



EPC Contracts

The Indian Government has taken measures to fill the gaps in the infrastructure needs of Indian businesses, resulting in various public-private partnerships as well as privatisation.

Some key sectors that have opened up to private players are airports, railways, waterways, roadways (particularly highway projects) and power projects. With these developments, opportunities for global Engineering, Procurement and Construction (EPC) players to enter the Indian market have increased significantly.

Critical factors for EPC project owners

- Optimisation of taxes
- Certainty in tax impact
- Ease of implementation and successful execution
- Commercial imperatives not to be compromised

Key issues of EPC contracts

- Composite contract vs split contract
- Withholding tax in the case of payment between two non-residents
- Offshore supply vs onshore supply of goods and taxability
- Recently introduced 'Negative List' under services tax

Our Services



We offer practical and result-oriented advice on EPC contracts. Our services include:

Pre-bid Phase

- Highlighting the tax exposure involved
- Understanding the financial and contractual structure
- Ascertaining the tax cost and assumptions
- Evaluating validity of tax assumptions
- Vendor negotiation
- Evaluating the proposed modes of transaction for compliance from an Indian exchange control perspective

Post-bid Phase

- Contract review and suggestions
- Identifying tax issues for the contract
- Developing alternate structures
- Advising on tax implications for alternate structures
- Recommending the final structure
- On-call advisory and tax compliance

Income Tax Advisory

- Suitable entry vehicle and mode of business presence in India (e.g. project office, subsidiary, LLP, etc.)
- Advise on tax-efficient transaction structuring
- Review bid documents/contracts to identify tax challenges and suggest ways to mitigate them
- Taxability and attribution of profits to sales and service functions (onshore and offshore)
- Analyse and identify exposure for foreign companies constituting a Permanent Establishment (PE) in India as well as suggest ways of mitigating the same
- Advise on withholding tax compliances
- Advise on the taxability of expatriate employees present in India for the contract

Income Tax Compliance

- Obtain registrations with tax authorities
- Assist in filing and obtaining lower/nil withholding tax applications before Indian income tax authorities
- Assist in applying for Advance Authority Ruling and representing before income tax authorities
- Assist in the year-on-year profit attribution exercise for various income streams
- Assist in annual tax return filings
- Assist with withholding tax compliances in India
- Assist in expatriate tax compliances

Indirect Tax Advisory

- Advise on possible structuring to reduce indirect taxes
- Ascertain indirect tax costs and assumptions
- Advise on the implications under customs duty in case of offshore supply of goods
- Advise on the implications of excise duty for manufacturing activities
- Exposure of Sales Tax viz Value Added Tax (VAT), Central Sales Tax (CST) on imported goods and goods procured locally
- Service tax implications including under the reverse charge mechanism
- Works Contract tax viz composite contract and split contract
- Advise on indirect tax exemptions and benefits available to contractors and project owners
- Evaluate whether deemed exports benefit is available to contractors and project owners

Our Experience



Indirect Tax Compliance

- Assist in obtaining various registrations under indirect tax laws
- Assist in preparing various forms/returns to be filed with tax authorities in India
- Assist in representation and litigation

Indian Exchange Control Advisory

- Analyse and advise on alternative suitable modes of business presence in India (e.g. project office, subsidiary, etc.)
- Assist in obtaining various registrations/approvals with the Reserve Bank of India (RBI) for the Indian entity
- Assist in preparing various forms to be filed with the RBI (one-time as well as regular)
- Assist in carrying out intermittent remittances to the head office by the project office
- Assist in the winding up or closure of office in India

Other Services

- Maintain books of accounts for the Indian operations according to applicable laws
- Assist in the audit to be performed by a CPA firm in India
- Undertake payroll processing on behalf of the overseas entities
- Secretarial compliances
- Provide news flashes on recent amendments

Advised a French polymer manufacturing company on its EPC contract in India

Advised a large Indian multinational company involved in airport modernisation

Post-bid review of contract and analysis of tax implications for a German company

Advised a Norwegian company that undertook a turnkey project for Erection, Procurement and Commissioning of a ship-lift and transfer system for the Indian Navy on contract structuring, entry vehicle in India and complete recurring compliances

Structured a contract of service to mitigate PE exposure for a Belgian dredging company



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