Analysis of the GST Law: Is your business prepared for the change?

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GST rollout - timelines

GST Constitution amendment came into effect from **16 September 2016**

Constitution of GST Council

Further steps

Enactment of GST legislation by Centre and States **(expected by early December 2016)**

Commencement of GST regime **(from April 1, 2017)**

This leaves only three months to prepare for GST transition
Government geared for 1 April 2017 GST roll out

| Detailed FAQs on the model GST law, vetted by officers of the Central and State Government, released on 21 September 2016 |
| Deliberation on Compensation formula for revenue loss to states |
| Draft GST Rules approved by GST Council on 30 September 2016 |
| Consensus on the GST rates achieved, NIL, 5%, 12%, 18% and 28% + Cess on demerit goods |
| Union Budget 2017 – preponed to 1 February 2017 in preparation for GST regime |
| GST Enrollment of existing taxpayers - GSTN Portal made operational on 8 November 2016 |
| Amended Model GST draft law, sent to States for comments and released in public domain |
**What is changing - taxation structure fundamentals**

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GST - What is changing

**Service**
- Single registration across India
- Tax @ 15%
- Taxes collected and retained by central government

**Current regime**

**Goods**
- Separate registration for manufacture and sale of goods
- Total tax applicable @ 27.5% to 32%
- Selling state collects and retains taxes on sale and Central government collects and retains taxes on manufacture

**GST regime**
- Statewise registration for state GST and central GST
- Tax @ 18%
- Taxes collected and retained by central government and consuming state
- One registration for each state and central GST
- Total taxes applicable @ 5%, 12%, 18%, 28%
- Taxes collected and retained by central government and consuming state
How does it impact elements determining taxation

Supply of goods or services

Place of Supply

Taxable event – Supply (Replaces sale, manufacture, provision of service)

Time of Supply

Valuation
Supply

Services means anything other than goods
• Levy of GST on actionable claims, immovable property
• No levy of GST on securities

Free supply of goods/services to attract GST (between related/distinct persons)
• Levy of GST on inter-state stock transfer of goods
• Levy of GST on inter-branch supply of services, cost allocation, reimbursements
• Movement of equipment / machinery from one state to another
• Inter-state movement of containers/cylinders for supply of goods or services
• Importation of services from related persons
• Permanent transfer/disposal of business assets where ITC has been availed

Tracking, identification and valuation of transaction without consideration is a challenge!!
**Place of Supply**

**Different place of supply for Import/Export and local freight/courier transactions:**
- Place of performance
- Destination of goods
- Location of recipient
- Pick up location

**Supply of hotel and convention/events – Place of event/Convention/accommodation –**
- Impact on B2B credit if not registered at such place

**Place of supplier of services for**
- Intermediary services
- Banking/financial services
- Hiring of means of transport

**Negative impact on marketing support services**

**Separate place of supply rules where supplier or recipient of services is located outside India**
- Difficulty in tracking and mapping differential place of supply

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Classification

Composite Supply / Mixed Supply of services and/or goods

- Freight, Terminal Handling Charges, Inland Haulage Charges
- Packaged tour
- Transportation/insurance along with supply of goods
- Supply of variety of goods/services

Impact of classification on

- Rate of tax
- Place of supply
- Time of supply
- 2 digit and 4 digit HSN code in invoice
### Valuation

| Invoice value need not necessarily be the transaction value – Several additions to be made |
| Subsidies provided by government excluded from the taxable value |
| Discounts to be allowed as deduction from taxable value – |
| • If duly recorded in invoice |
| • Post supply discount if pre-agreed and proportionate credit reversed |

#### Valuation of stock transfer of goods and services

Whether GST is payable on the actual sale price to customer or at a landed cost

#### Interest or late fee or penalty for delayed payment
Input tax credit

**Restriction on Input Tax Credit**

- **Works contract services** when supplied for construction of immovable property (other than plant and machinery)

- **Goods or services received by a taxable person for construction of an immovable property, other than plant and machinery, even when used in the course or furtherance of business**
  - Negative impact on construction of building, malls, commercial/office spaces, industrial construction

Motor vehicles/other conveyances (except when used for specified purpose)

Goods/services used for personal consumption

Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples

Expenses incurred for use by employees such as food and beverage, outdoor catering, insurance

Denial of Input Tax Credit on default in payment of tax or non-compliance by supplier

Online matching of inward and outward supply for allowing credit

Credit needs to be reversed with interest if payment is not made to the supplier of services within 3 months
IT and compliance

State wise single GST return

State-wise registration for State GST and Central GST and rigorous return process

Change in tax master, vendor/customer master, item master etc.

Transitioning of customer/vendor in the GST regime

Reporting and matching of transactions between input and output

Reconciliation and closure with vendor and customer on mis-match reports

Denial of credit due to mis-match or variation in details

State wise annual return alongwith audited copy of annual accounts and reconciliation statements

Significant increase in compliance for service companies
Anti-Profiteering Measure

- Authority to be constituted to ensure Anti-Profiteering

- Objective is to assess whether a reduction in price is commensurate with the benefits on account of lower GST rate and higher Input tax credit

- Provision aimed to control expected rise in inflation on account of GST

Authorities to assess and levy penalty if price being charged has not been reduced

Maintaining records to substantiate reduction in price highly cumbersome
Electronic Commerce Operator

Electronic commerce operator liable to Collect tax at Source at the rate of 2% on net value of taxable supplies

Electronic commerce operator responsible to submit details of transactions effected on their portal

For specified categories of services, obligation on the electronic commerce operator to register and discharge GST

Liability to pay GST on digital services provided to unregistered consumers in India by a non-resident service provider
Impact on manufacturing/trading sector

Seamless tax credits and price competitiveness in domestic and export market

Opportunity to drive supply chain efficiencies

Network/warehousing optimization

Impact on price/margin
Impact of tax rate changes
Supplies to SEZ to be zero rated

No provision for credit of closing stock on transition date to a trading company
Impact on services sector

- Compliance requirement multiplies for financial services sector
- Ambiguity on inter-unit supply valuation
- Tax on actionable claims - negative impact
- Litigation around dual taxation resolved for IT sector
- Entertainment tax along with service tax and VAT to get subsumed in GST – thereby reducing tax cost for Media and entertainment sector
- Possible cash flow impact due to conversion of exemption into cash refund scheme
Multi-dimensional impact on business
GST: A business transformation opportunity

- Optimise distribution network by consolidation of warehouse and revisit procurement pattern
- Renegotiate vendor contracts
- Revisit inventory norms, pricing, distributor margin, competitive benchmarking
- Rejig IT systems to meet elaborate reporting and compliance requirements
What do I need to do and how much time do I have?

1. Set up a core GST team within the co.
   - Senior member from HO
   - Representatives from tax, supply chain, IT

2. Impact analysis
   - Tax, information technology, supply chain
   - Pricing, topline and bottom-line
   - Specific business aspects
   - Systems and business processes
   - Implementation plan

3. Issues to represent
   - Identify issues for representation
   - Engage with policy makers

4. Implementation
   - Make changes to business processes
   - Make changes to IT systems
   - Implement pricing and cost changes
   - Communicate with vendors, customers
   - Obtain statutory registers, records, and returns

5. SOP and training
   - Operation-wise SOP
   - Training to operational staff

6. Post implementation
   - GST payments, filings and returns
   - Resolve transition related issues

Representation to government if the industry requires additional time to be GST ready
Need for a spotlight on India by overseas HQ

- India business decisions can be global based on commercial parameters
- Opportunity to preserve / enhance stakeholder value
- Cross border free supply transactions comes under tax
- Seamless data interchange between corporate tax, TP and GST
- Global control through robust automated compliance processes – Investments into people and IT platform
- Enhanced opportunities for Investments – Digital India, Make in India, Smart cities, ease of doing business
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