

GLOBAL HIRING GUIDE

# India





## GLOBAL HIRING GUIDE

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# 01

## BASIC COUNTRY FACTS

### Full Name

The Republic of India

### Capital

New Delhi

### Main Languages

Hindi  
Assamese  
Bengali  
Gujrati  
English  
Kannada  
Kashmiri  
Konkani  
Malayalam  
Punjabi  
Sindhi  
Tamil  
Urdu  
Telugu

### Population

1.408 Billion

### Monetary Unit

Indian Rupee

### Internet Domain

.in

### International Dialing Code

+91

### Currency

Indian Rupee



# 02

## STATUTORY LABOR REQUIREMENTS

### Probation Period

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- Under section 2 of the Model Standing Order, probation period is usually 6 months
- However, it can be extended by a period of three months at a time at the discretion of management.
- The maximum probation period can't exceed two years.

### Annual Leave

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- The Factories Act has provided annual/earned leave of 12 working days for all the workers who have worked at least 240 days in a year.
- However, the duration of earned/annual leave differs for the adult and young workers.
- An adult worker is entitled to one day of earned leave for every 20 days of service while a young worker (under the age of 15 years) is entitled to one day of earned leave for every 15 days of service.
- Thus, the annual leave duration is 15 working days and 20 working days for adult and young workers respectively.

### Public Holidays

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1. Republic Day
2. Good Friday
3. Ambedkar Jayanti
4. Eid al-Fitr
5. Eid al-Adha
6. Indian Independence Day
7. Gandhi Jayanti
8. Dussehra
9. Prophet's Birthday

Note: Individual states and territories have additional holidays

### Maternity Leave

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- Maternity leave in India is a paid leave of absence from work that allows women employees the benefit of taking care of their newly born, and at the same time retain their jobs.
- In 2017, The Maternity leave Act was revised as The Maternity leave (Amendment) Bill 2017.
- The Act applies to women employees on a contract, permanent basis, or engaged with agencies.
- The Bill increased the right to paid maternity leave for working women from 12 weeks to 26 weeks
- Mothers are eligible for a total of twenty-six (26) calendar weeks of Maternity Leave.

- This leave duration also applies to a female employee having two or more than two surviving children.
- A mother may start her leave up to eight weeks before the expected delivery.

### **Paternity Leave**

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- Government Sector employees are entitled to 15 days of paternity leave

### **Sick Leave**

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- In India employers must provide 6 days of sick leave a year.
- Some employers provide unpaid leave for long term medical issues, but this is not mandatory.

### **Work Hours**

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- The India work week is 40 hours, with a standard work day of 8 hours.
- Workers are entitled to 10.5 hours between work days.
- Work hours should not exceed more than 50 hours per week, or 9 hours per day.

### **Overtime**

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- Under Sec. 59 of the factories act 1948, where a worker works in a factory for more than 9 hours in any day or for more than 48 hours in

any week, he/she shall, in respect of overtime work, be entitled to receive wages at the rate of twice his/her ordinary rate of wages.

### **Notice Period**

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- A 30 to 90-day notice period applies in order to terminate 'workmen' (as defined in the Industrial Disputes Act, 1947) – that is, employees whose role is not primarily supervisory, administrative or managerial) for convenience
- There is a 15-day notice during probation.
- The minimum notice period can be 30 days.

### **Severance**

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- In accordance with the Payment of Gratuity Act 1972, a worker is entitled to a gratuity payment upon termination of his service after five years of continuous employment.
- Amount of severance pay is equal to 15 days' wages for each completed year of service.

### **13th Month**

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- 13th month pay is mandatory.
- The bonus is a percent of the annual salary and must be paid within eight months of the end of the financial year.

# 03

## INCOME TAX

- Residents are subject to tax on their worldwide income.
- Persons who are resident but not ordinarily resident are taxed only on Indian-source income, income deemed to accrue or arise in India, income received in India or income received outside India arising from either a business controlled, or a profession established, in India.
- Nonresidents are taxed only on Indian-source income and on income received, accruing or arising in India.
- Nonresidents may also be taxed on income deemed to accrue or arise in India through a business connection, through or from any asset or source of income in India, or through the transfer of a capital asset situated in India (including a share in a company incorporated in India).

TAXABLE INCOME (INR)	TAX RATE (%)
First 250,000	0
Next 250,000	5
Next 500,000	20
Above 1,000,000	30

# 04

## SOCIAL SECURITY

### Social Security

- Social security in India is governed by the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act).
- The EPF Act contains the following three principal schemes:
  - Employees' Provident Funds Scheme, 1952
  - Employees' Pension Scheme, 1995
  - Employees' Deposit-Linked Insurance, 1976
- The EPF Act applies to the following establishments:
  - An establishment employing 20 or more persons engaged in a specified industry or an establishment or class of establishments notified by the central government
  - An establishment employing less than 20 persons that opts voluntarily to be covered by the EPF Act Covered employers must make a contribution toward the Employees' Provident Funds Scheme and the Employees' Pension Scheme for their eligible employees including International Workers.
- Every covered employer is required to contribute 24% (12% each for the employer's and the employee's share) of the employee's "monthly pay" (as defined) toward the Employees' Provident Fund and Employees' Pension Fund.
- The employer has the option to recover the employee's share from the employee.
- For employees who are existing members as of 1 September 2014, out of the employer's 12% share of the contribution, 8.33% of monthly pay is allocated to the Employees' Pension Fund.
- The balance of the contributions is deposited into the Employees' Provident Fund.
- For employees (including International Workers) who become members on or after 1 September 2014 and draw monthly pay exceeding INR15,000, the entire contribution is allocated to the Employees' Provident Fund.
- Local employees who draw a "monthly pay" of INR15,000 or more are excluded from the legislation unless they are already covered, but this exclusion does not apply to International Workers.
- Consequently, contributions are required for International Workers even if the monthly pay of the employee exceeds INR15,000.
- The employer contributions are exempt from tax up to 12% of monthly pay.

CONTRIBUTION	EMPLOYER	EMPLOYEE
Social Security Contributions	12%	12%

# 05

## DEDUCTIBLE EXPENSES

### Employment Expenses

- A standard deduction of INR 50,000 is available while computing the taxable salary income.

### Personal Deductions

- A deduction from income is available of up to INR 150,000 for investments made in the tax year in certain eligible schemes in India, namely:
  - Life insurance premium on the life of oneself, spouse, or any child.
  - Contribution by employee to recognized provident fund.
  - Contribution to public provident fund/National Pension System (NPS).
  - Contribution to a tax plan of an Indian mutual fund.
  - Tuition fees of any university, college, school, or other educational institution in India for the purpose of full-time education of the individual, spouse, or any child.
  - Repayment of housing loan (principal), etc.
- An additional deduction of up to INR 50,000 over and above the aforesaid limit of INR 150,000 will also be available on the individual's contribution to a notified pension scheme of the government.
- An additional deduction up to 10% (14% in case of contribution made by Central Government) of salary is available in respect of employer's contribution to the NPS.

- At the time of retirement, an individual can withdraw a lump-sum of up to 60% of the corpus fund and the balance of 40% is required to be invested in an annuity plan. Such withdrawal of up to 60% of the corpus fund is exempt from tax.
- This applies to all subscribers.
- Further, nothing would be taxable if the amount is received by the nominee due to death.
- In case of partial withdrawal from the NPS by employees, 25% of their own contribution is exempt from tax in the year of withdrawal.

### Charitable Contributions

- On donation of a certain amount to certain approved funds, charitable institutions, etc., an individual can claim a deduction of 50% to 100% of the amount donated, subject to restrictions provided by the law.
- Deduction for funds and charitable institutions in excess of INR 2,000 is to be allowed only if the donation is made otherwise than in cash.

### Education Expenses

- An individual can claim a deduction for interest paid on a loan taken for the purpose of his/her higher education or of his/her relative (spouse, children, or student for whom the individual is the legal guardian).



## Medical Insurance Premium

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- A deduction is available for health insurance premiums or contributions made to an approved insurance scheme by an individual for ensuring the health of oneself, spouse, and dependent children.
- The deduction available is up to INR 25,000 (INR 50,000 where any of the insured persons is a senior citizen).
- Further, an additional deduction of INR 25,000 is available for insuring one's parents (INR 50,000 where either of the parents is a senior citizen).
- An amount of up to INR 5,000 spent on preventive health check-up of oneself, spouse, dependent children, and parents is also eligible for deduction within the overall limit provided above.
- The medical expenditure incurred for senior citizens (60 years and above) will be deductible up to INR 50,000 if no payment has been made towards any existing health insurance policy for such individuals.



## DEDUCTIBLE EXPENSES

Employment Expenses	<ul style="list-style-type: none"> <li>• A standard deduction of INR 50,000 is available while computing the taxable salary income.</li> </ul>
Personal Deductions	<ul style="list-style-type: none"> <li>• A deduction from income is available of up to INR 150,000 for investments made in the tax year in certain eligible schemes in India</li> <li>• An additional deduction up to 10% (14% in case of contribution made by Central Government) of salary is available in respect of employer's contribution to the NPS.</li> <li>• At the time of retirement, an individual can withdraw a lump-sum of up to 60% of the corpus fund and the balance of 40% is required to be invested in an annuity plan. Such withdrawal of up to 60% of the corpus fund is exempt from tax.</li> </ul>
Charitable Contributions	<ul style="list-style-type: none"> <li>• On donation of a certain amount to certain approved funds, charitable institutions, etc., an individual can claim a deduction of 50% to 100% of the amount donated, subject to restrictions provided by the law.</li> <li>• Deduction for funds and charitable institutions in excess of INR 2,000 is to be allowed only if the donation is made otherwise than in cash.</li> </ul>
Education Expenses	<ul style="list-style-type: none"> <li>• An individual can claim a deduction for interest paid on a loan taken for the purpose of his/her higher education or of his/her relative (spouse, children, or student for whom the individual is the legal guardian).</li> </ul>
Medical Insurance premium	<ul style="list-style-type: none"> <li>• The deduction available is up to INR 25,000 (INR 50,000 where any of the insured persons is a senior citizen).</li> <li>• Further, an additional deduction of INR 25,000 is available for insuring one's parents (INR 50,000 where either of the parents is a senior citizen).</li> <li>• An amount of up to INR 5,000 spent on preventive health check-up of oneself, spouse, dependent children, and parents is also eligible for deduction within the overall limit provided above.</li> <li>• The medical expenditure incurred for senior citizens (60 years and above) will be deductible up to INR 50,000 if no payment has been made towards any existing health insurance policy for such individuals.</li> </ul>

## IMMIGRATION

### Immigration

- Employment visas are granted to foreign nationals who want to come to India for the purpose of employment.
- Employment visas are not granted for jobs for which a large number of qualified Indians are available to fill the position or for routine, ordinary, secretarial or clerical jobs.
- An employment visa is granted to a foreign national if his or her salary exceeds INR1,625,000 per year.
- However, the salary threshold of INR1,625,000 (this limit includes all cash payments and perquisites that are taxed in India) does not apply to certain individuals, such as the following:
  - Ethnic cooks employed by foreign missions in India (this does not include ethnic cooks employed in commercial ventures)
  - Language teachers (other than English-language teachers) or translators (this will not include teachers employed to teach particular subjects in a foreign language)
  - Staff working for an embassy or high commission in India
  - Foreigners seeking honorary work for no salary with non-governmental organizations (NGOs) registered in the country
  - Foreign teaching faculty employed in the South Asian University and the Nalanda University
  - Circus artists
- A change of employer in India is generally not permitted during the duration of the employment visa except for a change of employment from a registered holding company, joint venture or consortium, and its subsidiaries and vice versa, or between subsidiaries of a registered holding company, joint venture or consortium.
- Change of employment is permitted at a senior level (for example, a managerial or a senior executive position) and/or at a skilled position (for example, a technical expert).
- The intended legal entity and the location of work in India must be clearly specified when applying for an employment visa.

### Business Visa

- Under visa guidelines issued by the MHA, a business visa may be issued to a foreign national visiting India for the purpose of carrying out the following activities:
  - Establishing an industrial or business venture
  - Exploring the possibility of an industrial or business venture, other than proprietorship firms and partnership firms in India
  - Purchase and sale of industrial, commercial or consumer products
  - Attending technical meetings or discussions
  - Attending board meetings and general meetings for providing business services support
  - Recruitment of manpower

- Functioning as partners or directors in a business
  - Consultation or participation with respect to exhibitions, trade fairs or business fairs
  - Meeting with suppliers or potential suppliers to evaluate or monitor quality, negotiate supplies, place orders and provide specifications for goods procured from India
  - Monitoring progress on ongoing projects
  - Meeting with Indian customers on ongoing projects
  - Meeting to provide high-level technical guidance on ongoing projects
  - Activity before and after a sale that does not amount to the execution of a contract
  - In-house training at the regional hubs of a foreign company
  - Foreign academicians or experts coming under the Global Initiative for Academic Networks
  - Serving as a tour conductor or travel agent
  - Serving as a crew member of scheduled or non-scheduled flights operated by scheduled airlines, non-scheduled and chartered flights operated by non-scheduled airlines and special flights
- Accompanied legal spouses and dependents of business visa holders can come to India with a Business Visa-Dependent Visa.
  - Business visas and employment visas may be issued only by the Indian missions from the country of origin or from the country of domicile of the foreign national, provided that the period of permanent residence of the foreign national in such country is at least two years.

TYPE OF VISA/ PERMIT	DOCUMENTATION	VALIDITY	ELIGIBILITY
<b>Employment Visa</b>	<ul style="list-style-type: none"> <li>• Valid Passport</li> <li>• Two front facing, passport sized color photographs</li> <li>• Visa Application Form</li> <li>• Original Company Letter</li> <li>• Copy of Employment Contract</li> <li>• Additional Information Form</li> </ul>	1 year (can be extended up to 5 years)	<ul style="list-style-type: none"> <li>• Employment visas are granted to foreign nationals who want to come to India for the purpose of employment.</li> <li>• An employment visa is granted to a foreign national if his or her salary exceeds INR1,625,000 per year.</li> <li>• Employment visas are not granted for jobs for which a large number of qualified Indians are available to fill the position or for routine, ordinary, secretarial or clerical jobs.</li> </ul>
<b>Business Visa</b>	<ul style="list-style-type: none"> <li>• Valid Passport</li> <li>• Two front facing, passport sized color photographs</li> <li>• Visa Application Form</li> <li>• Original Company Letter</li> <li>• Certificate of Incorporation</li> <li>• Letter of Invitation</li> <li>• Business Cover Letter</li> </ul>	3 to 12 months (or more with multiple entries)	<ul style="list-style-type: none"> <li>• The following individuals are eligible for a business visa: -               <ul style="list-style-type: none"> <li>→ Establishing an industrial or business venture</li> <li>→ Exploring the possibility of an industrial or business venture, other than proprietorship firms and partnership firms in India</li> <li>→ Purchase and sale of industrial, commercial or consumer products</li> <li>→ Attending technical meetings or discussions</li> <li>→ Attending board meetings and general meetings for providing business services support</li> <li>→ Recruitment of manpower</li> <li>→ Functioning as partners or directors in a business</li> <li>→ Consultation or participation with respect to exhibitions, trade fairs or business fairs</li> <li>→ Meeting with suppliers or potential suppliers to evaluate or monitor quality, negotiate supplies, place orders and provide specifications for goods procured from India</li> </ul> </li> </ul>

- Monitoring progress on ongoing projects
- Meeting with Indian customers on ongoing projects
- Meeting to provide high-level technical guidance on ongoing projects
- Activity before and after a sale that does not amount to the execution of a contract
- In-house training at the regional hubs of a foreign company
- Foreign academicians or experts coming under the Global Initiative for Academic Networks
- Serving as a tour conductor or travel agent
- Serving as a crew member of scheduled or non-scheduled flights operated by scheduled airlines, non-scheduled and chartered flights operated by non-scheduled airlines and special flights

# 07

## VALUE ADDED TAX

### Value Added Tax

- India introduced its Goods & Services Tax (GST) on 1 July 2017
- Indian GST is a combination of the CGST (Centre or federal governments) and SGST (state).
- The dual GST is levied with the sales price, collected by the vendor and then paid separately to the Centre and appropriate State(s).
- India operates 4 GST rates.
- Certain goods and services are also zero rated and exempt. Key rates are listed below:

VAT	
Higher Standard Rate	28%
Standard Rate	18%
Standard Rate	12%
Reduced Rate	5%
Reduced Rate	0%

# 08

## WITHHOLDING TAX

### Withholding Tax

#### Dividends

- Dividends are not subject to withholding tax.
- However, the company paying the dividends is subject to DDT

#### Interest

- Interest paid to a nonresident on a foreign currency borrowing or debt generally is subject to a 20% withholding tax, plus the applicable surcharge and cess.
- A 5% withholding tax, plus the applicable surcharge and cess, applies to certain types of interest paid to a nonresident, including interest paid on specific borrowings in foreign currency and interest on investments made by a foreign institutional investor or a qualified foreign investor in a rupee-denominated bond of an Indian company, or in a government security.
- If the interest income derived by a nonresident does not fulfill certain prescribed conditions for concessional withholding tax rates, a withholding tax rate of 30% (for individuals and entities other than a foreign company) or 40% (for a foreign company), plus the applicable surcharge and cess, will apply.

## Royalties

- Royalties paid to a nonresident are subject to a 10% withholding tax, plus the applicable surcharge and cess.
- The rate may be reduced under tax treaty.
- If a treaty applies, but the nonresident does not have a PAN, tax must be withheld at the higher of the applicable tax treaty rate or 20%; however, this does not apply if the payments are in the nature of royalties and the foreign taxpayer furnishes the prescribed documents to the payer

## Fees For Technical Services

- Technical service fees paid to a nonresident are subject to a 10% withholding tax, plus the applicable surcharge and cess.
- The rate may be reduced under tax treaty.
- If a treaty applies, but the nonresident does not have a PAN, tax must be withheld at the higher of the applicable tax treaty rate or 20%; however, this does not apply if the payments are in the nature of technical service fees and the foreign taxpayer furnishes the prescribed documents to the payer

WHT	
<b>Dividends</b>	0%
<b>Interest: -</b>	
Nonresident	20%
Nonresident (reduced rate)	5%
<b>Royalties: -</b>	
Nonresident	10% 20%
<b>Technical Service Fees: -</b>	
Nonresident	10%
If treaty applies and nonresident does not have PAN	20%



# 09

## TERMINATION

- Any termination needs to comply with federal and state law because these laws supersede contract provisions.
- Thus, contract provisions need to be compatible with the law.
- State laws (enshrined and linked to the Shops and Establishment Act) are particularly important when no defined procedure for termination exists or there is a dispute in the interpretation of those procedures.
- An employee is considered terminated at the conclusion of such a contract, unless a new contract is offered or the clauses in the initial contract are amended.
- Employees in India who are terminated by employers are often given a notice period or payment of wages in lieu thereof.
- In the case of terminations where the employee has been with the company for at least two years and the reason for termination is redundancy, a severance package is calculated:
  - it depends on the duration of employment, performance, and salary level.
- Wrongful termination, or not following due process as defined by the respective state and federal laws, will result in legal punitive consequences for the employer.
- In addition, the courts may order the employer to pay fines and award additional compensation to an employee who was terminated.

# 10

## STATUTORY BENEFITS

- These are mandatory benefits as postulated by law
- These include probationary period, annual leave, public holidays, sick leave, maternity leave, paternity leave, overtime pay, notice period, severance pay and 13th month pay.
- Statutory benefits also include social security benefits

### STATUTORY BENEFITS

- Probationary Period
- Annual Leave
- Public Holidays
- Maternity Leave
- Paternity Leave
- Sick Leave
- Overtime Pay
- Notice Period
- Severance Pay
- 13th Month Pay
- Social Security Benefits





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