



Goods and Services Tax Alert

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GST Bills (CGST, IGST, UT-GST and Compensation) passed in the Lok Sabha

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In this issue:

[Highlights of GST Bills passed by the Lok Sabha on 29 March 2017](#)

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Passage of GST Bills in the Lower House of the Parliament i.e. Lok Sabha

- Lok Sabha has passed 4 GST bills - the Central Goods and Services Tax Bill, 2017 (CGST Bill), the Integrated Goods and Services Tax Bill, 2017 (IGST Bill), the Union Territory Goods and Services Tax Bill, 2017 (UTGST Bill) and the Goods and Services Tax (Compensation to States) Bill, 2017 on 29 March 2017.
- Various changes have been introduced into the GST Bills vis-à-vis the draft Model GST laws (which were introduced in November 2016). Key changes are highlighted below:

CGST Bill

Definitions

- The term "drawback" has been defined. The definition is in line with the current Drawback Rules prescribed by Customs laws.
- Definition of "voucher" has been inserted to mean "an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument".
- By virtue of rearrangement of words in the definition of "works contract" under Section 2(119) of the CGST Bill, only such works contract which are in relation to immovable property appears to be covered.
- The definition of 'India' has been amended to exclude installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purpose of prospecting or extraction or production of mineral oil and natural gas.
- Definition of 'manufacture' has been inserted to mean processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use.
- In addition, certain other definitions (including those of agriculturist, Government, registered person etc.) have been inserted / amended.

Supply & Levy

- Schedule I has been amended to exclude gifts by employer to employee, for an amount not exceeding INR 50,000, in a financial year from the ambit of GST.
- Schedule III which provides for activities not to be treated as goods or services has been amended to include:
 - Actionable claims other than lottery, betting and gambling
 - Constructed building - where the entire consideration is received after issuance of completion certificate
 - Sale of land
- The Government, on the recommendation of the GST Council, may (by notification) increase the threshold limit for persons opting for composition scheme from INR 50 lakhs to INR 1 crore.

- Tax rates applicable to persons opting for composition scheme are as under:
 - Manufacturers — 1% of turnover in state / Union Territory
 - Composite supply involving food (restaurant services etc.) — 2.5% of turnover
 - Other suppliers — 0.5% of turnover
- With respect to time of supply of services, when invoice is not issued within the prescribed time, the time of supply of service would be date of provision of service or date of receipt of payment, whichever is earlier.
- In case of addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration, the time of supply shall be the date on which the supply receives such addition in value.

Tax Invoice

- If advance payment is received but subsequent supplies are not made, refund voucher shall be issued by the supplier.
- Payment voucher to be issued at the time of making payment to supplier in case of payments made under reverse charge.

Returns

- A registered person shall not be allowed to furnish details of outward supplies from 11th to 15th of the month succeeding the tax period.
- A registered person shall not be allowed to furnish a return for a particular tax period if returns for the previous tax periods have not been furnished.

TDS & TCS

- TDS may be deducted on the contracts where total value of supply exceeds INR 2.5 lakh (reduced from 5 lakh) by the persons or category of persons as may be notified by the Government on the recommendations of the Council.
- E-commerce operators are required to collect tax at a rate not exceeding 1%.
- E-commerce operators shall be required to furnish an annual statement containing details of outward supplies effected through them before 31 December following the end of relevant financial year.

Input Tax Credit

- If payment is not made by recipient to supplier of goods and services within 180 days from the date of issue of invoice, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with applicable interest. Previously, in Draft Model GST laws, the period prescribed was 3 months. Once the payment is made to the supplier, recipient shall be entitled to re-avail the credit.
- The value of exempt supply (for the purpose of calculation of ineligible input tax credit) shall include the value of transaction in securities, sale of land and constructed building in addition to taxable supplies on which reverse charge is applicable.
- Restriction of 50% on credit availability for banking companies shall not apply in case supplies are made between branches registered under same PAN.
- ITC can be availed on rent-a-cab, life insurance and health insurance services in case a person makes an outward supply of the same category of services.
- Definition of 'plant and machinery' has now been amended to exclude telecommunication towers and pipelines laid outside the factory. Resultantly, credit will not be available on construction of telecommunication towers and pipelines laid outside the factory.

Transition Provisions

- In order to carry forward CENVAT Credit, certain additional conditions have been prescribed, namely:
 - the person should have furnished returns for a period of 6 consecutive months immediately preceding the appointed date i.e. the date of implementation of GST
 - Credit should not relate to any goods manufactured and cleared under any exemption notification

IGST BILL

- Supply of goods/services shall be treated as supply in the course of inter-state trade, where the location of the supplier and the place of supply are in:
 - Two different states
 - Two different Union Territories
 - A state and a Union Territory
- Where the supplier is located in territorial waters or the place of supply is 'territorial waters', then the location of such supplier/place of supply shall be deemed to be the coastal state or Union Territory where the nearest point of the appropriate baseline is located.
- A registered person making supplies to SEZ Unit / developer (zero rated supplies) would be entitled to claim refund under either of the following options:
 - Refund of unutilised ITC availed for effecting exempted supplies (under bond or undertaking); or
 - Pay IGST on supplies and claim refund of tax paid.

UT-GST Bill

- Union Territory GST Bill has been newly introduced and shall be extended to the Union Territories of Andaman & Nicobar Islands, Lakshadweep, Dadra & Nagar Haveli, Daman and Diu, Chandigarh and other territory.
- Majority of the provisions of CGST Bill shall apply in the same manner to UTGST Bill.
- Credit under UTGST shall be first utilised towards payment of UTGST and then towards payment of IGST. CGST credit cannot be utilised towards payment of UTGST.

Common Provisions

- CGST and IGST rate cap has been increased to 20% and 40% respectively.
- CGST and IGST shall not be levied on alcoholic liquor on human consumption. CGST and IGST shall be levied on supply of petroleum crude, HSD, petrol, natural gas and ATF from a date to be notified based on recommendation of the Council.
- CGST and IGST shall be payable by the registered person under reverse charge mechanism on receipt of taxable goods or services from unregistered supplier.
- Interest on delayed payment of taxes would be applicable at a rate not exceeding 18%.
- Interest in case of excess claim of input tax credit or excess reduction in output tax liability would be applicable at a rate not exceeding 24%.

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