



June 2017

Indirect Taxes

Goods & Services Tax (GST)

The Government is set to roll out GST or Goods & Services Tax (GST) from July 1, 2017. While there are certain areas pending for clarification and explanations, we tried consolidating some of the key things in a summarized manner.

Goods and Service Tax (GST) is one of the most significant tax reforms introduced in the history of the Indian fiscal evolution. With a singular impact on the economic growth of the country and the way business is done in India, it is expected to achieve the following:

- ✓ Convert India into one market by seamless flow of tax credits
- ✓ Multiple taxes to be replaced by singular tax making compliance easier
- ✓ Number of tax rates to be reduced substantially
- ✓ Uniform Compliance process (singular IT portal bring transparency in operations)
- ✓ Dual GST structure (Goods & Services will be taxed by both the Governments)
 - Unlike today when services are taxed by the Central Government, sale of goods is taxed by the States while the manufacturer is taxed only by the Central Government, GST will allow equal opportunity to the Centre and the State to tax all supplies of Goods & Services. In this respect, it establishes the truly federal character of Indian fiscal system.
 - Central GST and State GST (or Union Territories GST) shall be levied on Intra-State supplies (within one State supplies)
 - Integrated IGST (GST) shall be levied on inter-State supplies (from one State to another) shall be levied by the Central Government, proceeds of which will be shared by the Central and the recipient State Government.
- ✓ **Input Tax Credit:** GST is a tax on the supply of Goods & Services in the country. It is essentially a tax only on the value addition at each stage and a supplier at each stage is permitted to avail set-off, through an input tax credit mechanism i.e. the tax paid on the purchase of Goods & Services is available for set-off against

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the tax to be paid on the supply of Goods & Services. Further, inter-state seller may utilize the input tax credit of IGST, CGST and SGST on his/her purchases to pay IGST.

GST, is expected to bring a significant shift from origin-based taxation to a destination-based tax structure. This 'Destination based tax' is likely to impact not only the operating business models but also the revenues of the Centre/States. It has the potential to impact cash flow, pricing, working capital, supply chain and IT systems and hence provides an opportunity to transform your business.

While we have tried incorporating most of the important aspects of GST in the document, however the document is not an exhaustive one. Please feel free to connect with CA Dhairya Kenia at below mentioned co-ordinates for doubts or clarifications (dhairya@cagosar.com / +91 9819 265 171).

1. What is Goods & Services Tax (GST):

Goods & Services Tax is a comprehensive, **multi-stage, destination-based** tax that will be **levied on every value addition**. GST will be levied on each of the stages, which make it a multi stage tax. GST is destination based Consumption Tax.

GST is One Tax for All Manufacturing, Trading & Services.

2. Benefits of GST

- ✓ Reduction in Cascading Effect of Taxes (cross set off GST on Goods & Services allowed).
- ✓ Double taxation (Excise + VAT + Service Tax) is avoided
- ✓ Overall Reduction in Price
- ✓ Common National Market
- ✓ Ease of Doing Business
- ✓ Reduction in multiplicity of taxes



- ✓ Simpler Tax Regime -Fewer rates and exemptions
- ✓ Uniformity in Tax rates and returns –all States
- ✓ System based check –registration, return, refund.

3. Features of GST:

- ✓ The GST would be applicable on the supply of goods or services.
- ✓ The GST would apply on all good or services or both other than alcoholic liquor for human consumption and petroleum products.
- ✓ Destination based consumption tax.
- ✓ Exports would be tax-free
- ✓ Imports taxed as Custom Duty plus Integrated GST (IGST)
- ✓ Seamless flow of credit (Inter-State Purchases will become easier and cheaper)
- ✓ HSN code shall be used for classifying the goods and Service Accounting Codes (SAC) shall be used for Services under the GST regime.

4. Rates under GST:

- ✓ GST at 0% on essential items, rice/wheat etc.
- ✓ GST at 3% on Gold
- ✓ GST at 5% on items of mass consumption
- ✓ GST at 12% or 18%:(standard rates covering most manufactured items and Services)
- ✓ GST at 28% on Consumer Durable Goods, Pan Masala, tobacco, aerated drinks etc.

(Please refer to Item wise detailed rate list approved by GST Council from time to time for the applicable GST rates for Goods & Services supplied).



5. Tax Structure under GST:

GST will be levied on Goods & Services. It will replace all the various taxes and bring them under one umbrella to make compliance easier.

GST will replace (subsumed) the following Taxes currently levied and collected

- ✓ Central Excise Duty & Additional Excise Duty
- ✓ Additional Duties of Customs (commonly known as CVD)
- ✓ Special Additional Duty of Customs (SAD)
- ✓ Service Tax
- ✓ Central Sales Tax (CST) & Surcharges
- ✓ Central Cess
- ✓ State VAT / Sales tax
- ✓ Entertainment and Amusement Tax (except when levied by the local bodies)
- ✓ Luxury Tax
- ✓ Taxes on lotteries, betting and gambling
- ✓ Octroi (entry tax) / Local body tax

GST will **not** replace the following Taxes

- ✓ Tax on Electricity
- ✓ Stamp Duty
- ✓ Profession Tax
- ✓ Road Tax & Toll Tax

6. Who is liable to take Registration under GST?

- ✓ Compulsory Registration for each State where business is situated.
- ✓ Person Liable to be registered
 - Every person who is **registered under existing indirect laws** being subsumed in GST



- Every person whose annual **Aggregate turnover**¹ exceeds ₹ 2,000,000 (For special category States ₹ 1,000,000 mainly North-Eastern and Hill States).
- **Voluntary registration** are permitted even if no liability.
- ✓ Person requires to register Compulsorily for all the below mentioned cases
 - Persons making inter-state supplies
 - Persons required to pay tax under reverse charge
 - Casual and non-resident taxable persons
 - E-Commerce operator/Those required to collect TDS
 - Persons supplying goods through e-commerce operator
 - Persons making supplies on behalf of a registered taxable person
 - Input Service Distributer
 - Every person supplying online information and data base access or retrieval services from a place outside India to a person in India other than a registered person.
- ✓ Registration (GSTIN) to be granted State-wise.
- ✓ PAN mandatory for GSTIN (except for Non-resident Passport holding persons)

7. Who are **not liable to be registered** under GST?

- ✓ Person engaged in supply of goods or services or both wholly exempt from tax or not liable to tax under GST.
- ✓ An Agriculturist to the extent of supply of produce out of cultivation land

¹ Aggregate Turnover for above limit shall include: All taxable supplies, Exempt Supplies, Export of Goods & Services or both, and Inter State Supplies of person having the same PAN. Aggregate Turnover shall exclude: Value of Inward supplies on which tax is payable on reverse charge basis, Central Tax, State Tax, Union Territory Tax, Integrated Tax & Cess.



8. What are the conditions for opting **Composition Levy under GST / Registration under Composition Scheme:**

- ✓ Who can opt for Composition Scheme
 - A registered person dealing in intra state supplies of **Goods** (i.e. No service except one) or in restaurant sector
 - Having an annual Aggregate Turnover not exceeding ₹ 7,500,000 in previous financial year.
 - Persons who are not entitled to opt for Composition Levy are
 - Person making supply of goods through E - Commerce operator
 - Person who are manufacturer of goods as may be specified by the Government on recommendation of the Council.
- ✓ **Tax Rate Applicable:** A registered taxpayer, who is registered under the Composite Scheme, will pay tax at a rate not more than **2% for manufacturer, 5% for restaurant sector and 1% for other** suppliers of turnover (to be equally divided between CGST and SGST).
- ✓ **Input Tax Credit – Not allowed:** Composition Dealer is not allowed to avail input tax credit of GST paid to their supplier. Since a Composition Dealer is not allowed to avail input tax credit, such a dealer cannot issue a taxable invoice as well. A buyer from composition dealer will not be able to claim input tax on such goods.

9. What is **supply**?

- ✓ As the taxable event under GST is **supply** of goods and/or service. The term '**Supply**' is defined under Sec. 3 of the GST Act in a very extensive manner. The broad contours of the term 'supply' are discussed below
 - All forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to



be made **for a consideration** by a person **in the course or furtherance of business**.

- All Importation of service, **for a consideration and whether or not in the course or furtherance of business**
- **Not for a consideration** cases to be treated as supplies under GST are
 - Permanent transfer / Disposal of Business Assets where ITC (input tax credit) is availed
 - Supply of Goods & Services between related parties or distinct person
 - Importation of Service from Related person for furtherance of business
- Activities specified below shall be treated as Supply like
 - Transfer of goods (including all internal transfers within an organization such as various depots / warehouses and storages)
 - Supply of any branded service by an aggregator
 - Any transfer of the title in goods
 - Treatment or process
 - Leasing of Land and/or Building
 - Transfer of business assets
 - Supply of Services including renting, construction of building
 - Composite Supply
 - Supply of Goods (including transaction between principal and commission agents/brokers etc.)

10. When liability to pay taxes arises (**Point of taxation**)

Point of taxation means the point in time when goods have been deemed to be supplied or services have been deemed to be provided. The point of taxation enables us to determine the rate of tax, value, and due dates for payment of taxes.



Under GST the point of taxation, i.e., the liability to pay CGST / SGST, will arise at the time of supply as determined for Goods & Services. There are separate provisions for time of supply for goods and time of supply for services and hence it is important to understand the classification. (E.g. All Development, design, programming, customization, adaptation, up-gradation, enhancement, implementation of **information technology software is service** and not goods)

✓ Time of Supply for Goods and Service is **earliest of:**

- Date of issuing of invoice
- Last day by which invoice should have been issued.
 - In case of Goods, Invoice should be issued at the time of removal of goods.
 - In case of services, invoice should be issued at or before the completion of service or within 30 days of completion of service)
- Receipt of Advances in excess of ₹ 1,000 (earlier of date of booking or date of credit in bank Statement)

✓ **Time of Supply under Reverse Charge:** Reverse charge means the liability to pay tax is by the recipient of goods and/or services instead of the supplier.

In case of reverse charge, the time of supply shall be the **earliest of:**

- the date of receipt of goods
- the date of payment (earlier of date of booking or date of credit in bank Statement)
- the date immediately after 30 days from the date of issue of invoice by the supplier of goods (60 days in case of services)

If it is not possible to determine the time of supply as above, the time of supply shall be the date of entry in the books of account of the recipient.



11. Why classification of **Place of Supply (PoS)** Under GST is important?

- ✓ In order to determine the levy of taxes based on PoS, following two things are considered:
 - **Location of Supplier:** It is the registered place of business of the supplier
 - **Place Of Supply:** It is the registered place of business of the recipient
- ✓ Based on PoS, Transaction of supply can be classified as
 - **Within State (Intra-State)** which attracts CGST and SGST/UTGST
 - **Between two States (Inter-State)** which attracts IGST
- ✓ Determination of PoS is very vital to decide whether the registered person has to charge CGST/SGST/UTGST/IGST.
 - If the supply of goods or services or both happen to be an **Intra-State Supply** or a supply within a Union territory, then, in such case supplier would have to charge CGST/SGST or CGST/UTGST.
 - If the supply happens to be an **Inter-State Supply** or a supply between two Union territories or between a Union territory and a State, then IGST would be leviable on the supply of goods or services or both.
- ✓ In case of **wrong classification**, the taxpayer will
 - Have to pay the correct tax along with interest for delay on the basis of revised/correct classification.
 - Where wrong taxes have been paid on the basis of the wrong classification, refund will have to be claimed.
 - Wrong classification of supply between inter-state or intra-state and vice-versa may lead to hardship to the taxpayer as per section 19 of IGST Act and section 70 of CGST Act
- ✓ Since there are different rules for determining PoS for Goods and PoS for services, one must first classify the supplies as per GST in either Goods or Services.



12. How to determine **Place of Supply** Under GST for Supply of **Goods**?

These rules are primarily meant for:

- ✓ Persons who deal in cross-border services
- ✓ Persons dealing in inter-state transactions
- ✓ Suppliers operating within India from multiple locations and supplying goods /services from different locations
- ✓ Special transaction zones like SEZ, exempted zones etc.
- ✓ To enable determination of place of levy and jurisdiction
- ✓ To ensure no double taxation by different States on same transaction
- ✓ To ensure proper tax collection by different States and enabling them to get their proper share
- ✓ To ensure proper Rules for Goods & Services separately
- ✓ Ensure seamless credit

Place of supply (PoS) rules for Goods

Where the supply involves a movement of goods	PoS shall be determined by the location of the goods at the time of final delivery.
Where the supply involves a movement of goods, on the direction of a third party , (whether as an agent or otherwise) (Bill-to Ship-to Model)	PoS shall be the principle place of business of such third party, irrespective of the place of delivery of goods.
Where the supply does not involve any movement of goods	PoS shall be the location of such goods at the time of final delivery.
Where the supply includes installation of goods at site	PoS shall be the place of such installation



Where the goods are being supplied on board a vehicle, vessel, aircraft, or a train, (on board a conveyance)	PoS shall be the first location at which the goods are boarded
Any other cases not covered above	PoS shall be determined as per recommendations from the GST council

13. How to determine **Place of Supply** Under GST for Supply of **Services**?

While in case of Goods (being tangible in nature), Location of the recipient is important to determine the classification of transaction. However, in case of services (since **mostly intangible in nature**) as defined in GST, before classification of the transaction, one should also determine both **location of the supplier of services** and **location of the recipient of services**.

✓ **Location of the provider/supplier of services:**

Transaction type / Case	Location of Supplier of Services
where a supply is made from a registered place of business	the location of such place of business
where a supply is made from a place other than registered place of business (a fixed establishment elsewhere)	the location of such fixed establishment
where a supply is made from multiple establishment (whether the place of business or fixed establishment)	the location of the establishment most directly concerned with the provision of the supply
in absence of such places (Others)	the location of the usual place of residence of the supplier



✓ **Location of the recipient of services:**

Transaction type / Case	Location of Recipient of Service
where a supply is received at a registered place of business	the location of such place of business
where a supply is received at a place other than registered place of business (a fixed establishment elsewhere)	the location of such fixed establishment
where a supply is received at multiple establishment (whether the place of business or fixed establishment)	the location of the establishment most directly concerned with the receipt of the supply
in absence of such places (Others)	the location of the usual place of residence of the recipient

The transactions in terms of supply of services can be broadly categorized as below:

✓ **Domestic Transactions**

These are the transactions where both the parties (i.e. the supplier as well as recipient of service) are in India. Domestic transactions can be further categorized as below:

- Inter-State (i.e. between two different States)
- Intra-State (i.e. within the same State)



General Rule

In general, the PoS for services will be the location of the service recipient (the recipient needs to be a registered person). In cases, where service is provided to an unregistered person, the PoS will be the:

- Location of the service recipient (if the address is available on record);
- Otherwise, location of service provider

The special cases under this classification are mentioned separately.

✓ **International Transactions**

These are the transactions where either of the service recipient or the provider is outside India. Transactions in which both the recipient as well as provider are outside India are not covered here.

General Rule

The PoS for services treated as international transactions shall be:

- The location of service recipient
- In case where the location of service recipient is not available, the PoS shall be location of the supplier.

✓ **Specific rules for determining Place of Supply for services are**

- **For an immovable property:** Where such immovable property is located or supposed to be located
- **Where both service provider and recipient are required to be physically present:** Location where service is provided.
- **In case of an event:** The location where such event was held or amusement park is located
- **Ancillary activities to the events:** If the person is registered, then his location or if the person is unregistered, then the place where the event was held



- Where the event is to be held across many States, then PoS shall be treated as all the States in which such services are being provided on a proportionate basis as per the terms of the contract. Where no such contract exists, then on a reasonable basis or as may further be prescribed.
- **Transportation of goods:** If the recipient is registered, then his location and if unregistered, then location of the goods from where they started for being delivered
- **Passenger Transportation:** If the recipient is registered, then his location and if unregistered, then location from where the passenger embarks on his journey
- **Supply of services on board a conveyance, vehicle, vessel, train or aircraft:** The first point of departure for that journey
- **Telecommunication Services :**
 - Fixed leased line, Internet leased line, cable or dish antenna: Place of installation
 - Postpaid Mobile or Internet Connection: Billing Address of the recipient of service
- **Prepaid Mobile or Internet Connection:** Location where such pre-payment was made or vouchers are sold
 - When such a recharge is made through Internet Banking or E-Wallets, then the PoS of service shall be the address of the recipient as on the record with the service provider.
- **Banking or Financial Institutions to account holders:** Location of the recipient of the services as per record of the provider
- **Banking or Financial Institutions to non-account holders:** Location of the supplier of service



- **Insurance:** If the person is registered, then his location or if the person is unregistered, then the location of the recipient as per records of the service provider.
- **Restaurant, catering, personal grooming, beauty treatment, fitness and health services, cosmetic or plastic surgery:** Location where the service is provided

In all the above cases, where the location of the recipient cannot be identified, which is generally the fixed establishment or registered office of the recipient, then the usual place of residence of the recipient shall be treated as the location of recipient.

14. What is the Value at which GST has to be paid?

- ✓ If the supplier & the recipient are not related & Price is the sole consideration, Value would be the price actually paid or payable. (Transaction Value)
- ✓ If the supplier & the recipient are related & Price is not the sole consideration, would be determined as per the Valuation rules of GST.
- ✓ Value of Supply includes
 - Price Actually paid or payable
 - Taxes other than GST
 - Payments borne by the recipient
 - Incidental Expenses like Commission, Packing Insurance
 - Interest or late fee or penalty for delayed payment
 - Subsidies directly related to price except provided by the Central or State Government
- ✓ Value of Supply excludes
 - Discounts which is included in invoice



15. What is manner in which Input Tax Credit (ITC) can be availed?

CGST - Against CGST & IGST

SGST - Against SGST & IGST

IGST - Against IGST, CGST & SGST

CGST & SGST cannot be set off against each other

16. What are the conditions for availing Input Tax Credit (ITC)?

- ✓ ITC Charged on supply of goods or services or both should be used or intended to use in the course or furtherance of business.
- ✓ Person claiming ITC should have proper Tax Invoice, Debit Note or Supplementary Invoice.
- ✓ Person claiming ITC should have received Goods and/or Services.
- ✓ Tax has been paid to credit of appropriate Government.
- ✓ Person claiming ITC has furnished GST returns.
- ✓ Payment to supplier of goods or services should be done within 6 months.
- ✓ No ITC can be claimed after the due date of filing September Return of next year or Date of filing annual return whichever is earlier.
- ✓ **What are the restrictions for availing ITC?**
 - Motor Vehicles
 - Food & Beverages, Outdoor Catering, Beauty Treatment, Health Services, Cosmetic & Plastic Surgery
 - Membership of Club, Health & Fitness Centre
 - Rent a cab, Life Insurance and Health Insurance
 - Works Contract Services used for construction of Immovable Property. (other than plant & machinery OR when used for further supply of Works contract service)
 - Goods & Services used in construction of immovable property on his own account



- Goods & Services used for personal consumption
- Goods lost, stolen or destroyed, written off or disposed-off by way of gift or free samples

17. Whether any tax have to be paid by the Principal on dispatch of inputs and / or capital goods to the job worker?

No tax needs to be paid when inputs or/and capital goods are send to job worker, but with certain conditions as follows:

- ✓ Intimation is required to be given for sending goods for Job Work. (It seems intimation of details in monthly return is sufficient)
- ✓ Inputs need to be brought back or directly dispatched on payment of duty **within 1 year (Within 3 years** in case of Capital Goods) of being sent out by the principal to the job worker).
 - If Inputs or/and Capital goods are not received from the job worker within prescribed period, then tax shall be from the date on which materials were actually sent to the Job Worker's place. And hence, such deemed supplies shall attract **GST and interest penalty with backdated effect.**
- ✓ Input tax credit of the purchase of goods send on job work will be allowed to the principal irrespective of
 - whether principal receives processed goods from job worker OR
 - Supply to his customers from the **place of business of job worker** (i.e. only in cases where job worker place is defined as place of business in the registration details of the Principal).
- ✓ Waste or Scrap generated during the Job-work may be supplied by the Job Worker from his place of Business on payment of Tax if he is registered or by Principal if the Job Worker is not registered.
- ✓ When material is sent to Job-worker, Delivery challan should be prepared in triplicate.



18. What are the Transitional provisions at the time of switching to GST from July 1, 2017?

- ✓ Taxable Persons who are paying service tax, State Vat or Central Excise are required to migrate to GST. They will get temporary PAN based registration number. Final registration will be granted after submitting necessary information and papers - section 139 of CGST Act
- ✓ A manufacturer who is having Cenvat Credit balance in his return on June 30, 2017 can carry forward his Cenvat credit as CGST Credit. He can also take unavailed Cenvat credit of excise duty paid on capital goods - section 140(1) and 140(2) of CGST Act. He has to submit application in form GST TRAN 1 within 60 days.
- ✓ A dealer or manufacturer who has input tax credit under State Vat or Entry Tax in his return on June 30, 2017 can carry forward his input tax credit as SGST Credit. He can also take unavailed credit of State Vat paid on capital goods - section 140(1) and 140(2) of SGST Act. He has to submit application in form GST TRAN 1 within 60 days.
- ✓ If goods were supplied under CST Act, details of claims and CST forms (C, F, H, I, E-I/E-II shall be submitted within 60 days - proviso to rule 1(1) of Transitional Provision Rules. It seems the provision is for those availing State incentives of refund of CST, since otherwise, input tax credit of Central Sales Tax (CST) is not admissible.
- ✓ A taxable person who was not eligible to take Cenvat Credit but is now under GST can take input tax credit of excise duty which was paid on the stock with him, if he has Invoice or other documents evidencing payment of excise duty. He has to submit stock Statement - section 140(3) of CGST Act.
- ✓ A taxable person who was not earlier under Central Excise but is now under GST and does not have excise duty paying documents evidencing payment of



excise duty, can take input tax credit of 40% of CGST payable by him. He takes credit when he sales this stock after July 1, 2017 by charging CGST. He can sale old stock up to six months. He has to submit stock Statement and submit Statement in form GST TRAN - proviso to section 140(3) of CGST Act.

- ✓ A taxable person who was not earlier under State Vat but is now under GST can take input tax credit of State Vat which was paid on the stock with him, if he has tax invoices or other documents evidencing payment of State Vat. He has to submit stock Statement - section 140(3) of SGST Act.
- ✓ A taxable person who was not earlier under State Vat or was under composition scheme but is now under GST and does not have documents evidencing payment of State Vat, can take input tax credit of 40% of SGST payable by him. He takes credit when he sales this stock after July 1, 2017 by charging SGST. He can sale old stock up to six months. He has to submit stock Statement and submit Statement in form GST TRAN - proviso to section 140(3) of SGST Act.
- ✓ If goods were cleared by supplier prior to July 1, 2017 by paying excise duty and State Vat but goods were received after July 1, 2017 by recipient, input tax credit of such excise duty or State Vat is available if such invoice was recorded in books of account within 30 days i.e. before July 30, 2017. He has to furnish specified details - section 140(5) of CGST Act and SGST Act.
- ✓ If material was sent for job work and was lying with job worker, input tax credit can be taken on submission of details - section 141 of CGST Act and SGST Act.
- ✓ If goods were sent on approval basis and were not with the taxable person on July 1, 2017, details are to be submitted in form GST TRAN-1.

19. What are the returns forms prescribed?

Normal GST Registered person at **Normal Rates**



Form No	Details of / Information to be provided	Due Date
GSTR1	Outward supplies of taxable G&S ²	10 th of Next month
GSTR2	Inward supplies of taxable G&S claiming ITC	15 th of Next month
GSTR3	Monthly return on the basis of finalization of details of GSTR1 and GSTR2	20 th of Next month
GSTR9	Annual Return	December 31 of Next Financial year

Forms for Other GST Registered person

Form No	Details of / Information to be provided	Due Date
GSTR4	Quarterly Return of Outward supplies of taxable G&S for person Registration under Composition Scheme	18 th of month succeeding to quarter
GSTR5	Return for Non Resident foreign Taxable Person	20 th of Next month
GSTR6	Return for Input Service Distributor	13 th of the month succeeding to quarter
GSTR7	Return for authorities deducting GST at source	10 th of Next month
GSTR8	Details of supplies effected through E Commerce operator and amount of tax collected as required under sub section (52)	10 th of Next month

² G&S means goods and/or services or both



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