The Tax Practice Group at LUTHRA & LUTHRA provides comprehensive advice and contemporary tax solutions to its clients. Well equipped to render solution based advice on direct as well as indirect taxation issues, the inter-disciplinary team at the Tax Practice Group comprises of Lawyers, Chartered Accountants, Company Secretaries and Tax Specialists places the Tax Practice Group in a unique position to effectively guide clients on the challenging tax issues in a holistic manner.

The Tax Practice Group advises several overseas, domestic and multinational clients operating in diverse sectors including aviation, automobile, auto-ancillary industry, retail, real estate, infrastructure projects, media and entertainment, hospitality, Information Technology and investment funds.

The key highlights of the Firm’s Tax Practice are represented below in brief.

I. Direct Taxes
The Direct Tax Group has extensive experience in dealing with a wide range of international and domestic taxation issues.

International Tax Advisory
The following is a brief overview of the nature of assignments in the area of International Tax Advisory that the Direct Tax Group is routinely engaged in:

- Rendering advice on a host of cross border taxation issues, for both, inbound as well as outbound investments.
- Structuring international transactions in the most tax efficient manner to minimize tax incidence.
- Drafting and reviewing transaction documents in cross border transactions from tax perspective.
- Conducting Transfer Pricing in transactions between associated enterprises to benchmark the value of the transaction against Arm’s Length Price to be charged.
- Representing clients in transfer pricing proceedings and assisting in the preparation of Transfer Pricing documentation to ensure compliance of the Transfer Pricing Regulations.
- Representing clients in Mutual Agreement Procedures, invoked before domestic and overseas tax authorities, as an alternative to tax litigation.
- The Direct Tax Group assists in the compliance of withholding taxes and claiming foreign tax credits.

Corporate Tax Advisory
The following is a brief overview of the nature of the assignments undertaken by the Direct Tax Group in the area of Corporate Tax Advisory:

- Evaluating tax exposures under domestic tax legislation and providing holistic advisory services with respect to all domestic tax issues.
- Guiding clients in respect of special tax regimes such as SEZ, STPI, EOU, EPZ, etc., to help with clients’ decision making process of establishing operations in India.
- Preparation and filing of corporate tax returns, withholding tax returns and all other such statutory tax compliances.
- Rendering advice on structuring of remuneration packages of expatriate employees.
- Advise on the whole gamut of withholding tax provisions.
Advise on structuring foreign investments into India, including establishment of intermediary investment vehicles in tax friendly jurisdictions.

Recent Representative Matters:

- Rendering ongoing advisory services to leading private equity funds on matters including fund structuring, management company structure, establishment of Indian advisory entity, etc.
- Assisted various leading private equity funds in structuring investments in Indian investee entities.
- Advising a major Britain headquartered multi-national corporation on all its tax matters and representation of the client before tax authorities and appellate authorities.
- Assisted a major media company in structuring its overseas private placement to a US entertainment and media conglomerate.
- Represented a leading domestic FMCG company in the search proceedings initiated against it, successfully contested the case at appellate authority level. Also rendered advisory services to the client on various direct tax matters.
- Advising a leading infrastructure group including representing it before tax authorities. Successfully contested an appeal before the Income Tax Appellate Tribunal in the client’s claim of depreciation.
- Advising a leading publicly traded third party Business Process Outsourcing service provider in all its tax matters since inception including representation before the tax authorities and appellate authorities.
- Advising and representing a large third party Business Process Outsourcing service provider since inception in all its tax matters and litigations.
- Advising a leading US University in its proposed joint venture with an Indian healthcare group.
- Assisted a leading scheduled commercial airline with tax structuring in connection with the acquisition of aircraft.
- Assisted many multi-national corporations who were rendering services and making supplies to major oil and natural gas exploration entities like ONGC, GSPC, etc.
- Advised entities like RAS GAS, Petronet LNG, etc. on various direct tax related issues.
- Advised an Australian University in its proposed franchise arrangement with an Indian educational institution.
- Advised a multinational high-technology group specializing in photo sensor technology in structuring the transaction of supplying equipments and upgradation of technology to a Ministry of Defense Enterprise for manufacturing of high-end defense products for the purpose of supply to the Indian Army.
- Rendering ongoing advisory services to a leading private equity fund on matters including group restructuring.
- Providing advisory services to a major investment company in relation to divestment of its stake in Indian companies.
- Structuring of not for profit initiatives undertaken by a leading Indian infrastructure group.
- Advised on the tax implications in connection with the proposed joint venture between a leading Indian Company (with its presence in various industry sectors) and a major coffee company having a worldwide presence for setting up retail outlets.
- Advised a global pharmaceutical major in the merger of two of its listed subsidiaries including conduct of due diligence.
- Assisted an Indian infrastructure major in the acquisition of an overseas coal mine.
• Successfully represented a leading Indian fast food company before the appellate authorities and obtained positive rulings. Also advised it on various domestic and international tax issues pertaining to its overseas forays.

• Successfully represented an Indian listed infrastructure company before the appellate authorities and obtained positive rulings. Also advised the company on a number of direct tax issues on a regular basis.

• Advising one of the largest luxury goods providers on a number of direct tax related issues including matters pertaining to Transfer Pricing and representation before tax and appellate authorities.

• Advised a leading trader of medical diagnostic equipments on a number of direct tax related issues.

• Advised one of the leading Indian listed companies operating in the entertainment sector to acquire state of the art theatre systems from a reputed global manufacturer.
Indirect Taxes

The principal Indirect Taxes in India are Customs, Service Tax, Central Value Added Tax (CENVAT, also called Central Excise) and VAT / Central Sales Tax (CST). The Indirect Tax Group is well versed in respect of all these taxes. The Group also has extensive experience in dealing with issues related to the Foreign Trade Policy and issues related to Special Economic Zones (SEZ). The Indirect Tax Group extensively works with major domestic and overseas corporations.

✦ Indirect Tax Advisory and Legal Review

The following is a brief overview of the nature of assignments handled by the Indirect Tax Group:

- Rendering advice on indirect tax implications of domestic as well as cross border transactions, including imports and exports of goods and services.
- Advising regarding structuring of transactions so as to optimise tax efficiency and mitigate risk.
- Drafting and reviewing agreements and transaction documents in respect of domestic and international transactions, from the indirect tax perspective.
- Representing clients before tax authorities at the policy-making level as well as the field-level administration.
- Evaluating indirect tax exposure in respect of both Central and local levies, and providing comprehensive advisory services pertaining to all indirect tax issues.
- Conducting legal review of the business of clients with a view to evaluate the level of compliance with indirect tax regulatory laws, and to afford practical advice regarding optimising the incidence and burden of indirect taxes.
- Advising clients on matters pertaining to Foreign Exchange Management Act, 1999 (FEMA) including representing many of such clients before the Enforcement Directorate.
- Representing clients before the Enforcement Directorate on matters falling under the scrutiny of The Prevention of Money Laundering Act, 2002 (PMLA).
- Guiding clients in respect of availment of export incentives like refunds/rebates/drawback/duty credit, and offering advice regarding export schemes such as SEZ, STPI, EOU, EPZ.
- Assisting clients in preparing refund / rebate applications under relevant legislations and following up till the Appellate Stage.
- Representing Indian user-importers, overseas exporters and domestic industry in Anti Dumping and Safeguard Duty Matters.
- Undertaking consultancy and research studies for the Government of India and other clients regarding international trade issues, including WTO and TRIPS.
- Advising domestic and overseas clients regarding indirect tax and trade related laws and regulations, and assisting clients in compliance matters on highly selective value-added basis.

✦ Recent Representative Assignments:

- Advised a German apparel manufacturer to structure its transactions with an Indian associate to optimize Customs duties and VAT exposures.
- Advised a major manufacturer of mobile handsets in respect of valuation of their imports into India from the Customs point of view as the transactions involve transfer pricing between related persons.
- Assisted an American direct selling giant on the appropriate structure for entry into the Indian FMCG market and subsequently assisted the Joint Venture formed in obtaining appropriate registrations under various Indirect Tax legislations. Also represented them before the Government.
- Advised an American manufacturer of aircraft and defence related equipment on indirect taxation aspects relevant to client’s operations in India.
- Advising and assisting a Chinese Auto Industry Client in setting up of its manufacturing facilities in India and obtaining necessary approvals and registrations.

- Advised a multinational steel major on issues related to their imports into India, including advice on matters related to Customs duties, Exchange Control Regulations and Foreign Trade Policy.

- Advised an Indian Multi-brand Automobile Sales and Service Network Company on Indirect Tax implications on various business transactions including advisory on Customs, Central Excise, impact of Standard of Weights and Measurements Act and rules made there under, VAT / CST and Service Tax.

- Advised one of the world’s largest manufacturers of alcoholic beverages in relation to valuation of their imports into India from the Customs perspective.

- Advised and assisted major International offshore drilling Company (Oil and Gas) in addressing issues pertaining to classification of taxable services raised by the concerned Department of the Central Government and providing related litigation support before various appellate stages.

- Advised a major offshore pipelay and subsea construction companies in the world on Service Tax implications and subsequently representing them before the concerned Department of the Central Government on issues raised by the latter with respect to classification of taxable services.

- Advised a major media company in India on classification of services (under the Service Tax legislation) especially on account of transfer of Intellectual Property pursuant to a Scheme of Demerger.

- Advised a major Entertainment Company in India on preparation and filing Revision Application before the Central Government to allow Customs Duty Drawback as per the relevant provisions of the Customs Act and the Rules made thereunder.

- Advised an Indian Company intending to operate an online game portal on classification of services.

- Representing a multinational bank before the Enforcement Directorate on matters pertaining to Foreign Exchange Regulations.

- Representing world’s largest restaurant company before Enforcement Directorate in relation to activities carried out by the restaurant company in India.

- Advising a world leader in advanced materials technology on various indirect tax implications on its proposed transactions in India. Also, majorly assisting the company in representing matters before various appellate authorities on issues pertaining to Service Tax.

- Advised a domestic Entertainment Company in preparing and filing Revision Application before the Central Government to allow Customs Duty Drawback as per the relevant provisions of the Customs Act and the Rules made thereunder.  

- Advised an Indian Company intending to operate online game portal on classification of services.

- Representing a multinational bank before the Enforcement Directorate on matter pertaining to issuance of external commercial borrowings (ECBs).  

• Advising a leading manufacturer of integrated power systems for use on land, sea and air in matters pertaining to its India operations from an indirect tax perspective. Also assisting them with litigation support at various appellate stages.

• Advising the Indian subsidiary of a major American Educational Institution on indirect tax aspects on account of proposed transactions for providing infrastructure support and knowledge-ware.

• Successfully representing one of India’s largest chemical manufacturers before the Directorate General of Foreign Trade on issues pertaining non-fulfilment of license conditions under the Foreign Trade Policy bringing the demand from INR 12.3 crores to NIL.

• The Indirect Tax Group is advising several IT majors operating under the 100% EOU scheme and the STPI scheme in relation to their obligations and benefits under the schemes of the Ministry of Commerce. The Group has also advised such companies in preparing cases for refund / rebate where the services are being exported; many of which have either been confirmed or are pending at the Appellate Stage.

The Indirect Tax Group has advised a large pharmaceutical company on the tax implications related to their acquisition of an Indian manufacturing facility.

• Tax Diligence undertaken in the integration process of the business of two major pharmaceutical companies.

• Advised a major pharmaceutical company in its proposal to introduce a new line of business into India by way of setting up manufacturing units in India. The assignment included analysis of detailed transaction specific indirect tax implications along with a cost benefit analyses to assist the company to determine the viability of conducting such business in India.

• Advised Indian arm of a leading global luxury brand on valuation aspects; both, from the Customs and Central Excise perspective. Issue was satisfactorily resolved as no further action was initiated.

• Provide health-check services to a pharmaceutical company which enabled the company to identify the potential areas for improvement of internal systems and processes with respect to tax compliances.

• Successfully represented a major Life Insurance company before the Tribunal in its pending litigation matters pertaining to Service Tax involving a total liability in excess of INR 1 Billion which was reduced to Rs. Nil. Also assisted the company in a couple of other litigations dealing with similar issues wherein substantial relief was obtained from the relevant authorities.

• Advised a major international fashion apparel company on Excise matters.

• The Indirect Tax Group is advising several multi-national companies engaged in oil exploration and drilling operations at on-shore as well as off-shore locations with regard to Service Tax implications of their operations including classification of services under the Service Tax legislation. The Indirect Tax Group has also advised the on-shore operators on matters related to VAT / CST.

• The Group has also assisted numerous companies in obtaining fresh registrations or making amendments to existing registrations under various indirect tax legislations.

• The Indirect Tax Group has wide experience of advisory in the area of Service Tax, and has advised is advising clients in diverse fields, including infrastructure, real estate, hospitality, Information Technology, media and entertainment, advertising, retail trade, management consultancy, education, automobile, auto-ancillaries, airlines and shipping industries.

• Members of the Indirect Tax Group have participated in the policy making of the Government of India and have extensive experience in undertaking legislative work, particularly in the areas of Customs, CENVAT and Service Tax.
II. **Tax Litigation**

- The Tax Practice represents tax matters involving international tax and domestic tax issues before all judicial and quasi-judicial authorities. We represent and brief such matters from the assessment level till the court of last appeals.

- The experience of Tax Practice encompasses all aspects of the tax litigation process, including the drafting of appeals, petitions, briefs, written submissions and other pleadings. The multi skilled associates of the Tax Practice, from the legal and the accounting background help to blend both aspects involved in a tax litigation so as to represent the best case before the judicial authorities such as Customs Excise & Service Tax Appellant Tribunal (CESTAT), Income Tax Appellant Tribunal (ITAT), Authority for Advance Rulings (AAR), Hon’ble High Court and Hon’ble Supreme Court of India.

- Members of the Direct Tax Group have been appearing before the Tax Authorities and Appellate fora at all levels including the Commissioners of Income Tax (Appeals), Income Tax Appellate Tribunal over the last many years and have successfully represented the clients operating across multiple industries.

- Members of the Indirect Tax Group have wide experience of appearing before the Customs Excise and Service Tax Appellate Tribunal (CESTAT). Collectively, the members of the Firm have appeared before the CESTAT in over 100 matters inter alia involving disputes related to valuation and classification of goods for the purpose of determining the applicable Customs duty, cases involving violation of the provisions of the Customs Act or the Foreign Trade Policy, valuation and classification for CENVAT purpose, disputes related to the CENVAT credit scheme and matters related to valuation and classification of services for the purpose of determining their liability towards Service Tax.
Representative List of Clients

- Abbott Group
- Alere Medical Pvt. Ltd.
- Aman Resorts
- Andrew Telecommunications India Pvt. Ltd.
- Annik Technologies
- Apollo Industries
- Apollo Tyres
- Arcelor Mittal
- Ballarpur Industries
- Baring Group
- Beijing West
- Benetton
- Bharti Walmart Private Limited
- Carnation
- ChrysCapital Group
- Converse
- Convergys
- CX Partners
- Elcoteq Electronics India Private Limited
- EXL Group
- Fargo Estates
- General Dynamics Aerospace Group
- Global Infrastructure Partners
- Global Vantedge Private Ltd.
- G M Modi Hospitals
- GMR Group
- Hewlett Packard
- IL&FS Group
- Jaiprakash Associates Limited
- Johnson Matthey
- Jubliant Foodworks Kingfisher Airlines
- Lockheed Martin
- Max Healthcare Limited
- Max New York Life Insurance Co. Ltd.
- Max Ventures Limited
- Moser Baer
- Noida Toll Bridge Company Limited
- Nokia
- Perot Systems
- Photonis
- PVR Cinemas
- Quatro Group
- Radcliffe
- Rolls Royce Group
- Sapient
- Sequoia Group
- TATA Group
- Trinity College
- UB Group
- Wipro
- Yum Foods