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## Goods and Services Tax Alert

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Model Goods and Services Tax Law Issued by the Empowered Committee of State Finance Ministers

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# Background

- The Empowered Committee of State Finance Ministers has issued model Goods and Services Tax (GST) law comprising draft GST Act, 2016, Integrated Goods and Services Tax, Act 2016 (IGST Act) and GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016.
- The draft law provides for the broad architecture under the new regime including provisions related to definition of supply, person liable to pay tax, levy and collection of Central GST, State GST, Integrated GST, input tax credit.
- It also sets out provisions relating to exemptions, refunds, compliance requirements, powers of the officers, offences and penalties, transition provisions etc.

## Important Features of Model GST Law in brief

### Definition of 'supply' includes

- a. all forms of supply of goods and/or services like sale, transfer, barter, exchange etc., made or agreed to be made for a consideration, by a person in the course or furtherance of business;
- b. import of service (whether or not for a consideration and whether or not in the course or furtherance of business);
- c. other specified activities mentioned under Schedule - I of the draft GST Act to be treated as 'supply'.

Schedule inserted to provide for clarification in case of transactions that carry characteristic of both goods and services, to be classified as provided.

Powers given to Central and State Government to notify transactions to be treated as either supply of goods or supply of services. It may also notify the transactions to be treated as neither a supply of goods nor a supply of service.

- Provisions related to levy and collection of CGST/SGST/ IGST are prescribed along with provisions for composition levy scheme for registered persons having turnover not exceeding INR 5 million;
- Threshold limit for obtaining registration – INR 0.9 million for all persons (0.4 million for persons conducting business in North Eastern States of India);
- Threshold limit for payment of tax – INR 1 million for all persons (0.5 million for persons conducting business in North Eastern States of India);

### Time of supply

Event	Time of Supply		
For supply of goods			
Normal supply of goods	Earliest of : <ul style="list-style-type: none"> <li>• Date on which goods are removed by the supplier (where goods are required to be removed)</li> <li>• Date on which goods are made available to the recipient (if goods are not required to be removed such as installed/ assembled goods)</li> <li>• Date on which supplier issues the invoice</li> <li>• Date on which supplier receives the payment</li> <li>• Date on which the recipient shows the receipt of goods in its books of account</li> </ul>		
Continuous supply of goods	Where successive statement of accounts or successive payments are involved then the period to which such statements/ payments relate. Otherwise, date on which invoices is issued or payment is received, whichever is earlier.		
For supply of services			
Supply of services	If invoice is issued within the prescribed period:  Date of issue of	If invoice is not issued within prescribed period: Date of completion of provision of service or the date of receipt of	In other cases : the date on which the recipient shows the receipt of services in its

	invoice or the date of receipt of payment, whichever is earlier	payment, whichever is earlier	books of account
Continuous supply of services	<ul style="list-style-type: none"> <li>• Where due date of payment is ascertainable from contract, the date on which the payment is liable to be made</li> <li>• Where due date of payment is not ascertainable from contract, each time the payment is received or invoice is issued by the supplier, whichever is earlier</li> <li>• Where payment is linked to completion of an event, the time of completion of such event</li> </ul>		
For reverse charge (goods and services both)			
Reverse charge	Earliest of the following: <ul style="list-style-type: none"> <li>• Date of the receipt of goods/services;</li> <li>• Date on which the payment is made;</li> <li>• Date of receipt of invoice;</li> <li>• Date of debit in the books of accounts</li> </ul>		

### Value of supply

a. To be the transaction value of goods/services, i.e. the actual price paid or payable, where both the parties are not related and the price is the sole consideration for the transaction.

The transaction value would also include:

- i. amount incurred by the recipient but to be paid by the supplier and not included in the price;
- ii. free of charge or concessional price supplies by the recipient;
- iii. royalty or license fees related to the supply payable by recipient and not included in the price;
- iv. taxes, duties, fees incidental expenses (commission/ packing), subsidies, reimbursement, discount/ incentive allowed after effecting the supply (except in cases where post-supply discount is as per agreement & known at the time of supply and normal trade discounts ).

## Place of supply (POS)

- a. Detailed POS provisions incorporated in the draft Integrated GST Act;
- b. Separate POS for goods and services;
- c. The location of recipient of supply to be generally considered to be the POS;
- d. However, detailed provisions prescribed for determining POS in case of specified goods and services such as event based services, telecommunication services, transportation of goods, etc.

## Input tax credit

- a. Mechanism of claiming input tax credit provided including provisions related to input service distributor;
- b. Input tax credit available up to one year from the date on which tax invoice is issued;
- c. Certain supplies on which input tax credit is either restricted to certain categories of suppliers or not available are specifically provided such as outdoor catering, healthcare services, life insurance, health insurance etc., where primarily for personal use or consumption by any employee.

## Registration

- a. Every person shall obtain registration within 30 days from the date registration becomes due;
  - b. It is not necessary for a person, other than input service distributor, registered under an earlier law, to apply for fresh registration. Migration of existing registration(s) provided under the transitional provisions;
  - c. For a person having multiple business verticals in a State, option of obtaining separate registration for each vertical available (subject to conditions);
  - d. Option of voluntary registration available;
  - e. Provisions related to amendment, cancellation and revocation of cancellation of registration also included.
- Requirements of tax invoice and credit notes/ debit notes prescribed;
  - 'Tax period' is defined as period for which the tax return is required to be filed;

## Returns & payment of tax

- a. Details of outward supplies of goods/services effected during the tax period shall be required to be furnished electronically by 10<sup>th</sup> day of the month succeeding the tax period;
- b. Details of inward supplies of goods/services received during a tax period to be furnished electronically by 15<sup>th</sup> day of the month succeeding the tax period;
- c. Return pertaining to tax deducted at source shall be required to be filed electronically by 10<sup>th</sup> day after the end of such month;
- d. Monthly return of outward and inward supplies, including details of input tax credit availed shall be required to be filed electronically by 20<sup>th</sup> days after the end of such month;
- e. Annual return to be filed by 31<sup>st</sup> December following the end of such financial year;
- f. Manner and form of furnishing the details and returns to be prescribed;
- g. Fee for late furnishing of return prescribed;
- h. Payment of tax shall be required to be made not later than the last date on which return is required to be furnished, through the payment modes and procedures as prescribed;
- i. Provisions for deduction of tax at source @ 1% incorporated under the draft GST Act;

## Electronic Commerce

- a. A separate chapter on 'electronic commerce' is provided under the draft GST Act which broadly covers the concepts of aggregator and e-commerce operator;
- b. It also provides for collection of tax at source by the aggregator and e-commerce operator from the payments made to suppliers at the prescribed rate.

## Refunds

- a. Application for claiming refund of any tax and interest to be filed before expiry of 2 years from the relevant date;
- b. Refund of unutilized credit in cases of exports and inverted duty structure can be claimed;
- c. The principle of ' unjust enrichment' retained;
- d. Mechanism of provisional refunds in case of export of goods/services allowable with relaxed documentary requirements for claims below INR 0.5 million;
- e. Period of 90 days prescribed for disposal of refund applications;

### Miscellaneous provisions

- a. Provisions relating to liability under special cases such as transfer of business, amalgamation/merger of companies, liquidation, liability of guardians/trustees, etc. prescribed;
- b. National Goods and Services Tax Appellate Tribunal shall be constituted and appeals against the orders passed by the first appellate authority may be filed before the Appellate Tribunal;
- c. Transitional provisions to deal with identified issues such as provisions for migration of existing taxpayers to GST, pending refund claims, treatment of un availed credit, treatment of long term contracts, etc. are stated;
- d. Provisions for offenses & penalties are incorporated;
- e. Provisions for demands & recovery of tax not paid, short paid or erroneously refunded included.

### GST Compliance Rating

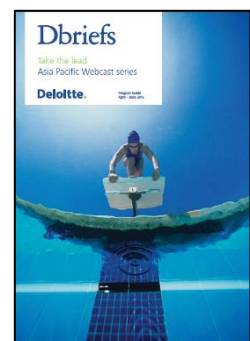
- a. Every taxable person shall be assigned a GST compliance rating score based in on his record of compliance with the provisions of this Act;
- b. Parameters for determining the score to be prescribed;
- c. Score shall be updated at periodic intervals and also placed in the public domain ;

Source: Model GST law issued by Ministry of Finance

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