

GST Bills tabled in Lok Sabha

The Central GST (CGST) Bill, 2017, Integrated GST (IGST), Union Territory GST (UTGST) and GST (Compensation to States) Bill, 2017 (Compensation Cess Bill) have been tabled in the Lok Sabha.

Following are the key changes proposed in the Bills as compared to the draft Model law released on 26 November 2016. Please note that these are only illustrative changes and detailed analysis of the same is to be undertaken.

(i) Ambit of GST

- The CGST and IGST Bills extend to whole of India except Jammu & Kashmir. However, the Compensation Cess Bill extends to whole of India and no exception has been provided for Jammu & Kashmir.
- Provisions incorporated for levy of GST on specified petroleum products (petroleum crude, motor spirit i.e. petrol, high speed diesel, ATF and natural gas) from the date to be notified by Government on recommendation of GST Council.
- Sale of land and building (where consideration received post completion certificate) as well as actionable claims would not qualify as either supply of goods or services.
- Definition of 'India' does not specifically include installation structure and vessels located in continental shelf and Exclusive Economic Zone for the purpose of prospecting/ extracting/ production of mineral oil and natural gas and supply thereof.

(ii) Changes in key concepts/ definitions

- Works contract - Definition of 'works contract' seems to be restricted to immovable property only. Hence, transaction which involve both goods and services in relation to movable property would be a composite supply. In such cases, principal supply would need to be determined in each case.
- Drawback - Definition of 'drawback' inserted as '*drawback in relation to any goods manufactured in India and exported, means the rebate of duty or tax chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods*'.
- Definition of 'voucher' introduced - To be read with specific time of supply provisions for vouchers.
- Composition scheme introduced when turnover is below INR 5 million as under:
 - Manufacturers - 1% CGST and 1% SGST
 - Restaurants - 2.5% CGST and 2.5% SGST
 - Other supplies - 0.5% CGST and 0.5% SGST
- Territorial waters - Provision inserted to provide that when location of supplier is in territorial waters or place of supply is in territorial waters, the location of supplier or the place of such supply shall be deemed to be in Coastal State or Union Territory whichever is nearest to the baseline.
- Special Economic Zone (SEZ) - Ambiguity removed on taxability of supplies made to SEZ unit/ developer. Hence, supplier can choose not to charge GST on supplies made to SEZ units/ developer (procedure to be prescribed for the same).
- Reverse charge for inter-State purchase from unregistered person - Taxes to be paid mandatorily by recipient under reverse charge for inter-State purchases of goods/ services from unregistered person.

(iii) Credits

- Credit deferment withdrawn for telecommunication towers and pipelines (earlier the credit for these was deferred over a period of 3 years as per Model GST law.)
- Definition of plant and machinery for the purpose of availing credit has been amended to exclude telecommunication towers and pipeline laid outside the factory premises.
- Credit restriction in case of non-payment to supplier of goods and services within 180 days (earlier provision was applicable only when input service provider not paid in 3 months). Specific provision has been introduced for re-avail in case of subsequent payment.
- Restriction of 50% credit for banking companies not to apply for intra-company supplies i.e. supplies between branches of banks in different states of same entity.

(iv) Transition

- Deemed credit on transition stock - Following changes have been notified:
 - Definition of 'existing law' introduced to mean any law, regulation etc. passed or made before the introduction of GST - This is an important definition as it would define a person 'not registered under existing law' who is eligible to take credit on transition stock.
 - Depot of manufacturer covered as eligible person
- Specific transition provision where both value added tax (VAT) and service tax was paid for a period covering both current regime as well as GST regime - Taxpayer to take proportionate credit back with respect to the portion of supplies to be made post implementation of GST and pay GST again on such supplies.

(v) Other provisions

- Incorrect payment of tax (where CGST/ SGST paid instead of IGST or *vice versa*) - Refund of earlier tax paid allowed and no interest applicable.
- Anti-profiteering provision continues. Amended to specifically provide that benefit to be passed in form to recipient.
- Schedule I (supply without consideration) - Exclusion provided to gifts provided by employer to employee of value upto INR 50,000 in a year.
- Credit note allowed to be issued for deficient goods.
- Refund voucher to be issued when tax paid on advances but subsequently no supplies were made.
- Rate of tax capped at 40% for IGST and 20% for CGST/ UTGST. Further, ceiling rate for Compensation Cess also provided.
- Interest rate for non-payment of tax capped at 18% per annum and in case of excess utilisation of credits at 24% per annum.
- Books of accounts to be retained for a period of 72 months from date of annual return (earlier law mentioned 60 months).
- Details of outward supply cannot be uploaded/ filed by the taxpayer between 11 to 15 of the month.
- Tax Collected at Source (TCS) rate to be applied upto 1% for CGST (earlier draft mentioned at 1%).
- Additional compliance introduced for TCS - annual return to be filed by 31 December of next financial year.

PwC Comments

Introduction of GST Bills in Lok Sabha is a decisive step towards implementation of GST. As outlined above, several important changes have been proposed. However, there are several critical issues such as credit of tax paid on transition stock, the State in which tax has to be paid in case of multi-locational services, inter-office supplies and valuation aspects which are still not clear.

Industry hopes that the Working Groups constituted on 24 March 2017 for various sectors will have meaningful interaction with the Industry and address some of these concerns. The Rules which are to be discussed by the GST Council (in its meeting on 31 March 2017) also assume significance in this context.

Given the ground to be still covered, Industry expects from the Government to consider 01 September 2017 as the GST implementation date.

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