders, directors etc. as on the last day of the financial year. It is mandatory compliance for all companies to file this form.
Timeline for filing webform:	As per the Companies Act, Form MGT-7 must be filed with the ROC within 60 days from the AGM.
Mandatory Attachments of the webform:	• List of shareholders and debenture holders; • List of directors; • Form MGT 8 for listed Companies and certain class of Companies as prescribed under section 92(2) of the Companies Act; • Approval letter for extension of AGM (if extension granted).

Form ADT-1 [Appointment of Statutory Auditors]

Law governing this webform:	Section 139 (1) of the Companies Act.
Purpose of the webform:	Every company shall at its 1 st AGM appoint statutory auditors who shall hold office till the conclusion of 6 th AGM and thereafter till conclusion of every 6 th AGM.

Timeline for filing webform:	As per the Companies Act, Form ADT-1 must be filed with the ROC within 15 days of the AGM at which the statutory auditor was appointed or reappointed.
-------------------------------------	--



Mandatory Attachments of the webform:	• Company's member's resolution copy; • Written consent from the auditor to make such appointment; • A certificate from the auditor stating that the individual is not disqualified from being appointed as an auditor according to Section 141; • A copy of the intimation that is sent by the company to the auditor for their appointment.
--	--

Form MGT-14 [Filing of resolutions]

Law governing this webform:	Section 117 of the Companies Act and rules made thereunder.
Purpose of the webform:	A company or liquidator has to file with the concerned ROC certain resolutions and agreements. These are to be filed after being passed at the meeting of the board / shareholders / creditors of the company. The particulars of such resolutions or / and agreement are to be filed through this form. The provisions of Section 117 of the Companies Act are applicable regarding registration of certain resolutions and agreements with ROC. The form has to be filed with ROC within 30 days of passing of the resolution or of the making of the agreement.
Timeline for filing webform	As per the Companies Act, Form MGT-14 must be filed with the ROC within 30 days from the date of approval of such resolutions or / and agreement after being passed at the meeting of the board / shareholders / creditors of the company.
Mandatory Attachments of the webform:	Attachments • Certified copy of Board Resolution, if applicable; • Certified true copy of member's resolution(s) along with copy of explanatory statement under Section 102 of the Companies Act (mandatory in case resolution or postal ballot is selected, if applicable); • Altered memorandum of association ("MOA") (mandatory in case any change in MOA); • Altered articles of association ("AOA") (mandatory in case of any change in AOA); • Copy of agreement (mandatory in case agreement is selected).

Form PAS- 6 [Reconciliation of Share Capital Audit Report]

Law governing this webform:	Pursuant to sub-Rule 8 of Rule 9A of the Companies (Prospectus and Allotment of Securities) Rules, 2014.
Purpose of the webform:	As per Companies Act, every unlisted public company shall file a form with ROC laying down details and changes in the share capital of companies on a half-yearly basis.

Timeline for filing webform:	Form PAS-6 is a half-yearly form that the unlisted companies must file with the ROC within 60 days from the conclusion of the half-year.
-------------------------------------	--

Form DIR-3 KYC/DIR-3 KYC WEB

Law governing this webform:	Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014.
Purpose of the webform:	Any director who is filing e-Form DIR-3 KYC for the first time after allotment of DIN or whose details are required to be updated/changed must file this form. Any director who has already filed the e-Form DIR-3 KYC/DIR-3 KYC (web) in the previous year can file this form when there is no change in his/her KYC details.
Timeline for filing webform:	Every individual who is allotted DIN as on 31st March of a financial year must submit his KYC on or before 30th September of the immediately next financial year in Form DIR-3 KYC. Every individual who has previously filed DIR-3 KYC Form and there is no change in email id and mobile number shall confirm the same by filing Form DIR-3 KYC WEB.
Mandatory Attachments of the webform:	• To provide the following documents, if the same is available; • Self-attested copy of PAN card; • Self-attested copy of Aadhaar card; • Self-attested copy of passport, if having valid passport; • In case no proof of permanent address mentioned above is provided, in such case self-attested copy of driving license must be provided; • Self-attested copy of present address required i.e., electricity bill or mobile bill or bank statement of director (not older than 2 months) in case present address is not same with permanent address; • The mandatory attachments need to be attested by the practicing professional.

OTHER MANDATORY COMPLIANCES BY COMPANIES:

Section 173 of the Companies Act, 2013 mandates that every company shall hold a minimum of four (4) board meetings in a year with a gap of not more than 120 days between any two meetings. Further, a One Person Company, Small Company and Dormant Company is deemed to have complied with such provision if at least one meeting of the board of directors has been conducted in each half of a calendar year and the gap between the 2 meetings is not less than 90 days. Further the Companies are required to maintain Statutory registers as mandated by the Act, Notices, Minutes, proof of dispatch of Notices and circulation of Minutes.

2.) FOR LIMITED LIABILITY PARTNERSHIPS:

Form LLP – 11 [Annual Return]

Law governing this webform:	Pursuant to Section 35 of the Limited Liability Partnership Act, 2008 (“ LLP Act ”) read with Rule 25(1) of the Limited Liability Partnership Rules, 2009 (“ LLP Rules ”).
Purpose of the webform:	Form LLP 11, aims to simplify the process of filing annual return by limited liability partnerships (“ LLP ”) to ROC. Every LLP shall file an annual return along with all the documents which are required to be attached to such annual return, with the ROC in Form LLP 11 within the prescribed time limit as per Section 35 of the LLP Act.
Timeline for filing webform:	Within 60 days from the end of its financial year.

Form LLP – 8 [Statement of Account & Solvency]

Law governing this webform:	Pursuant to Section 34(2) and 34(3) of the LLP read with Rule 24 of the LLP Rules.
Purpose of the webform:	Form LLP 8, the statement of account and solvency, is an annual filing requirement for all LLPs registered in India. LLPs are required to file this document annually with the registrar of LLPs. It provides a snapshot of the LLP’s financial position, including its assets, liabilities, and solvency. Regardless of the LLP’s turnover, submitting Form 8 to the MCA every year is mandatory.
Timeline for filing webform:	Within 30 days from the end of 6 months of the financial year.

Advocates & Legal Advisors

I. COMPLIANCES UNDER TAXATION LAWS

1.) CENTRAL GOODS AND SERVICES TAX ACT, 2017 (“CGST Act”) READ WITH CENTRAL GOODS AND SERVICES TAX RULES, 2017 (“CGST Rules”)

<u>Descriptions</u>	<u>Contents</u>
<u>Applicability:</u>	The CGST Act is a central legislation enacted for the levy and collection of tax on intra-State supply of goods or services or both by the Central Government and is applicable to the whole of India. In accordance with Section 7 of the CGST Act, any person (as defined below) making an intra-State supply shall be liable to pay goods and service tax on the value of such supply (such value shall be calculated pursuant to Section 15 of the CGST Act).
<u>Definitions:</u>	Section 2(84) of the CGST Act defines a “person” to include- (a) an individual; (b) a Hindu undivided family; (c) a company; (d) a firm; (e) a limited liability partnership; (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India; (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of Section 2 of the Companies Act; (h) any body corporate incorporated by or under the laws of a country outside India; (i) a co-operative society registered under any law relating to co-operative societies; (j) a local authority; (k) Central Government or a State Government; (l) society as defined under the Societies Registration Act, 1860; (m) trust; and (n) every artificial juridical person, not falling within any of the above. Section 2(6) of CGST Act defines “Aggregate Turnover” as the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on a reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same permanent account number (“PAN”), to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.

Registration:

- **Section 22 of the CGST Act** mandates that every supplier shall be liable to be registered under the CGST Act in the State or Union Territory from where they make a taxable supply of goods or services or both if their aggregate turnover in a financial year exceeds Rs. 20 lakhs. Provided that if such a person makes taxable supplies of goods or services or both from any of the below-mentioned States/Union Territories- Assam, Arunachal Pradesh, Himachal Pradesh, Uttarakhand, Manipur, Mizoram, Sikkim, Meghalaya, Nagaland or Tripura, he shall be liable to be registered if his aggregate turnover in a financial year exceeds Rs.10 lakhs.

SAMIS
L E G A L
Advocates & Legal Advisors

- However, as per **Section 23 of CGST Act**, irrespective of limits as aforementioned, any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under the CGST Act or under the Integrated Goods and Services Tax Act, 2017, or an agriculturist, to the extent of supply of produce out of cultivation of land, any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax and the Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining the registration, are not liable to obtain registration under the CGST Act.

- Furthermore, notwithstanding anything contained above, **Section 24 of the CGST Act** mandates the below categories of persons to compulsorily obtain registration under the CGST Act, irrespective of the limits as aforementioned:
 - (a) persons who make any inter-State taxable supply;
 - (b) casual taxable persons who make taxable supply;
 - (c) persons who are required to pay tax under reverse charge;
 - (d) persons who are required to pay tax under Section 9(5) of the CGST Act;
 - (e) non-resident taxable persons who make taxable supply;
 - (f) persons who are required to deduct tax under Section 51 of the CGST Act, whether or not separately registered under the CGST Act;
 - (g) persons who make taxable supply of goods or services or both on behalf of other taxable persons, whether as an agent or otherwise;
 - (h) Input Service Distributor, whether or not separately registered under the CGST Act;
 - (i) persons who supply goods or services or both, other than supplies specified under Section 9(5) of CGST ACT, through such electronic commerce operator who is required to collect tax at source under Section 52 of CGST Act;
 - (j) every electronic commerce operator who is required to collect tax at source under Section 52 of the CGST Act;
 - (k) every person who supplies online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and
 - (l) such other person or class of persons as may be notified by the Government on the recommendations of the GST Council.

- **Section 10 of the CGST Act**, states that a registered person, whose aggregate turnover in the preceding financial year does not exceed Rs.50 lakh, may opt to pay under the Composite Scheme at a rate, not exceeding ("**Composite Scheme**"):
 - (a) 1% of the turnover in State or Union Territory, as the case may be in the case of a manufacturer; or
 - (b) 2 ½ % of the turnover in State or Union Territory, as the case may be, in case of a person engaged in the restaurant business; or

	(c) $\frac{1}{2}\%$ of the turnover in the State or Union Territory, as the case may be in the case of other suppliers. However, the registered person shall be eligible to opt for composite scheme if: (a) he is not engaged in the supply of services, except as provided under Section 10(1) of CGST Act; (b) he is not engaged in making any supply of goods or services which are not leviable to tax under the CGST Act; (c) he is not engaged in making any inter-State outward supplies of goods or services; (d) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under Section 52 of the CGST Act; (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the GST Council; (f) he is neither a casual taxable person nor a non-resident taxable person. Provided that where more than one registered person is having the same PAN, the registered person shall not be eligible to opt for the scheme under Section 10 of the CGST Act, unless all such registered persons opt to pay tax under composite scheme. ● <u>Returns and statements by a person opting for Composite Scheme:</u> Every registered person paying tax under Section 10 of the CGST Act shall furnish a statement every quarter in <i>Form GST CMP-08</i>, containing the details of payment of self-assessed tax by the eighteenth of the month succeeding such quarter. Furthermore, such person shall also furnish an annual return every financial year by the 13th day of April following the end of such financial year in <i>Form GSTR-4</i>.
<u>Compliance:</u>	● <u>Preparation of e-invoice</u> (<i>Notification No. 13/2020 – Central Tax and Notification No. 10/2023, read with Rule 48(4) of CGST Rules, 2017</i>): Every notified registered person, whose aggregate turnover in a financial year exceeds Rs.5 crore, shall prepare an e-invoice by uploading specified particulars of the invoice in <i>Form GST INV-01</i> for obtaining an invoice reference number. Such persons shall report the invoices on the e-invoice portal within 30 days from the generation of the physical copy of the invoice. Supplies presently covered under e-invoice:

Supplies to registered persons (business to business), supplies to special economic zones (with/ without payment), exports (with/without payment), and deemed exports, by notified class of taxpayers are currently covered under e-invoicing.

Entities/sectors for which e-invoicing is not applicable:

- (a) Special economic zone units;
- (b) Insurers;
- (c) Banking companies or financial institutions, including a non-banking financial company;
- (d) Goods transport agency supplying services in relation to the transportation of goods by road in a goods carriage;
- (e) Suppliers of passenger transportation service;
- (f) Suppliers of services by way of admission to exhibition of cinematograph films in multiplex screens;
- (g) Persons registered in terms of Rule 14 of CGST Rules;
- (h) Government department; and
- (i) Local authority.

- **Invoice Registration Portal (IRP)**

The Rule 48(4) of the Goods and Services Tax System mandates that e-invoices must be uploaded to the Invoice Registration Portal (IRP) within 30 (thirty) days from the date of invoice generation.

- **Tax deduction at source:**

The Government mandates every registered person to deduct tax at the rate of 1 percent, from the payment made or credited to the supplier of taxable goods or services or both, where the total value of such supply, under a contract, exceeds Rs. 2 lakh and Rs. 50,000/-. Upon a deduction of the aforementioned amount, the deducted amount shall be paid to the Government and furnish a return in *Form GSTR-7*, within 10 days after the end of the month in which such deduction is made.

- **Tax collection at source:**

Every electronic commerce operator, not being an agent, shall collect an amount calculated at such rate not exceeding 1 percent of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the electronic commerce operator. Such e-commerce operator shall furnish a return in *Form GSTR-8*, within 10 days after the end of the month in which such collection is made.

The expression “**net value of taxable supplies**” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under Section 9(5) of CGST Act, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

SAMIS
L E G A L
Advocates & Legal Advisors

- **Quarterly Return Filing and Monthly Payment of Taxes (“QRMP”) and Invoice Furnishing Facility (“IFF”):**

Every registered person who is required to furnish a return in Form GSTR-3B, on or before the 20th of the month and who has an aggregate turnover of up to Rs. 5 crores in the preceding financial year are eligible for the QRMP scheme. This scheme allows such person to furnish return on a quarterly basis along with monthly payment of tax.

Further, the registered persons opting for the QRMP scheme would be required to furnish the details of outward supply in *Form GSTR-1* on a quarterly basis as per Rule 59 of the CGST Rules.

For each of the first and second months of a quarter, such a registered person will have *Form IFF* to furnish the details of such outward supplies to a registered person, as he may consider necessary, between the 1st day of the succeeding month till the 13th day of the succeeding month. The said details of outward supplies shall, however, not exceed the value of Rs. 50 lakhs in each month.

- **Furnishing details of outward supplies:**

Every registered person, other than an Input Service Distributor (“ISD”), a non-resident taxable person and a person paying tax under the provisions of Section 10 or Section 51 or Section 52 of the CGST Act, shall furnish such details of outward supplies in *Form GSTR-1* (monthly or quarterly), on or before the 10th day of the month succeeding the said tax period, or on or before the 13th day of the month succeeding the said tax period, as the case may be.

ISD refers to an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of Central tax, State tax, integrated tax or Union Territory tax paid on the said services to a supplier of taxable goods or services or both having the same PAN as that of the said office.

- **Return by a non-resident taxable person:**

Every person registered as a non-resident taxable person pursuant to Section 24 of the CGST Act shall furnish a return in *Form GSTR-5*, including the details of outward and inward supplies within 20 days after the end of a tax period or within 7 days after the expiry of the validity period of registration, whichever is earlier.

- **Return by a person outside India providing online information and database access or retrieval services or by a person supplying online money gaming from a place outside India to a person in India:**

Every registered person either providing online money gaming from a place outside India to a person in India or providing online information and database access or retrieval services from a place outside India to a person in India, shall file return in *Form GSTR-5A* on or before the 20th day of the month succeeding the calendar month.

- **Return by input service distributor:**

For the purposes of distributing the input tax credit, an ISD has to issue an ISD invoice, as prescribed in Rule 54(1) of the CGST Rules clearly indicating in such invoice that it is issued only for distribution of input tax credit. The input tax credit available for distribution in a month shall be distributed in the same month, and the details of tax invoices on which credit has been received and those credits issued under Section 20 of CGST Act shall be furnished in *Form GSTR-6* within 13 days after the end of the month.

- **Monthly return cum quarterly return by prescribed persons:**

Every registered person, other than a person referred to in Section 14 of the Integrated Goods and Services Tax Act, 2017, or an ISD or a non-resident taxable person or a person paying tax under Section 10, Section 51 or Section 52 of CGST Act shall furnish a return of inward and outward supplies of goods or services or both details of input tax credit availed, tax payable and other particulars, in *Form GSTR-3B* on or before the 20th day of the succeeding month.

Further, every registered person, obtaining the benefits of the QRMP scheme, shall furnish a return for each quarter:

- (a) By the 22nd day of the month succeeding such quarter, if the registered persons principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union Territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep; or
- (b) By the 24th day of the month succeeding such quarter, if the registered persons principal place of business is in 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, the Union Territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.

	• <u>Deposit of tax by persons under the QRMP scheme:</u> Every registered person furnishing return every quarter under the QRMP scheme for each of the first 2 months of the quarter shall pay tax by depositing the said tax in <i>Form GST PMT-06</i> by the 25th day of the month succeeding such month. • <u>Annual return by a registered person:</u> Every registered person other than those referred to in the second proviso to Section 44 of the CGST Act, an ISD, a person paying tax under Section 51 or Section 52 of the CGST Act, a casual taxable person and a non-resident taxable person shall furnish an annual return along with audited financial statements in <i>Form GSTR-9</i> on or before the 31st day of December following the end of such financial year. Further, every electronic commerce operator required to collect tax at source under Section 52 of the CGST Act shall furnish an annual statement in <i>Form GSTR-9B</i> on or before the 31st day of December following the end of such financial year. Every registered person other than those referred to in the second proviso to Section 44, an ISD a person paying tax under Section 51 or Section 52, a casual taxable person, and a non-resident taxable person, whose aggregate turnover during a financial year exceeds Rs. 5 crore rupees shall furnish a self-certified reconciliation statement in <i>Form GSTR-9C</i> on or before the 31st day of December following the end of such financial year, along with the annual return (Form GSTR-9) as aforementioned. <u>Note:</u> <i>The CGST Act and the CGST Rules have been adopted and enacted by all the States of India on an as-is basis in order to regulate the taxation of goods and services supplied in such States. Therefore, the applicability and compliances as mentioned under the CGST Act and CGST Rules mutatis mutandis apply to the goods and service tax as enforced by the States.</i>
--	--

2.) INCOME TAX ACT, 1961 (“IT Act”) READ WITH INCOME TAX RULES, 1962 (“IT Rules”)

<u>Descriptions:</u>	<u>Contents:</u>
-----------------------------	-------------------------

<u>Applicability:</u>	The IT Act is a central legislation applicable to a taxpayer who has earned income in a given financial year. The IT Act, read with the IT Rules, prescribes certain compliances and recurring returns to be filed by an assessee upon completion of certain events or before the expiration of a time period.
<u>Definitions:</u>	- Income tax is to be paid by every person. The term 'person' as defined under Section 2(31) of the IT Act covers in its ambit natural as well as artificial persons. - For the purpose of charging income tax, Section 2(31) of the IT Act defines a 'person' to include: (a) Individual; (b) Hindu undivided family; (c) Association of persons; (d) Body of individuals; (e) firms; (f) Limited liability partnerships; (g) Companies; (h) Local authority; and (i) any artificial juridical person not covered under any of the above.
<u>Registration:</u>	- PAN Registration: Section 139A of the IT Act lays down the requirement for obtaining a PAN registration upon satisfying the criteria as laid down under the IT Act. Every person: (a) if his total income or the total income of any other person in respect of which he is assessable under the IT Act during any previous year exceeded the maximum amount which is not chargeable to income tax; or (b) carrying on any business or profession whose total sales, turnover or gross receipts are or are likely to exceed Rs. 5 lakhs in any previous year; or (c) who is required to furnish a return of income under Section 139(4A) of the IT Act; or (d) being an employer who is required to furnish a return of fringe benefits under Section 115WD of the IT Act; or (e) being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to Rs. 2,50,000/- or more in a financial year; or

	(f) who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in clause (e) or any person competent to act on behalf of the person referred to in clause (e); or (g) who intends to enter into such transaction as may be prescribed by the income tax department in the interest of revenue, and who has not been allotted a PAN shall apply to the assessing officer for the allotment of a PAN. • Tax deduction and collection account number (“TAN”): Every person deducting tax or collecting tax in accordance with the provisions of Chapter XVII of the IT Act shall apply to the assessing officer for the allotment of a TAN.
<u>Compliance:</u>	• Every person (employer) who deducts tax at source or collects tax at source is required to submit the details in Challan No. ITNS-281, electronically, by the 7th day of the month succeeding the previous month in which such tax was deducted and/or collected at source by a person. • <u>Tax deduction at source:</u> The person responsible for deducting tax from salaries or any such payment made to an employee is also required to deposit the tax so deducted in the Government account. Such deposit shall be made: (a) within 7 days from the end of the month in which deduction is made; or (b) income-tax is due under Section 192 of IT Act; or (c) on or before the 30th day of April where the income or amount is credited or paid to the employee in the month of March. Every person responsible for the deduction of tax in respect of salary paid to an employee shall deliver a statement of deduction of tax made under Section 192 of the IT Act in Form No. 24Q by the 31st of the month immediately preceding the end of the quarter. In furtherance to the above, every person deducting tax in accordance with Section 192(1) or Section 192(1A) of the IT Act, as the case may be, furnish to the person to whose account such credit is given, a certificate to the effect that tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed in Form No. 16A within 15 days from the due date for furnishing the statement in Form No. 24Q. Further, every person deducting tax in accordance with Section 192(1) or Section 192(1A) of the IT Act, as the case may be, shall furnish to the person to whose account such credit is given, a certificate to the effect that tax has been deducted, and specifying the

amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed in Form No. 16 (applicable to financial institutions, entities or people) by 15th day of June of the financial year immediately following the financial year in which the income tax was paid and the tax was deducted.

Any person deducting any sum in accordance with Section 194 – IA of the IT Act shall, after paying the tax deducted to the credit of the Central Government, prepare a statement for such period in accordance with Rule 31A(1)(b)(ii) of IT Rules in Form No. 26Q, and deliver the same to the authority by the 31st of the month immediately preceding the end of the quarter.

- **Tax collected at source:**

All sums collected in accordance with the provisions of Section 206C of the IT Act by collectors other than an office of the Government shall be paid to the credit of the Central Government within 1 week from the last day of the month in which such collection has been made.

Every person who collects tax at source shall submit a quarterly statement of tax collected in *Form No. 27EQ* (Corporate and government collectors and the persons who deduct tax.), in accordance with the proviso to Section 206C (3), within 15 days from the end of the quarter.

The return or statement filed on computer media shall be accompanied by Form No. 27A (the persons who deduct tax) furnishing the information specified therein.

Every collector shall submit a certificate to the collectee in *Form No. 27D* (TCS collector), for the tax collected at source in accordance with Section 206C (3) of the IT Act within 15 days from the due date of furnishing Form No. 27EQ (Corporate and government collectors and the persons who deduct tax).

- **Computation of book profit:**

Every company to which Section 115JB of the IT Act applies shall furnish a report in Form No. 29B within 1 month before the due date for furnishing the return of income under Section 139(1) of the IT Act. The form shall be from an accountant certifying that the book profit has been computed in accordance with the provisions of Section 115JB of the IT Act.

- **Computation of alternate minimum tax and adjusted total income:**

Every person to whom Section 115JC of the IT Act applies shall obtain a report in Form No. 29C certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of Section 115JC of the IT Act. Such report shall be furnished 1 month before the due date for furnishing the return of income under Section 139(1) of IT Act.

- **Double taxation:**

Every person being a constituent entity, resident in India, of an international group, shall keep and maintain such information and document in respect of an international group in *Form No. 3CEAB* within a period of 6 months from the end of the financial year. Further, such person shall also report to the appropriate authority in respect of an international and specified domestic transaction.

Every person who has entered into an international transaction or specified domestic transaction during a previous year shall obtain a report from an accountant and furnish such report in *Form No. 3CEB* 1 month before the due date for furnishing the return of income under Section 139(1) of IT Act.

- **Income tax returns:**

Every person being an individual, Hindu undivided family, and a firm (other than a LLP) and having total income up to Rs. 50 lakhs and having income from business and profession which is computed under Sections 44AD, 44ADA or 44AE of the IT Act shall furnish the return of income in *Form ITR-4 SUGAM* by July 31st of the year succeeding the financial year.

Every person not being an individual or a Hindu undivided family or a company or a person to which Rule 12(1)(g) of the IT Rules applies shall furnish the return of income in *Form ITR-5* by July 31st of the year succeeding the financial year.

Note: From the perspective of start-ups, critical tax exemptions or benefits have been covered under this Manual and the same are as follows:

1) Exemption under Section 80-IAC of the IT Act:

An eligible start-up may apply for a tax exemption under the Section 80-IAC of the IT Act which states that an eligible start-up can avail a 100% tax exemption on the profits and gains earned from the eligible business for three (3) consecutive

financial years out of its first seven (7) years from the date of its incorporation.

The tax exemption is applicable to an eligible start-up that is not formed by splitting up, or the reconstruction of a business already in existence, and that is not formed by the transfer to a new business of plant or machinery previously used for any purpose.

For the purpose of this note, an “eligible business” shall mean a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation. Further, an “eligible start-up” shall mean a company or a limited liability partnership engaged in eligible business which fulfils the following criterias:

- (a) it is incorporated on or after April 1, 2016 but before April 1, 2021,*
- (b) the total turnover of its business does not exceed twenty-five (25) crore rupees in the previous year relevant to the assessment year,*
- (c) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government.*

2) Exemption under Section 56(2)(viib) of the IT Act:

Eligible start-ups are exempted from paying tax on any consideration received by the start-up for the issue of shares at a value which is more than the fair market value if:

- (a) it has been recognised by the DPIIT or DIPP, as the case may be,*
- (b) the aggregate amount of paid-up share capital and share premium of the start-up after issue or proposed issue of share, if any, does not exceed, twenty-five (25) crore rupees.*
- (c) it has not invested in any of the following assets:*
 - (i) Building or land appurtenant thereto, being a residential house, other than that used by the start-up for the purpose of renting or held by it as stock-in-trade, in the ordinary course of business,*
 - (ii) Land or building, or both, not being a residential house, other than that occupied by the start-up for the purpose mentioned in sub-clause (c) (i) above,*
 - (iii) Loans and advances, other than the loans and advances extended in the ordinary course of business by the start-up where the lending of money is a substantial part of its business,*
 - (iv) Capital contribution made to any other entity,*
 - (v) Shares and securities,*
 - (vi) A motor vehicle, aircraft, yacht or any other mode of transport, the actual cost of which exceeds ten (10) lakh rupees,*

other than that held by the start-up for the purpose of plying, hiring, leasing or as stock-trade, in the ordinary course of business,

(vii) Jewellery other than that held by the start-up as stock-in-trade in the ordinary course of business,

(viii) immovable property (land or buildings), shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures, any work of art, and bullion.

Provided that the start-up shall not invest in any of the assets specified in sub-clauses (i) to (viii) for a period of seven (7) years from the end of the latest financial year in which shares are issued at premium.

For the purpose of this note, while computing the aggregate amount of paid-up share capital, the amount of paid-up share capital and share premium of twenty-five (25) crore rupees in respect of shares issued to any of the following persons shall not be included:

- (i) a non-resident, or*
- (ii) a venture capital company or a venture capital fund.*

The considerations received from a specified company for shares issued or proposed to be issued by the start-up are exempt from being included in the calculation of the aggregate amount of paid-up share capital and share premium of twenty-five (25) crore rupees. Please note that a “specified company” shall mean a company whose share are frequently traded as per SEBI regulations and either its net worth in the last financial year exceeded one hundred (100) crore rupees or its turnover in the preceding financial year exceeded two-hundred fifty (250) crore rupees.

Further, start-ups that fulfil the conditions specified above shall submit to the Department for Promotion of Industry and Internal Trade (DPIIT), a duly signed Form-2 declaration certifying that the start-up has complied with above requirements.

- **Auditing of accounts:**

Certain persons who carry on their business or profession and who are required by or under any other law to get their accounts audited shall furnish the report of such audit of accounts in *Form No. 3CA* 1 month before the due date for furnishing the return of income under Section 139(1) of IT Act.

	Certain persons who carry on their business or profession and who are not required by or under any other law to get their accounts audited shall furnish the report of such audit of accounts in <i>Form No. 3CB</i> 1 month before the due date for furnishing the return of income under Section 139(1) of IT Act. Every person shall furnish the particulars as required to be furnished under Section 44AB of the IT Act in <i>Form No. 3CD</i> 1 month before the due date for furnishing the return of income under Section 139(1) of the IT Act along with the statement of particulars annexed to <i>Form No. 3CA</i> or <i>Form No. 3CB</i>, as the case may be. • <u>PAN Registration:</u> An application for allotment of PAN is to be made in <i>Form 49A</i> by Indian Citizens/Indian companies/entities incorporated in India/unincorporated entities formed in India. However, an application for allotment of PAN is to be made in <i>Form 49AA</i> by a person not being an Indian citizen/companies/entities incorporated in India/unincorporated entities formed in India. • <u>TAN Registration:</u> • Every person deducting tax or collecting tax in accordance with the provisions of the IT Act shall apply to the assessing officer for the allotment of a TAN in <i>Form No. 49B</i>.
--	--

State of Gujarat:

- 3.) **THE GUJARAT STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 1976 (“GUJARAT PT ACT”)
READ WITH THE GUJARAT STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS RULES, 1976
 (“GUJARAT PT RULES”):**

<u>Descriptions</u>	<u>Contents</u>
<u>Applicability</u>	The Gujarat PT Act and Gujarat PT Rules extend to the entire State of Gujarat.

<u>Definition</u>	Section 2 (d) of the Gujarat PT Act defines “person” as any person who is engaged actively or otherwise in any profession, trade, calling or employment in the State of Maharashtra and includes a Hindu undivided family, firm, company, corporation or other corporate body, any society, club or association, so engaged, but does not include any person who earns wages on a casual basis.
<u>Registration</u>	- An applicant having place of work within the jurisdiction of different prescribed authorities shall make an application for registration separately to each such authority in respect of his place of work within the jurisdiction of that authority. - An application for obtaining a certificate of registration under sub-section (1) of Section 5 shall be made in Form 1 within 60 days from the date of publication of the Gujarat PT Rules in the official gazette, and in the case of an employer not engaged in any profession, trade, calling or employment on the date of the commencement of the Gujarat PT Act, within 60 days from the date of commencement of his profession, trade, calling or employment and in the case of person becoming liable to pay tax at any time after the commencement of the Gujarat PT Act, within 60 days from the date of commencement of his becoming liable to pay tax.
<u>Compliance</u>	1. <u>Returns:</u> - Every employer registered under sub-section (1) of Section 5 shall furnish to the prescribed authority within 15 days of the expiry of a previous month, a return in Form 5. - The commissioner may on an application being made by an employer registered under sub-section (1) of Section 5 in Form-5B (No specific timeline is prescribed under the Gujarat PT Act or the PT Rules.) for permission to furnish annual return, permit him to furnish returns subject to the condition that the return shall be in Form 5-A. furnished before the last day of the month following the year to which the return relates. - On an application in Form-5-C, the commissioner may by an order permit an employer having more than one place of work and registered under sub section (1) of Section-5 with more than one prescribed authority, to furnish a consolidated return relating to all or any of the places of work of the employer with any one of the prescribed authorities. There is no specific timeline is prescribed under the Gujarat PT Act or the Gujarat PT Rules. 2. <u>Annual Return in case of an employer where the number of employees does not exceed 20:</u>

	• Every employer registered under the Gujarat PT Act, in whose case the number of employees in the immediately preceding does not exceed 20, shall furnish annual return in Form 5 – AA. The return shall be furnished by the employer to the prescribed authority within 15 days of the expiry of the succeeding year showing there in salaries and wages including arrears of salaries and wages if any, paid and the amount of the tax deducted by him from the salaries and wages. • An employer having more than one place of work and in whose case the number of employees in the immediately preceding year does not exceed 20 and is also registered under Section 5(1) of Gujarat PT Act with more than one prescribed authority shall furnish a consolidated return in Form 5CC relating to all or any of the place of work of the employer with any one of the prescribed authorities. No specific timeline is prescribed under the Gujarat PT Act or the Gujarat PT Rules.
--	---

II. COMPLIANCES UNDER PARTNERSHIP LAWS

1.) INDIAN PARTNERSHIP ACT, 1932 (“Partnership Act”):

<u>Descriptions:</u>	<u>Contents:</u>
<u>Applicability:</u>	The Partnership Act is applicable to the whole of India . It was enacted by the Central Government to regulate, amend and define the laws related to Partnerships in India.
<u>Definitions:</u>	● Section 2 (b) of the Partnership Act defines the term “Business” and states that the term includes every trade, profession and occupation. ● Section 4 of the Partnership Act defines the terms “Partnership”, “Partner”, “Firm”, and “Firm Name”. - i.) ‘Partnership’ is defined as the relation between the persons who have agreed to share the profits of a business carried on by all or any of them acting for all. - ii.) ‘Partners’ are defined as persons who have entered into a partnership with one another. - iii.) ‘A Firm’ is defined as the persons entering a partnership with one another collectively. - iv.) ‘Firm Name’ is defined as the name under which their business is carried on.
<u>Registration:</u>	● Section 58 of the Partnership Act discusses the application process for the registration of a partnership firm. The Partnership Act requires the firm seeking registration to send a statement, in the prescribed form accompanied with the fee, by post directly to the registrar of the respective area in which the business is situated. This statement must be signed by all the partners of the firm, and verification is needed. ● Section 59 of the Partnership Act deals with the registration of the firm. The registrar will record an entry of a statement in the register called the register of firms (“ROF”) and will file the statement after being satisfied that the provisions of Section 58 of the Partnership Act are complied with. Then, the firm will be a registered firm. ● <u>Effects of non- registration:</u> Section 69 of the Partnership Act discusses the effects of non-registration of a partnership firm within the prescribed time. The said Section states that – - i.) No suit to enforce a right arising from a contract or conferred by the Partnership Act can be instituted in any court by or on

	behalf of any person suing as a partner in a firm against the firm or any person alleged to be a partner or has been one in the firm unless the firm is registered and the person suing is shown as a partner in the ROF. ii) No suit to enforce any right arising from the contract to be instituted in any court on behalf of the firm against the third party unless the firm is registered, and the person suing is shown as a partner in the ROF. iii.) No suit to enforce any right for the dissolution of a firm or for accounts of a dissolved firm in any court against any person suing as a partner against the firm or a partner for dissolving the firm or dealing with its assets after the dissolution unless the firm is registered and the person suing is shown as a partner in the ROF. However, the firm must be registered unless you are suing as the heir or legal representative of a deceased partner. iv.) The above-mentioned provisions will apply to a claim of set-off or other proceedings. However, these rules will not apply to – a.) The firms that are constituted for up to 6 months or with a capital of up to Rs.2,000/-. b.) The authority of certain officials or courts to handle cases involving partners who are insolvent. c.) Small lawsuits involving a claim of less than Rs. 100/- depending on the location of the lawsuit.
--	---

2) PARTNERSHIP ACT FOR THE STATE OF GUJARAT:

<u>Descriptions</u>	<u>Contents</u>
<u>Applicability:</u>	The Partnership Act apply to any partnership within the State of Gujarat.
<u>Registration:</u>	Registration through the official online portal – https://ifp.gujarat.gov.in/DIGIGOV/index.jsp

Advocates & Legal Advisors

III. COMPLIANCES UNDER MUNICIPAL LAWS

<u>Descriptions</u>	<u>Contents</u>
<u>Applicability:</u>	The Gujarat Municipal Act is applicable to all municipal corporations within the state of Gujarat.
<u>Compliance:</u>	Section 376 of the Gujarat Municipal Act states that certain things are not to be kept, and certain trades and operations (as mentioned under Chapter XVIII of the Municipal Act) are not to be carried on without a licence: - i.) Keep in any quantity or excess of the quantity specified in the rules of such items, provided under the rules on the premises without a license for whatever purpose or for sale. - ii.) Keep in or upon any building intended for or used as a dwelling or within 15 feet of such building cotton in pressed bales or boras in quantity exceeding four hundred-weight. - iii.) Keep or allow to be kept in or upon any premises, horses, cattle or other four-footed animals— For sale; (i) for letting out on hire; (ii) for any purpose for which any charge is made or any remuneration is received; or (iii) for sale of any produce thereof; - iv.) Carry on, allow to be carried on, in or upon any premises— (i) any of the trades or operations connected with trade specified in the rules; (ii) any trade or operation which, in the opinion of the commissioner, is dangerous to life, health or property, or likely to create a nuisance either from its nature, or by reason of the manner in which, or the conditions under which, the same, is or is proposed to be carried on. A person shall be deemed to have known that a trade or operation is, in the opinion of the commissioner, dangerous or likely to create a nuisance after written notice to that effect, signed by the commissioner, has been served on such person or affixed to the premises to which it relates. A person shall be deemed to carry on or to allow to be carried on a trade or operation if he does any act in furtherance of such trade or is in any way engaged or concerned therein whether as principal, agent, clerk, master, servant, workman, handicraftsman or otherwise. - v.) As per the Section 386 (1) of the Gujarat Municipal Act, the licence or written permission shall specify the period for which, and the restrictions and conditions subject to which, the same is granted and the date by which an application for the renewal of the same shall be made and shall be given under the signature of the commissioner or of a municipal officer empowered under Section 69 of the Gujarat Municipal Act to grant the same.

IV. COMPLIANCES UNDER LABOUR LAWS

1.) CENTRAL LEGISLATIONS:

a) SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 (“POSH Act”):

<u>Descriptions</u>	<u>Contents</u>
<u>Applicability:</u>	The POSH Act applies to the whole of India. It is applicable to every work place as mentioned under Section 2 (o) (ii) of the POSH Act and, without limitation, includes – - a private sector organization or a private venture; - undertaking; - enterprise; - institution; - establishment; - society; - trust non- governmental organization; and - unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities, including production, supply, sale, distribution or service.
<u>Definitions:</u>	● Section 2 (g) of the Act defines an “employer” with respect to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit. Further, in relation to any workplace not covered hereinabove, any person responsible for the management, supervision and control of the workplace. ● Section 2 (f) of the Act defines an “employee” as a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name. ● Section 2 (o) of the Act defines a “workplace” and states that it includes- - any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, controlled, owned or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a government company or a corporation or a co-operative society,

	ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service, iii) hospitals or nursing homes, iv) any sports institute, stadium, sports complex or competition or games venue, whether or not used for training, sports or other activities, v) any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for undertaking such journey, vi) a dwelling place or a house.
<u>Registration:</u>	NA
<u>Compliance:</u>	The employer shall constitute an internal complaints committee and shall prepare and submit an annual report consisting of the number of cases filed, if any, and their disposal to the district officer.

b) EMPLOYEE PROVIDENT FUND & MISCELLANEOUS PROVISIONS ACT, 1952 (“EPF Act”):

<u>Descriptions</u>	<u>Contents</u>
<u>Applicability:</u>	The EPF Act and EPF Rules apply to the whole of India. It applies to every establishment in which 20 or more persons are employed. Employees drawing less than Rs.15000/- per month have to mandatorily become members of the Employee Provident Fund (“EPF”). Employees whose pay is above the prescribed limit can become a member, with the permission of the assistant provident fund commissioner, if he and his employer agree to the same. Further, the EPF Act requires the employer to seek registration with the appropriate authority under the EPF Act.
<u>Definitions:</u>	● Section 2 (f) of the EPF Act defines “employer” (i) in relation to an establishment which is a factory, the owner or occupier of the factory, and where a person has been named as a manager of the factory under the Factories Act, 1948, the person so named; and (ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent. ● Section 2 (f) of the Act defines “employee” as any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment and who gets his wages directly or indirectly from the employer and includes any person employed by or through a contractor in or in connection with the work of the establishment or engaged as an apprentice (not being an apprentice engaged under the Apprentices Act, 1961).

	● Section 2 (g) of the Act defines “factory” as any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether with the aid of power or without the aid of power.
<u>Registration:</u>	The registration of an establishment under the EPF Act is mandatory and is an online procedure. The steps for registration include the registration of the organization on the Employee Provident Fund Organisation (“EPFO”) website; as per the employer registration manual displayed on the website, the employer shall create a digital signature certificate along with a company incorporation certificate, PAN details, directors KYC and memorandum of association and articles of association.
<u>Compliance:</u>	● An employer is required to make contributions to a provident fund at the rate of 12% of the basic wages, dearness allowance and retaining allowance payable to the employee. Employees are also required to make an equal contribution at the rate of 12%. Out of the contribution towards the provident fund, an amount not exceeding 8.33% is paid to a pension fund formed under the employees’ pension scheme, subject to certain prescribed exemptions. Further, an employer is also required to pay into the employees’ deposit-linked insurance scheme, in respect of every employee, an amount of 0.5% of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employee for the purpose of providing life insurance benefits to the employees. An employer has to pay the EPF contribution to the EPO every month, and such contribution is to be made within 15 days of the next month. ● Every employer must send to the commissioner, within 15 days of the close of each month, a return in Form ‘5’ for (a) the employees qualifying to become members of the fund for the first time during the preceding month together with the declarations in the Form ‘2’ furnished by such qualifying employees, and/or (b) the employees who have left the service in the preceding month. If this is not applicable, then the employer is required to send a ‘NIL’ return. ● The employer is required to maintain an inspection notebook in such form as the commissioner may specify for the inspector to record his observations on his visit to the establishment. ● Every employer is required to maintain such accounts in relation to the amounts contributed to the fund by him and by his employees. ● Employers are required to furnish to the regional commissioner the particulars of all the branches and departments, owners, occupiers, directors, partners, managers, or any other person or persons who have the ultimate control over the affairs of such factory or establishment and any changes in such particulars shall be notified to the regional commissioner in the Form ‘5A’ within a period of 15 days from such change. ● The employer must submit an annual statement of contribution in Form 6A to the commissioner within 1 month of the closing period. <u>Note:</u> Start-ups are required to self-certify its compliance under the EPF Act and EPF Rules on the Shram Suvidha Portal. Further, for the first year from the date of commencement of the start-up, there will be no inspection by the concerned

	<i>authority under the EPF Act. From the second year onwards till the completion of the 5th year from the date of commencement of the start-up, there may be an inspection upon receipt of a written credible and verifiable complaint of violation and an approval for such inspection has been obtained from at least one level senior to the inspecting officer.</i>
--	--

SAMISATI
LEGAL
Advocates & Legal Advisors

c) **THE EMPLOYEE STATE INSURANCE ACT, 1948 (“ESI Act”); THE EMPLOYEES STATE INSURANCE (CENTRAL) RULES, 1950 (“ESI Rules”) and THE EMPLOYEES STATE INSURANCE (GENERAL) REGULATIONS, 1950 (“ESI Regulations”):**

Descriptions	Contents
<u>Applicability:</u>	The ESI Act is applicable to the whole of India . It applies to all the establishments in which 10 or more persons are employed and provides certain benefits to employees in case of sickness, maternity, employment injury and related matters. Under the ESI Act, an employer is obligated to make certain contributions to the employees’ state insurance corporation, created pursuant to the ESI Act, for its employees drawing wages up to Rs. 21,000 per month at 4.75% of the wages of such employee (and the employee is required to contribute 1.75% of his/her wages). An employer is required to make these contributions for its employees and also employees not directly employed by it, i.e., employed through a contractor or temporarily employed.
<u>Definitions:</u>	● Section 2 (13) of the ESI Act defines “immediate employer” as, in relation to employees employed by or through him, a person who has undertaken the execution on the premises of a factory or an establishment to which the ESI Act applies or under the supervision of the principal employer or his agent, of the whole, or any part of any work which is ordinarily part of the work of the factory or establishment of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such factory or establishment, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer and include a contractor. ● Section 2(17) of the ESI Act defines “principal employer” as — (i) in a factory, the owner or occupier of the factory and includes the managing agent of such owner or occupier, the legal representative of a deceased owner or occupier, and where a person has been named as the manager of the factory under the Factories Act, 1948, the person so named; (ii) in any establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the department; (iii) in any other establishment, any person responsible for the supervision and control of the establishment. ● Section 2(9) of the ESI Act defines “employee” as any person employed for wages in or in connection with the work of a factory or establishment to which the ESI Act applies: (i) who is directly employed by the principal employer on any work of the factory or establishment; or (ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work; or (iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service; and includes any person engaged as an apprentice, not being an apprentice engaged and includes such person engaged as apprentice whose training period is extended to any length of time. ● Section 2 (12) of the Act defines “factory” as any premises, including the precincts thereof- (a) whereon 10 or more persons are employed or were employed for wages on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or

	(b) whereon 20 or more persons are employed or were employed for wages on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on. It does not include a mine subject to the operation of the Mines Act, 1952 or a railway running shed.						
<u>Registration:</u>	Every establishment with 10 or more employees working needs to register themselves under the ESI Act. The existing wage limit for coverage under the ESI Act is Rs.21,000/- per month (Rs.25,000/- per month in the case of persons with disability).						
<u>Compliance:</u>	- The employer must require every employee to furnish, on or before the appointed day, particulars along with his/her photograph and that of his/her family required for the purpose of Form '1', i.e., the Declaration Form. The employer must submit to the concerned authority by registered post or messenger all Declaration Forms along with the Temporary Identification Certificate and a return in Form '3' within 10 days of the date on which the particulars for the Declaration Forms were furnished. - Every employer is required to make a contribution to the employee state insurance corporation at the rate of 3.25%. Every employee is required to make a contribution to the employee state insurance corporation at the rate of 0.75%. No employee's contribution shall be payable by or on behalf of an employee whose average daily wages during a wage period are below such wages as may be prescribed by the Central Government. The contribution is to be made for 6 consecutive months in the following manner: <table border="1"> <thead> <tr> <th>Contribution Period</th><th>Benefit Period</th></tr> </thead> <tbody> <tr> <td>April 1st to September 30th</td><td>January 1st to June 30th of the following year</td></tr> <tr> <td>October 1st to March 31st</td><td>July 1st to December 31st of the following year</td></tr> </tbody> </table> However, in the case of a person who becomes an employee within the meaning of the ESI Act for the first time, the first contribution period shall commence from the date of such employment in the contribution period current on that day and the corresponding benefit period for him shall commence on the expiry of the period of 9 months from the date of such employment. - Every employer must send a return of contributions in Form '5' along with receipted copies of challans for the amounts deposited to the appropriate authority by registered post or messenger, in respect of all employees for whom contributions are payable in a contribution period in such manner that the same reaches the appropriate office — (a) within 42 days of the termination of	Contribution Period	Benefit Period	April 1 st to September 30 th	January 1 st to June 30 th of the following year	October 1 st to March 31 st	July 1 st to December 31 st of the following year
Contribution Period	Benefit Period						
April 1 st to September 30 th	January 1 st to June 30 th of the following year						
October 1 st to March 31 st	July 1 st to December 31 st of the following year						

	contribution period to which it relates; (b) within 21 days of the date of permanent closure of the factory or establishment, as the case may be; (c) within 7 days of the date of receipt of a requisition in that behalf from the appropriate office. • Every employer must maintain a register in Form ‘6’ in respect of every employee of his factory or establishment. Every employer shall preserve such register maintained after it is filled for a period of 5 years from the date of last entry therein. • Every employer must furnish in Form ‘10’ to the appropriate authority such information and particulars in respect of the abstention of an insured person from work for which sickness benefit or disablement benefit for temporary disablement has been claimed or paid and within such time as the said office may in writing require in the said form. • Every employer must keep a book readily accessible for accidents in Form ‘11’ in which the appropriate particulars of any accident-causing personal injury to an employee may be entered. Such accident book shall be preserved for a period of 5 years from the date of the last entry thereon. • Every employer must send a report in Form ‘12’ to the appropriate authority and to the insurance medical officer of the insured person — (i) immediately, if the injury is serious, i.e., it is likely to cause death or permanent disablement or loss of a member, and (ii) in any other case within 48 hours after the accident came to the notice of the employer. <i>Note: Start-ups are required to self-certify its compliance under the ESI Act and ESI Rules on the Shram Suvidha Portal. Further, for the first year from the date of commencement of the start-up, there will be no inspection by the concerned authority under the ESI Act. From the second year onwards till the completion of the 5th year from the date of commencement of the start-up, there may be an inspection upon receipt of a written credible and verifiable complaint of violation and an approval for such inspection has been obtained from at least one level senior to the inspecting officer.</i>
--	--

d) **PAYMENT OF BONUS ACT, 1965 AND PAYMENT OF BONUS RULES, 1975 (“Bonus Act”)**

Descriptions	Contents
<u>Applicability:</u>	The Bonus Act provides for the payment of annual bonus to all employees employed in establishments in which <u>20 or more persons are employed</u> on any day during an accounting year. The bonus is to be paid regardless of whether the employer has made a profit or loss in the accounting year in which the bonus is payable. However, the bonus is not payable by a new establishment in the first 5 accounting years if there is no profit.

<u>Definitions:</u>	● Section 2 (14) of the Bonus Act defines “employer” in relation to any other establishment as the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent. ● Section 2 (13) of the Bonus Act defines “employee” as any person (other than an apprentice) employed on a salary or wage not exceeding Rs. 21,000/- per month in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward. ● “Section 2 (15) of the Bonus Act defines “establishment in the private sector” as any establishment other than an establishment in the public sector,
-----------------------------------	---

SAMIS™
 LEGAL
 Advocates & Legal Advisors

	● Section 2 (16) of the Bonus Act defines “establishment in the public sector” as an establishment controlled, owned or managed by – - i.) a Government company as defined under the Section 617 of the Companies Act, 1956, - ii.) a corporation in which not less than 40% of its capital is held, whether singly or taken together by- - a.) the Government, or - b.) the Reserve Bank of India, or - c.) a corporation owned by the Government or the Reserve Bank of India.
<u>Registration:</u>	NA
<u>Compliance:</u>	● Every employer is required to maintain the following registers: (a) a register for computation of allocable surplus in Form ‘A’; (b) a register for set-on and set-off of allocable surplus in Form ‘B’; (c) a register for details of the amount of bonus due to each employee, details of deductions and amount actually disbursed in Form ‘C’. ● Every employer must, on or before the 1st day of February in each year, upload a unified annual return in Form ‘D’ on the web portal of the Central Government in the Ministry of Labour and Employment, giving information as to the particulars specified in respect of the preceding year. ● Every employer must pay the bonus in cash to all the employees within 8 months from the close of the accounting year. In case of a dispute regarding the payment of bonus, then within a month from the date on which the award becomes enforceable, or the settlement comes into operation, in respect of such dispute.

e) **EQUAL REMUNERATION ACT, 1976 AND EQUAL REMUNERATION RULES, 1976 (“ER Act”):**

Descriptions	Contents
<u>Applicability:</u>	The ER Act applies to every establishment in the whole of India and was established to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the grounds of sex, against women in the matter of employment and for matters connected thereto.
<u>Definitions:</u>	● Section 2 (c) of the ER Act defines “employer”, in relation to any establishment, factory, or shop, as the person or authority that has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing partner.

	● Section 2 (i) of the ER Act defines the term “worker” as a worker in any establishment or employment to which the ER Act applies.
<u>Registration:</u>	NA
<u>Compliance:</u>	Every employer must maintain a register in relation to the workers employed by him in Form ‘D’ specified under the Schedule to the ease of compliance to maintain registers under various Labour Laws Rules, 2017.

f) **APPRENTICES ACT, 1961 (“Apprentices Act”) AND APPRENTICES RULES, 1992 (“Apprentices Rules”):**

Descriptions	Contents
<u>Applicability:</u>	The Apprentices Act applies to every establishment in the whole of India and was introduced with the aim of providing a regulation to control the training of apprentices and matters connected therewith.
<u>Definitions:</u>	● Section 2 (f) of the Apprentices Act defines “employer” as any person who employs one or more other persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment. ● Section 2(aa) of the Apprentices Act defines an “apprentice” as a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship. ● Section 2(g) of the Apprentice Act defines “establishment” as any place where any industry is carried on and where any establishment has different branches or has branches situated in the same place or different places; such departments or branches must be treated as establishments. ● Section 2 (h) of the Apprentice Act defines “establishment in the private sector” as an establishment that is not an establishment in the public sector. ● Section 2 (i) of the Apprentice Act defines “establishment in the public sector” as an establishment - i.) controlled, managed and owned by the Government or a department of the Government, - ii.) a Government company as defined under the Section 617 of the Companies Act, 1956, - iii.) a corporation including a co-operative society established by or under a Central, Provincial or State Act, which is owned, controlled or managed by the Government, - iv.) a local authority.
<u>Registration:</u>	NA

<u>Compliance:</u>	• Every employer shall forward a contract of apprenticeship entered between an apprentice and the employer on the portal-site as per Format 1 specified in Schedule III for registration. • Every employer shall maintain a register of attendance of the apprentices undergoing apprenticeship training in his establishment, and action taken for irregular and unauthorised absence shall be recorded in the said register at the end of each month. • Every employer shall maintain a record of the work done and training undertaken by the graduate, technician and technician apprentices engaged in his establishment for each quarter and, at the end of each quarter, shall send a report in Form Apprenticeship specified in Schedule III to the director, regional board of apprenticeship training concerned.
---------------------------	---

g) **RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016 (“RPDA”):**

<u>Descriptions</u>	<u>Contents</u>
<u>Applicability:</u>	The RPDA applies to every establishment in the whole of India and is legislation introduced to lay down the provisions to protect the rights and interests of persons with disabilities at their place of work.
<u>Definitions:</u>	• Section 2(s) of the RPDA defines “person with a disability” as a person with long-term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others. • Section 2 (i) of the RPDA defines “establishment” and states that the establishment includes a government establishment and a private establishment. • Section 2 (k) of the RPDA defines “government establishment” as a corporation established by or under a State or Central Act or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined under the Section 2 of the Companies Act and includes the department of Government. • Section 2 (v) of the RPDA defines “private establishment” as a company, firm, cooperative or other society, trust, agency, association, union, organisation, factory or such other establishments as the appropriate Government specified by the notification.
<u>Registration:</u>	NA
<u>Compliance:</u>	• Every establishment must register a copy of the said policy with the chief commissioner or the state commissioner, as the case may be.

	Every establishment is required to maintain records containing the following particulars: (a) the number of persons with disabilities who are employed and the date from when they are employed; (b) the name, gender and address of persons with disabilities; (c) the nature of disability of such persons; (d) the nature of work being rendered by such employed person with disability; and (e) the kind of facilities being provided to such persons with disabilities.
--	---

h) THE EMPLOYMENT EXCHANGES (COMPULSORY NOTIFICATION OF VACANCIES) ACT, 1959 R/W THE EMPLOYMENT EXCHANGES (COMPULSORY NOTIFICATION OF VACANCIES) RULES, 1960 (“Employment Exchange Rules”):

<u>Descriptions</u>	<u>Contents</u>
<u>Applicability:</u>	The Employment Exchanges Rules extends to the whole of India except the State of Jammu and Kashmir.
<u>Compliance:</u>	The employer of every establishment shall furnish quarterly returns to the local employment exchange in Form ‘ER-I’ and biennial returns in Form ‘ER-II’ . The quarterly returns shall be furnished within thirty (30) days from the due date, where the due date is March 31, March 30, June 30, September 30 and December 31. The biennial returns shall be furnished within thirty (30) days of the due date as notified in the official gazette.

i) INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 R/W INDUSTRIAL EMPLOYMENT (STANDING ORDERS) CENTRAL RULES, 1946 (“Employment Standing Order Rules”):

<u>Descriptions</u>	<u>Contents</u>
<u>Applicability:</u>	The Employment Standing Orders Rules applies to the whole of India except Jammu and Kashmir.
<u>Compliance:</u>	- The employer shall be made for certification of standing orders in Form I. - The employer shall forward a copy of the draft of the standing orders to the trade union along with a notice in Form ‘II’ if a trade union exists. If no trade union is present, the employer shall call a meeting of the workmen to elect three (3) representatives, and upon their election, shall forward a copy of the draft standing orders together with a notice in Form ‘II’ to these representatives. - The employer of every establishment shall maintain a service card of each workman in the Form ‘V’, wherein the particulars of the workmen shall be recorded with the knowledge of the workmen. The employer shall confirm the eligible employees as per their appointment letter and send them a confirmation letter. The employer shall update the employee’s service card with this confirmation within thirty (30) days. - The employer shall furnish a service certificate, specifying the designation and the period of employment at the time of discharge, termination, retirement or resignation from service.

j) THE INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) R/W THE INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) CENTRAL

RULES, 1980 (“Inter-State Migrant Workmen Rules”):

<u>Descriptions</u>	<u>Contents</u>
<u>Applicability:</u>	The Inter-State Migrant Workmen Rules extends to the whole of India except Jammu and Kashmir.
<u>Registration:</u>	The employer of every establishment shall make an application for registration of an establishment in triplicate in Form I to the registering officer of the area in which the establishment is sought to be located.

2.) CENTRAL / STATE LEGISLATIONS R/W STATE RULES:

a) BRIEF INTRODUCTION TO CENTRAL LEGISLATIONS:

<u>Legislation</u>	<u>Particulars</u>	<u>Contents</u>
<u>Maternity Benefit Act, 1961 (“MB Act”)</u>	<u>Applicability</u>	The MB Act applies to the whole of India and every establishment (including a factory, mine or plantation) in which 10 or more persons are employed . It was established to provide for maternity benefits and certain other benefits and also regulates the employment of women in certain establishments for particular periods before and after childbirth.
	<u>Definitions</u>	• Section 3(d) of the MB Act defines the term “employer” as – - i.) The person in an establishment under the local authority appointed by such authority for the supervision and the control of the employees or where no person is appointed, then the chief executive officer of the local authority. - ii.) The person in any other case who is the authority that has the ultimate control over the affairs of the establishment and where the said affairs are given as responsibility to any other person called a manager, managing director, managing agent, or by any other name, such person. • Section 3(e) of the MB Act defines the term “establishment” as a factory, mine, plantation and an establishment where persons are employed for the exhibition of acrobatics, equestrian and other performances or to every establishment being a factory, mine or plantation including any such establishment belonging to Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances. • Section 3(o) of the MB Act defines the term “women” as women employed, whether directly or indirectly or through any agency for wages in any establishment.
	<u>Registration</u>	NA

<u>Payment of Wages Act, 1936 (“PW Act”)</u>	<u>Applicability</u>	The PW Act applies to every establishment in the whole of India. The PW Act regulates the payment of wages to certain classes of employed persons and applies to the payment of wages to the- - i.) persons employed in any factory, - ii.) persons employed otherwise than in a factory, and - iii.) persons employed in an industrial or other establishments specified in sub-clauses (a) to (g) of clause (ii) of Section 2 of the PW Act.
	<u>Definitions</u>	• Section 2 (a) of the PW Act defines the term “employed person”. The term “employed person” includes the legal representative of a deceased employed person. • Section 2 (b) of the PW Act defines the term “employer”. The term “employer” includes the legal representative of a deceased employer. • Section 2 (ii) of the PW Act defines the term “Industrial or other establishment” is defined as any tramway service or motor service engaged in carrying passengers or goods or both for hire or reward, air transport service other than the service belonging to or exclusively employed in military, naval or air forces of the union or civil aviation department of the Government of India, dock, jetty or wharf, an inland vessel that is mechanically propelled, mine, quarry or oil field, plantation, workshop or other establishment in which articles are produced, adapted or manufactured with a view to using for sale or transport, establishment in any work relating to the construction, development or maintenance of buildings, roads, bridges, canals, or operations concerned with navigation, irrigation or the supply of water or relating to the generation, transmission and distribution of electricity or any other form of power.
	<u>Registration</u>	NA
<u>Minimum Wages Act, 1948 (“MW Act”)</u>	<u>Applicability</u>	The MW Act applies to the whole of India and every establishment in which there are <u>less than 1,000 people employed</u> in the same industry. The MW Act provides for fixing minimum rates of wages in certain employments.
	<u>Definitions</u>	• Section 2 (e) of the MW Act defines the term “employer” as any person who hires 1 or more employees, either directly or through another person, in any scheduled employment under which the minimum wages are fixed under the MW Act. This includes everyone who hires employees, except in a specific circumstance mentioned under Section 26 (3) of the MW Act – (i) in any scheduled employment under any local authority under which the minimum rate of wages is fixed under the MW Act, the person appointed by such authority for the supervision and control of the employees or where no person is appointed, the chief executive officer of the local authority,

		(ii) in any other case on scheduled employment, in respect of which minimum rates of wages are fixed under the MW Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages. • Section 2 (i) of the MW Act defines the term “employee” as any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment where the minimum rate of wages is fixed, and includes an out-worker to whom any material or articles are given out by another person to be cleaned, made up, washed, ornamented, repaired, finished, altered, adapted or otherwise processed for sale for the purpose of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not in the premises under the control and management of that other person.
	<u>Registration</u>	NA
<u>Payment of Gratuity Act, 1972 (“Gratuity Act”) and Payment of Gratuity Rules, 1972 (“Gratuity Rules”):</u>	<u>Applicability</u>	The Gratuity Act provides for the scheme of payment of gratuity, and it is a central legislation that extends to the whole of India. It applies to all establishments where 10 or more employees are employed or were employed on any day of the preceding 12 months. Gratuity is payable to all employees irrespective of their salary, including those employed in an administrative and managerial capacity, having rendered 5 years of continuous service. Gratuity becomes payable to an employee up on: (i) resignation, (ii) termination on account of death or disablement due to accident or disease, (iii) retirement or; (iv) death. The amount of gratuity is to be paid at the rate of 15 days’ wages for every year of service based on the rate of wages last drawn by the employee, subject to a maximum of Rs. 1,000,000/-, or such higher amount as may be contractually agreed upon by the employer and employee.
	<u>Definitions</u>	• Section 2 (f) of the Gratuity Act defines “employer” in relation to any establishment, factory, or shop, as the person or authority that has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing partner. • Section 2 (e) of the Gratuity Act defines “employee” as any person (other than an apprentice) who is employed for wages in any kind of work, manual or otherwise, in a factory, shop or other establishment to which the Gratuity Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other act for payment of gratuity.
	<u>Registration</u>	NA
<u>Contract Labour (Regulation and Abolition)</u>	<u>Applicability</u>	The CLRA applies to the whole of India and is applicable to (a) every establishment in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour; and (b) every contractor who employs or employed 20 or more workmen on any day of preceding 12 months. The applicability of the CLRA varies from State to State and the same has been covered hereinbelow.

<u>Act, 1970</u> <u>("CLRA")</u>	<u>Definitions</u>	• Section 2 (g) of the CLRA defines "principal employer" as – (i.) in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify on this behalf, (ii.) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948, the person so named, (iii.) in a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named, (iv.) in any other establishment, any person responsible for the supervision and control of the establishment. • Section 2 (i) of the CLRA defines "workman" as any person employed in or in connection with the work of any establishment to do any skilled, semi-skilled or un-skilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person— (i.) who is employed mainly in a managerial or administrative capacity; (ii.) who, being employed in a supervisory capacity, draws wages exceeding Rs. 500/- per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature; (iii.) who is an out-worker, that is to say, a person to whom any articles or materials are given out by or on behalf of the principal employer to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of the principal employer and the process is to be carried out either in the home of the out-worker or in some other premises, not being premises under the principal employer's control and management. • Section 2 (e) of the CLRA defines "establishment" as (i) any office or department of the Government or a local authority or (ii) any place where any industry, trade, business, manufacture or occupation is carried on.
	<u>Registration</u>	The registration of an establishment is mandatory under CLRA. Every employer must make an application for the registration of establishment to the registering officer of the area in Form I .

b) STATE OF GUJARAT:

GUJARAT MATERNITY BENEFIT RULES, 1964 (MBR Gujarat”):

Descriptions	Contents
<u>Applicability:</u>	The MBR Gujarat applies to the entire State of Gujarat.
<u>Compliance:</u>	• The employer of every establishment in which women are employed must prepare and maintain a muster roll in Form 'A' and enter the particulars of all women workers in the establishment. • The payment of maternity benefits and any other amount due under the MB Act must be made by the employer to the woman concerned, or the person nominated by her in the notice in Form 'B', or her legal representative. • The employer of every establishment must prepare and maintain records every year in the Forms 'K', 'L', 'M' and 'N', giving information as to the particulars specified in respect of the preceding year. • The employer must display an abstract of the MB Act and MBR Gujarat made in English and in the language understood by the majority of the employees at a conspicuous place at or near the main entrance of the establishment.

GUJARAT PAYMENT OF WAGES RULES, 1963 (“PWR Gujarat”):

Descriptions	Contents
<u>Applicability:</u>	The PWR Gujarat applies to the entire State of Gujarat.
<u>Compliance:</u>	• In any factory or industrial establishment concerning which the employer obtained approval for a list of acts and omissions concerning which the fines may be imposed, the employer must maintain a register of fines in Form ‘I’. • In every factory and industrial establishment in which deductions for damage or loss are made, the employer must maintain the register required in Form ‘II A’. • The amounts of all advances sanctioned and the repayments must be entered in a register in Form ‘III’. • The amount of loan sanctioned and its repayment, both together with interest, must be recorded in a register in the Form ‘III-A’, which must be maintained up to date and kept near or at the establishment. • An annual return must be filed in Form ‘IV’ in respect of every factory and industrial establishment to reach the appropriate authority not later than the 15th of February every year. • The abstract of the PW Act and of the PWR Gujarat to be displayed in Form ‘V’.

CONTRACT LABOUR (REGULATION AND ABOLITION) (GUJRAT) RULES, 1972 (“CLR Gujarat”):

Descriptions	Contents
<u>Applicability:</u>	The CLR Gujarat applies to the State of Gujarat .
<u>Compliance</u>	• Every principal employer shall maintain in respect of each registered establishment a register of contractors in Form ‘XII’. • Every principal employer of a registered establishment shall send annually a return in Form ‘XXV’ in duplicate to reach the registering officer not later than the 15th February following the end of the year to which it relates. <i>Note: Start-ups are required to self-certify its compliance under the CLRA and CLR Gujarat on the Shram Suvidha Portal. Further, for the first year from the date of commencement of the start-up, there will be no inspection by the concerned authority under the CLRA. From the second year onwards till the completion of the 5th year from the date of commencement of the start-up, there may be an inspection upon receipt of a written credible and verifiable complaint of violation and an approval for such inspection has been obtained from at least one level senior to the inspecting officer.</i>

BOMBAY LABOUR WELFARE FUND ACT, 1953 (“GLWF Act”) AND THE LABOUR WELFARE FUND (GUJARAT) RULES, 1962 (“GLWF Rules”):

Descriptions	Contents
<u>Applicability:</u>	• The GLWF Act and GLWF Rules apply to all establishments in the State of Gujarat.

Advocates & Legal Advisors

<u>Definition</u>	• Section 2 (3) of the BLWF Act defines "employer" as any person who employs either directly or through another person either on behalf of himself or any other person, one or more employees in an establishment and includes— (i) in a factory, any person named under section 7 (i) (f) of the Factories Act, 1948 as the manager, (ii) in any establishment, any person responsible to the owner for the supervision and control of the employees or for the payment of wages. • Section 2 (2) of the BLWF Act defines "employee" as any person who is employed for hire or reward to do any work, skilled or unskilled, manual, clerical, supervisory or technical in an establishment but does not include any person- (a) Who is employed mainly in a managerial capacity, or, (b) Who, being employed in a supervisory capacity, draws wages exceeding Rs. 3,500/-per month or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature. • Section 2 (4) of the GLWF Act defines "establishment" as – (i.) a factory, (ii.) a tramway or motor omnibus service, and (iii.) any establishment within the meaning of the Bombay Shops and Establishments Act, 1948, which employs, or on any working day during the 12 months preceding the specified date employed, 10 or more persons.
<u>Registration:</u>	NA
<u>Compliance:</u>	• Every employer of an establishment must maintain and preserve for a period 10 years-

Advocates & Legal Advisors

	(i.) A register of wages in Form 'A', except in cases where the employer maintains muster roll-cum wages register under the GLWF Act and the GLWF Rules; (ii.) A consolidated register in Form 'B' in respect of unclaimed wages and fines; and (iii.) A register in Form 'C' with particulars of employees in whose respect the unpaid accumulations are held by him. • Every employer must submit a statement of employers, contributions and employees, contributions for 6 months in respect of employees whose names stand on the establishment register on the preceding 30th June and 31st December, respectively, in the Form 'A-I' to the Welfare Commissioner every year on or before 31st July and 31st day of January. • Every employer must pay to the board both the employer's contribution and the employee's contribution before 15th July and 15th January, every year. • A contribution payable by the employer in respect of an employee in an establishment, a contribution payable by such employee and a contribution payable by the State Government, as hereinafter provided and every such contribution shall form part of the Fund. • The amount of employee's contribution shall be payable every 6 months in respect of every employee whose name stands on the register of the establishment concerned in the month of June, or as the case may be, in the month of December, at the rate of 25 paise for each such employee and the amount of employer's contribution shall be payable at every 6 months at the rate of 50 paise for each such employee. • Every employer shall pay to the board both the employer's contribution and the employee's contribution before the 15th day of July and 15th day of January every year.
--	---

GUJARAT MINIMUM WAGES RULES, 1961 ("MWR Gujarat"):

Descriptions	Contents
<u>Applicability:</u>	The MWR Gujarat applies to the entire State of Gujarat .
<u>Compliance:</u>	• The abstracts of the MW Act and the MWR Gujarat shall be displayed in Form 'III-A'. • An annual return in Form 'III' must be filed by the employer to the appropriate authority not later than February 1st of every year. • A register showing overtime payments must be kept in Form 'IV'. • A register of wages must be maintained by every employer at the workshop in Form 'IV-A'.

	• Every employer must issue a wage slip in Form ‘IV-B’ to every person employed by him at least a day prior to the disbursement of wages. • Every employer must maintain and keep a muster roll in Form ‘V’.
--	---

GUJARAT SHOPS AND ESTABLISHMENTS ACT, 2019 (“Gujarat S&E Act”) AND THE GUJARAT SHOPS AND ESTABLISHMENTS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) RULES, 2020 (“Gujarat S&E Rules”):

Descriptions	Contents
<u>Applicability:</u>	The Gujarat S&E Act and Gujarat S&E Rules apply to all establishments in the State of Gujarat .
<u>Definition</u>	• Section 2 (b) of the Gujarat S&E Act defines "employer" as a person owning or having control over the affairs of an establishment and includes- (i) in the case of a firm or association of individuals, a partner or member of the firm or association, (ii) in the case of a company, a director of the company, (iii) in the case of an establishment owned or controlled by the Central Government, a State Government or any local authority, the person or persons appointed to manage the affairs of such establishment by the Central Government or the State Government or the local authority, as the case may be. • Section 2 (s) of the Gujarat S&E Act defines "worker" as any person, including a person engaged through an outsourcing agency except an apprentice under the Apprentices Act 1961, employed to do any manual, unskilled, skilled, technical, operational or clerical work for hire or reward, whether the terms of employment be express or implied. • Section 2 (c) of the Gujarat S&E Act defines "establishment" as an establishment that carries on any business, trade, manufacture or any journalistic or printing work, or business of banking, insurance, stocks and shares, brokerage or exchange or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession or manufacture, and includes, - (i.) establishment of any medical practitioner, including hospital, dispensary, clinic, polyclinic, maternity home and such others, architect, engineer, accountant, tax consultant or any other technical or professional consultants, (ii.) a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade profession or work connection with or incidental or ancillary thereto, (iii.) shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment to whom the provisions of the Factories Act, 1948 do not apply, such other establishment as the State Government may, by notification in the official gazette, declare to be an establishment for the purposes of the Gujarat S&E Act.

<u>Registration:</u>	The registration of an establishment is mandatory under the Gujarat S&E Rules. Every employer of an establishment engaging 10 or more workers must submit an application in Form-A for registration of the establishment along with the required documents as specified in Part A of the Schedule of the Gujarat S&E Act. The application may be submitted online where online access is available.
<u>Compliance:</u>	• Every employer must maintain a ‘muster-roll cum wages register’ in Form ‘P’ unless it is maintained in the wages register in Form ‘B’ and muster in Form ‘D’. Every entry must be authenticated by the employer or person authorised in writing. All the registers and records must be maintained in Gujarati or English language. • Every employer must submit an annual return online in Form ‘Q’ to the Inspector within 1 month after the completion of the calendar year ending 31st December every year. • Every employer must display a notice at a conspicuous place on the premises on a notice board and on the website, if the employer has a website, showing the days of rest and weekly holidays in Form ‘K’. A copy of the same must be sent electronically to the inspector or otherwise if online access is unavailable.

GUJARAT PAYMENT OF GRATUITY RULES, 1973 (“Gujarat Gratuity Rules”):

Descriptions	Contents
<u>Applicability:</u>	The Gujarat Gratuity Rules apply to the entire state of Gujarat .
<u>Compliance:</u>	• A notice is to be issued to the applicant employee, nominee, or legal heir if the claim is found to be admissible in Form ‘L’ specifying the amount of gratuity payable and fixing a date not later than the 13th day after the date of receipt of the application for the payment. • A notice is to be issued to the applicant employee, nominee, or legal heir in Form ‘M’ if the gratuity is found to be not admissible, specifying the reason for the claim not being found to be admissible not later than the 15th day from the date of receipt of such application. • The employer must display an abstract of the Gratuity Act and the Gujarat Gratuity Rules made in English and in the language understood by the majority of the employees at a conspicuous place at or near the main entrance of the establishment. • The notice of opening of the establishment must submitted by every employer to the controlling authority of the area in Form ‘A’ within 30 days of the Rules becoming applicable to the establishment. <i>Note: Start-ups are required to self-certify its compliance under the Gratuity Act and Gujarat Gratuity Rules on the Shram Suvidha Portal. Further, for the first year from the date of commencement of the start-up, there will be no inspection by the concerned authority under the Gratuity Act. From the second year onwards till the completion of the 5th year from the date of commencement of the start-up, there may be an inspection upon receipt of a written credible and verifiable complaint of violation</i>

	<i>and an approval for such inspection has been obtained from at least one level senior to the inspecting officer.</i>
--	--

SAMISPI
LEGAL
Advocates & Legal Advisors