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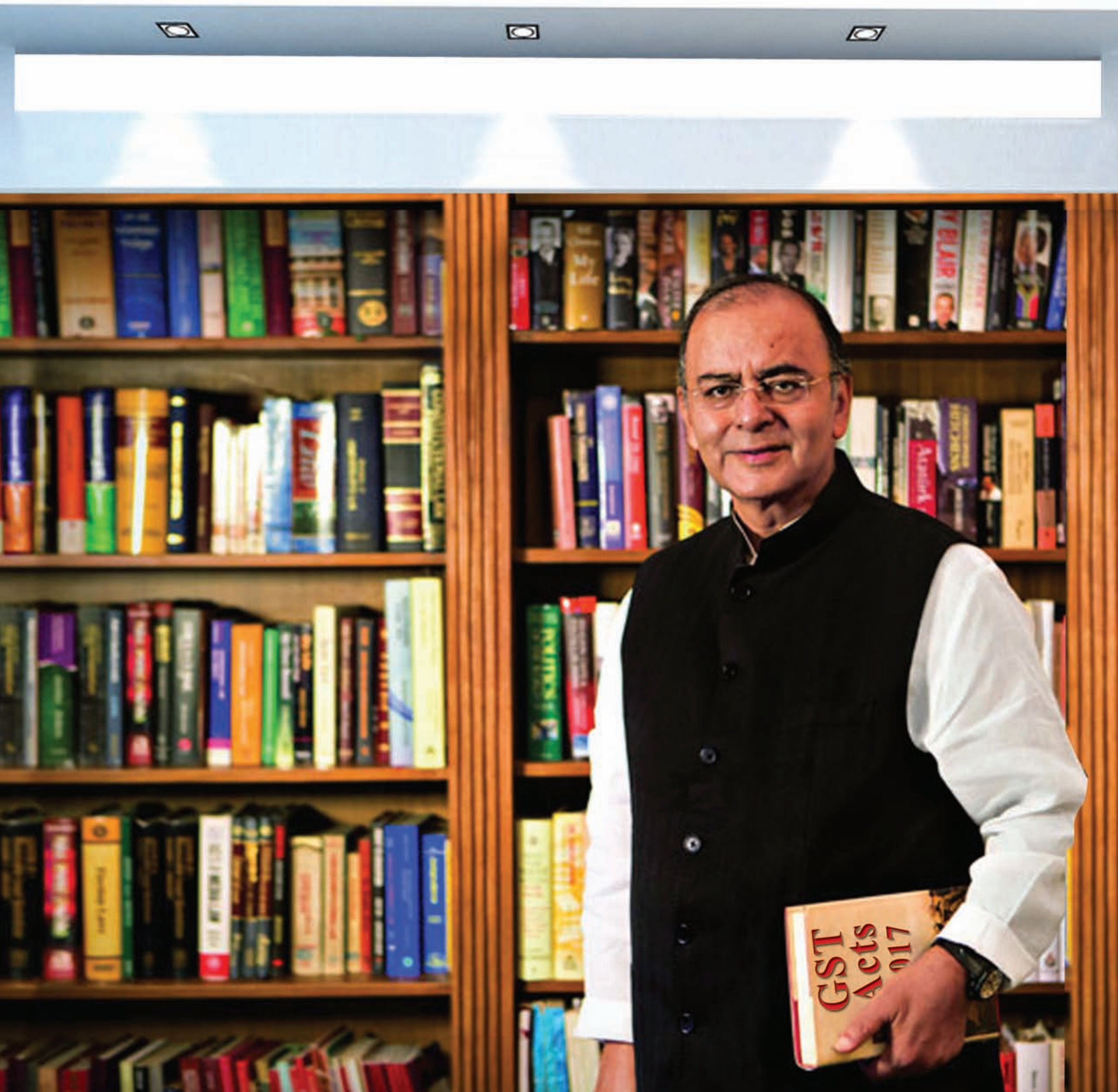
ICAI-GST NEWSLETTER

A Newsletter from The Institute of Chartered Accountants of India on GST



8 days Intensive Workshop at Bangalore

Workshop on GST at Mumbai on April 29 and 30, 2017

GST Conclave at Kolkata on 21 & 22 April, 2017

National Conference on GST at Bhopal on 21 & 22 April, 2017

Cabinet Minister, Haryana, Capt. Abhimanyu at National conference at Gurgaon on 21 & 22 April, 2017

Commissionerate Program (Pune-III) on 20 & 21 April, 2017

Workshop on GST at Udaipur on 22 & 23 April, 2017

Workshop on GST at Allahabad

President's Communication

Esteemed professional colleagues,

Being a revolutionaryand the most historic tax reform, GST (Goods and Services Tax) today represents ***One Nation One Aspiration One Determination.*** *It is now around the corner with the receipt of Presidential assent to the four GST Acts,viz. Central Goods & Services Tax Act, Union Territory Goods & Services Tax Act, Integrated Goods & Services Tax Act, and the GST (Compensation to States) Act, 2017. With the implementation of GST, all the states and the union territories of India will transform into one market with one tax.*

Fourteendraft GST ruleshave been releasedfor public comments which includes Rules on Accounts and Records, Advance Ruling, Appeals & Revision, Assessment and Audit, e-way Bill, Invoice, Return, Registration, Payment and Refund rules. These rules are expected to be finalised in the next GST Council meeting to be held on 18th-19th May 2017 along with the rates of GST to be levied.

Introduction of GST as a new indirect taxation regime would be advantageous to the entire community including citizens, Government as well as the trade bodies. With the implementation of GST, the tax system would become much simpler due to the elimination of cascading effect and transparency in taxation system, resulting in almost uniform prices across the country. GST would herald an era of cooperative federalism and would bring efficiency and transparency in tax administration.

We at ICAI have been very much proactive in assisting and supporting government in the implementation of GST by giving suggestions on the draft laws to the Governments, publishing various publication on GST including the recent publication Bare law on GST Act(s) and Draft Rule(s). We are organizing a series of relevant GST dissemination and training programmes in coordination with Central and State Government wings, and withtrade bodies & associations, and the website of Indirect Taxes Committee of ICAI, www.idtc.icai.org, holds offline webcasts, while offering regular indirect taxes updates, articles, information on upcoming programmes/ seminars, e-publication on GST, etc., to all its registered users. A new Tab ***"GST"*** *has been introduced on the Institute's website to provide all GST-related information in a single place. Please get registeredat the website if you wish to keep yourself informed on GST.*

ICAI takes pride in playing the role of partner-in-nation-building and taking various initiatives towards the implementation of GST in India.

I heartily congratulate the Union and State governments on passing of the historic GST.

Best wishes,

N. S. Vikamsey

CA. Nilesh S. Vikamsey
President, ICAI

25h April 2017

THE COUNCIL

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GST Updates

RECEIPT OF PRESIDENTIAL ASSENT ON GST ACT

A latest development with regards to implementation of GST – India's most awaited largest economic reform, is in receipt of Presidential assent to four key legislations viz. The Central GST Act, 2017, The Integrated GST Act, 2017, The GST (Compensation to States) Act, 2017, and The Union Territory GST Act, 2017, on 12th April 2017 paving the way for the earliest roll out of GST. These bills were passed by Rajya Sabha & Lok Sabha on 6th April 2017 & 29th March 2017 respectively.

GST DRAFT RULES

The Draft GST Rules on Accounts and Records, Advance Ruling, Appeals and Revision, Assessment and Audit, e-Way Bills have been notified on 19th April,2017 and 13th April 2017.

SGST ACT PASSED BY FIVE STATES

On the GST front, five States- Telangana, Bihar, Rajasthan, Jharkhand and Chhattisgarh have passed the SGST Acts as on date. The other States are also in the process of calling sessions of the respective legislative assemblies/council for passage of law.

Next (14th) GST Council Meeting is scheduled to be held on 18th-19th May 2017.

OVERVIEW ON GST

CBEC has released a detailed as well as a short PPT as on 24.03.2017 and 01.04.2017 respectively providing understanding of various aspects in GST.

The detailed presentation depicts the topics "Why GST-Benefits, Existing Indirect Tax Structure, Features of Constitutional Amendment Act, GST Council, Main Features of ST Law, GSTN, Role of CBEC and Way Forward" whereas the short presentation deals with issues "Journey so far, Design of GST, Main features of GST Law, Administration and IT Network and Benefits of GST and Way Forward"

ADVANTAGES OF GST

CBEC has released few advantages which would accrue to Citizens, Trade/Industry and the Central/State Government with the introduction of GST. The advantages to the Citizens are listed as:

a. Simpler tax system.

b. Reduction in prices of goods and services due to elimination of cascading.

c. Uniform prices throughout the country.

d. Transparency in taxation system.

e. Increase in employment opportunities.

The advantages accruing to the Trade/ industry are listed as:

a. Reduction in multiplicity of taxes.

b. Mitigation of cascading/double taxation.

c. More efficient neutralization of taxes especially for exports.

d. Development of common national market.

e. Simpler tax regime-fewer rates and exemptions.

The advantages accruing to the Central/State Government are listed as:

a. A unified common national market to boost Foreign Investment and "Make inIndia" campaign.

b. Boost to export/manufacturing activity, generation of more employment,leading to reduced poverty and increased GDP growth.

c. Improving the overall investment climate in the country which will benefit thedevelopment of states.

d. Uniform SGST and IGST rates to reduce the incentive for tax evasion.

e. Reduction in compliance costs as no requirement of multiple record keeping.

GST NETWORK FREE FROM CYBER-ATTACK AND DATA THEFT

Necessary steps are being taken by GSTN to ensure robust cyber security of GST Network. To ensure the same, inputs from National Cyber Security Coordinator (NCSC), officers from the Intelligence Bureau and CERT-In, have also been taken and various aspects relating to security including the mechanism to enhance the resilience of critical and sensitive GST IT Network have been examined. GSTN has also partnered with Standardisation Testing & Quality Certification (STQC), Department of Electronics and Information Technology (DeitY) for providing security audit and compliance support to GSTN.

GST Impact Assessment – A necessity?

Prelude:

We are on the wink of biggest tax reform since independence with an enormous change in entire Indirect Taxation effectingbusinesses across India. It will be going to change demographics of each statewith the increased consumption in GST,the destination state is going to get the tax. This can be achieved by attracting more industries, by developing tourist destinations, developing and providing better infrastructure to industry and public at large so that there is more consumption in the state.There will be sea change in the way business is conducted today and how the things will shape up in GST regime. There will be activity level changes.

People other than finance and accounts field will think that why should we be bothered? eh...!!! GST is a tax afterall, what is the impact on me?Here we will try to discuss major impacts, the GST is going to have on different business processes.

Major Impacts on Purchase function:

S. No.	Particulars	Current provisions of Central Excise	Current Provisions of State VAT	Provisions under GST Regime
1.	Scope of Credit	Credit is available only on goods used in or in relation to manufacture. One to One correlation was to be maintained	Credit of goods used in manufacture was available.	Credit is available; be it used for manufacture or not, like office equipment, stationery etc. subject to the condition that it is used in the furtherance of business.
2.	Interstate Purchase	Credit of Excise paid on interstate purchase was available.	Credit of CST paid on interstate purchases was not available.	Credit of GST paid on any purchase for use in furtherance of Business (including interstate) is available.
3.	Advance Payment	Tax is not charged on advance payment made for purchases	Tax is not charged on advance payment made on purchase.	Tax is payable on Advance payment for purchase of goods or services.

4.	Credit Matching	Matching of credit with sellers' sale is not required. No penalty on buyer if seller does not pay the tax.	Matching of credit with sellers' sale is required. However, in most of the States credit was allowed based on verification of Invoice.	Complete matching is required. If tax is not paid by the seller then the tax credit will not be available to the buyer.
5.	Tax Compliant Supplier	Seller's tax compliant status was not required to be checked for buyer. As it had no bearing on him. He was just required to ensure proper documentation in terms of possession of proper Invoice.	Seller's tax compliant status is not very necessary. There was no official mechanism available to check the compliance by the seller/supplier.	It will be very necessary for the buyer to check beforehand about vendor being tax compliant. Government has come up with GST rating mechanism where it will be easy to find out the status of supplier.
6.	Invoice time limit	There was no time limit to receive the Invoice to avail the credit.	The Invoice should be received within the same quarter in some states. In some states within same year.	In GST the Invoice should be received before 30th September after the end of FY to avail the credit.

So, Supply chain people need to understand the changes brought in by GST and act accordingly., Moreover they should plan their purchases to obtain maximum benefit, like as mentioned below::-

a) All India ((Except State of Jammu & Kashmir)will be a single market nowand there will not be any tax like CST which will be non-creditable. Accordingly, they can search for new vendors from different states and reduce the costs.

b) They can think delayingpurchasing the office equipmentsand other non cenvatable purchases to post GST regime in order to take the credit.

c) Assess the potential vendors with non-compliant record and restrict purchases from them.

Major Impacts on Sales Function :

S. No.	Particulars	Current provisions of Central Excise	Current Provisions of State VAT	Provisions under GST Regime
1.	Branch / Agent Sale	Sale to agents or branches is taxable since tax is levied on removal of goods from place of manufacture.	Tax is not levied on transfer of goods to agent or branches wherever they are made other than by way of sale.	Tax will be levied on supply to agents, Interstate Branch transfer and transfer to different vertical within same state but having different registration.
2.	Advance Payment	Tax liability does not arise on Advance Payment.	Tax liability does not arise on advance payment.	Tax liability will arise on advance receipts/ payment.
3.	Place of Supply/sale	Place of sale was not required to be checked.	Place of sale was required to be checked to identify whether CST or VAT is to be charged.	Place of supply is to be checked to identify Whether CGST and SGST or IGST is to be charged, considering place of supply provisions.
4.	Reverse Charge	No tax payable under reverse charge on goods procured.	Generally No tax payable under reverse charge, however, in some states purchase tax is levied on purchase from unregistered person	Tax will be payable under Reverse charge on all purchases made from unregistered dealers and on other goods as notified.
5.	Penalty for late payment	Penal Interest, late fee and penalty charged for delayed payment of consideration is not included in valuation.	Interest, late fee and penalty charged for delayed payment of consideration is not included in valuation.	Interest, late fee and penalty charged for delayed payment of consideration is to be included in valuation for the purpose of calculation of tax.
6.	Anti-Profiteering clause	No anti profiteering measure to ensure pass on of credit of tax to final consumer.	No anti profiteering measure to ensure pass on of credit of tax to final consumer.	Anti-profiteering measure is introduced to ensure that credit is passed on to the final consumer.
7.	Consumption/ Destination based tax	Tax is levied by the Central Government on origin based principal.	Tax is levied by states on origin based principal.	Tax is levied by centre and states concurrently on destination based consumption principal. Thus, final tax accrues in the hands of state where goods/services are consumed.

Now, whole of India (Except State of Jammu & Kashmir) is a market for the marketing team without any state borders where they:-

a) Can explore newer markets beyond the boundaries of a state.

b) Need to check for their distribution network, warehousing mechanism etc. to reduce costs and achieve the synergies of India as a market.

c) Need to check for pricing of goods and services to cater anti profiteering.

d) Need to check their sales strategies in the wake of place of supply provisions.

Major Impacts on Accounting and compliance function:

	Current Excise, Service Tax and VAT	Proposed GST
1.	Separate compliances were needed under each law.	No separate compliance of Indirect Taxes laws. Only GST lawsto be complied.
2.	No separate excise audit was required, however VAT audit was required in some states.	GST Audit is required to be conducted by a Chartered Accountant or Cost Accountant for each registration having turnover above the turnover limit of Rs. 1 Crore.
3.	Statutory forms were required under VAT and statutory registers under excise were also required to be maintained	No statutory forms or statutoryregisters are required to be maintained. Books can also be maintained in electronic form.
4.	Various manual compliances are required under existing laws.	Most of the compliances are online on GST portal.
5.	Way bill were not required in case of intrastate transportation. Only Inter-state transportation warranted such way bill when the consignment value was over a specific value.	Now eWay bill is required in case of any transportation of goods when the consignment value is over Rs.50,000/- irrespective of whether the goods are moved within or outside state.
6.	Material could be sent over challan without Invoice.	Invoice is to be raised in all cases at the time of removal of goods except in certain specified circumstances.

Apart from the above major changes, there are various new things/ changes which will have bearing on the way the businesses are running now-a-days. Few more precautions and measures are required to be taken care of:-

1. All the existing contracts need to be looked into to ensure that Indirect tax clause is taking care of GST, as GST is going to impact costs in case of all contracts specially construction costs. It is going to immensely impact the contracts where tax is inclusive in the contract price.

2. Inventory accounting to be strengthened so that there is no issue in taking input tax credit which is based on receipt of goods or services only.

3. Records are to be kept at each registered place of business be it electronically or in hard format.

4. Payment mechanism to be aligned as per law otherwise there might be issues in case of Input credits.

5. Billing patterns, formats and time lines need to be realigned in view of the provisions of GST.

6. Maintenance of running accounts and payment settlement to be looked at to ensure the adjustment of payment at invoice level.

7. Place of business and supply of goods or services from there to be strictly looked into taking into consideration the registration provisions so that places where registration is required to be obtained could be minimised and unnecessary compliance burden could be ruled out.

8. Identification of Multiple Business Verticals and a careful analysis is required, looking at the provisions of the law that where it would be beneficial to take separate registrations of such verticals.

9. Distributions Channels are required to be reset looking at Place of Supply and Input Tax credit provisions so that there is no extra tax burden and No spill over of Input tax credit.

Conclude:

Though GST is a new law but business processes are old, time tested and designed as per existing laws to get the maximum benefit. Each business process has its own function and bearing on the tax liability of a business. These need to change in a way that makes a business insulated from the heat and cold showers of GST. If a business is unable to adapt and cope up with these changing horizons then survival will be difficult and it is the fight for survival of the fittest. So, everyone should take a critical look at each and every business process, keeping GST law in consideration and make necessary changes to get the best out of GST.

– Contributed by Jaipur Group

GST – Vast Opportunities for the Profession

There is a famous quote that says, "opportunities knock only once at your door".Indeed, GST is that one knocks in terms of opportunity to serve, learn and earn for us professionals. GST in India has been termed as "the biggest indirect tax reform since independence". Since tax professionals – Chartered Accountants, are at the heart of the tax compliance system, they are bound to be impacted by this big-ticket reform. This has further special significance and opportunities for the CA profession, as elucidated further.

Expansion of the Services Landscape

Increase in Tax Payers – It is estimated that there are around 9.5 million registered tax payers in the country today in the field of indirect taxes – Central Excise, Service Tax and VAT. Being a tax on 'supply of goods and/or services' with minimal number of exemptions and exempted sectors, the coverage of GST will be extensive – to virtually cover the entire business environment of the country. With a threshold limit of Rs 20 lakhs, that goes down to Rs 10 lakhs in North Eastern States, coupled with the definition of Aggregate Turnover which, inter alia, includes taxable supply, exempt supply, exports etc., even small businesses, professionals, kiranas, other brick and mortar retail will be impacted. Most of the businesses in composition scheme (up to Rs. 50 lacs turnover) will also have quarterly compliances, while a large part may not go for composition as their B2B customers will lose set off otherwiseand also due to the restrictive coverage of assesses in composition scheme. Further, the reverse charge with its added complicationsof applicability in case of purchases from unregistered persons, will further push maximum businesses to be GST registered.

Increase in Compliance Needs - Statutory requirements like submission of audited accounts by taxpayers with turnover of +Rs 1 crore and an Annual Report reconciled with the audited balance sheet and profit and loss account will bring in significant amount of convergence between GST and indirect compliances accentuating the role of CA professionals. This statutory convergence will further be integrated as the compliance systems under both the Income Tax and GST go online and the databases get linked. The buzz word these days is 360-degree profiling. Tax compliances and tax accounts can no longer remain in separate silos for the two system of taxes. The responsibilities of tax professionals, particularly chartered accountants, will thus inevitably expand.

Further, the system of compliances being put in place, that involves minimum of three monthly returns, uploading invoice wise supply details both on sales and purchase side, matching of invoices and denial of input tax credits even on account of minor mismatches, that will have the potential of impacting the bottom lines by 18% of the value of purchases involved, underlines the work and opportunities that lie in store for tax professionals in the new regime. They will be expected to hand hold businesses almost on daily basis.

Synergy between Audit and Tax Practice

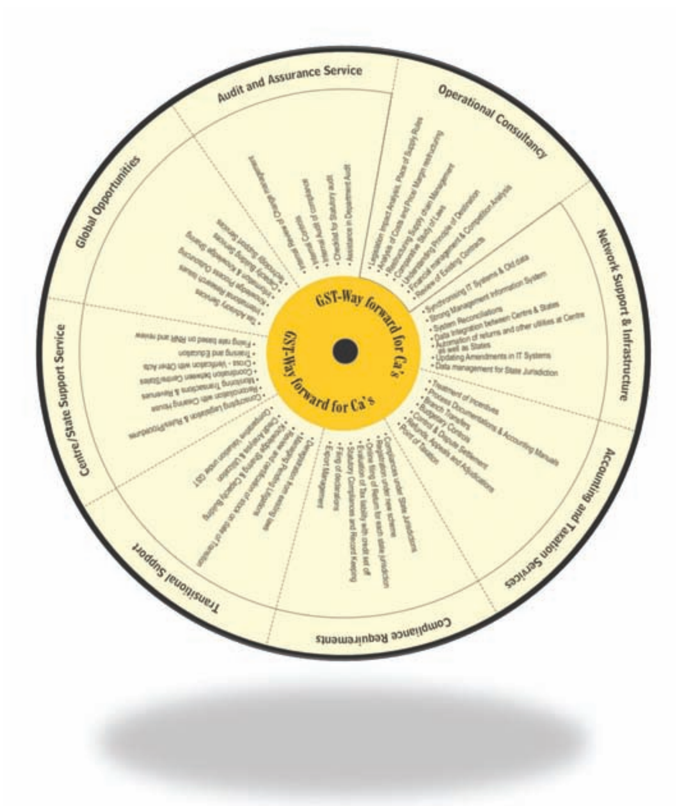
Automation, Reconciliation, Accounting – Mandatory requirement for timely/pre-reconciliation, scenarios impacting availment of Input Tax Credit (ITC), ASPs providing reconciliations in line with GSTN database by real time accept/reject/modify all will lead to a need for making, tracking and in turn matching with the accounting records. There could be a need to create provisions or pass corresponding debit/credit notes to keep the two statutory records in sync. This too will be best done with help, guidance and supervision of a CA.

Complementary Practice – As an auditor, the audit, analysis and reconciliation between two records will be mandatory. This is best done by taking up the tax compliance work i.e. up front guidance, supervision or audit thus reaping the optimum synergies.

Advisory services Opportunity

Transition related advice and hand holding - This would entail activities like impact assessment, planning optimizations, taking a look at competition, renegotiation of contracts, analysing business scenarios, finalizing business processes etc. each of which involves an important role for a tax advisor or a tax professional. Along with that the professionals having knowledge about tax, accounting, IT and costing will be best suited to assist the organisations in pricing revisions which seems to be likely after GST is implemented.

Re-designing of Business Structure - Present indirect taxes in India have driven businesses to structure and model their supply chain and systems owing to multiplicity of taxes and costs involved therein. GST will be a big game changing reform for Indian



economy by developing a common Indian market and reducing the cascading effect of taxes on the cost of goods and services. The GST will change how India will do business. With advent of such big reforms the businesses also need to be in line with GST. GST will have far reaching consequences on almost all the realms of the business operations and will impact the tax structure, its incidence and computation, credit availment and utilization, compliance and other reporting aspects, leading to a complete overhaul of the current indirect tax system. Complete supply chain will see a radical change. Now, with the final law in place, the current supply chain has to be re-looked and re-structured. Tax professionals will be needed in such restructuring and reengineering exercises.

Other Similar Opportunities - Apart from this, there are many areas in which indirect tax professionals have new opportunities under the GST regime which include Tax structuring, Representation before revenue authorities in respect to SCN/Appeal, Legal opinions and procedural Guidance to clients, Handling compliance verification processes like audits and scrutiny, Handling legacy issues like past assessments/audits.

Litigation post GST will also have extended arms with the subjective and inclusive definition of term 'Supply', being the trigger point i.e. taxable event in GST, alongside others loose ends of drafting in GST Law.

An opportunity to leapfrog to the future professional services model

Digitisation Support – With the GST reform the government is taking a big step in to full digitisation of the indirect taxation process. With the voluminous data, process and compliance involved a young forward looking professional will seize this opportunity to hand hold, advice, train and support the client base, which will be much needed, appreciated and valued.

Assist in Simple, Secure GST Compliance – The way ASP service providers like Easemygst, JioGST etc., are getting provisioned, it will be a best combination of understanding of law, use of high penetration of data connectivity, exploiting cloud based computing and handling case specific nuances through the expert advice of the tax practitioner. This makes an idea set up for the young professionals. Their clients can upload the transaction data using API based integration of their accounting and/or billing software or just taking them on a pen drive to the CAs office, where the assistant can run the program, validate the numbers and have them submit their GST returns with ease and under comfort of an expert supervision.

Overall, it is that 'once in lifetime opportunity' for CAs who will get at the helm of this, assimilate GST and its implications, align with some exceptional tools or applications, master its use and take lead in the new Digitised Indian Business Landscape.

Refunds under GST

I. Introduction

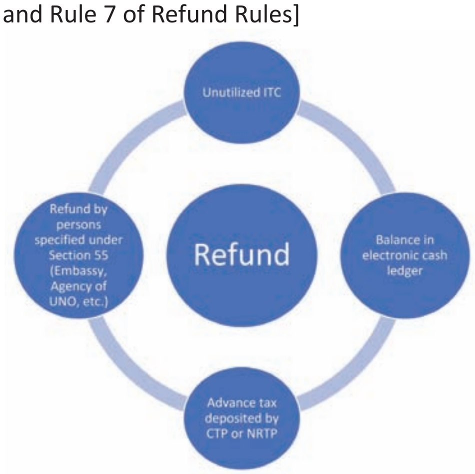
Provisions of refund of Taxes are very important as delay would adversely impact exporters, manufacturers.In some States there is no refund in reality and in many States it is available in a delayed manner with a very high transaction cost. The Service tax refund has similarly seen period of no refund and even today the refunds for the year 2008 are outstanding!!

Looking to the concern of the exporters especially of services, the GST provisions for refund are simpler and have built in time limit on 90% for export/ SEZ refund claim.*

II. Types of refund

There are 4 types of refunds available in GST:-

1. Unutilized ITC – [Section 54(3) of CGST Act, 2017 and Rule 1 of Refund Rules]
2. Balance in electronic cash ledger– [Section 54(1) of CGST Act, 2017 and Rule 1 of Refund Rules]
3. Advance tax deposited by CTP or NRTP– [Section 54(1) of CGST Act, 2017 and Rule 1 of Refund Rules]
4. Refund by persons specified under Section 55 (Embassy, Agency of UNO, etc.) – [Section 54(2) of CGST Act, 2017 and Rule 7 of Refund Rules]



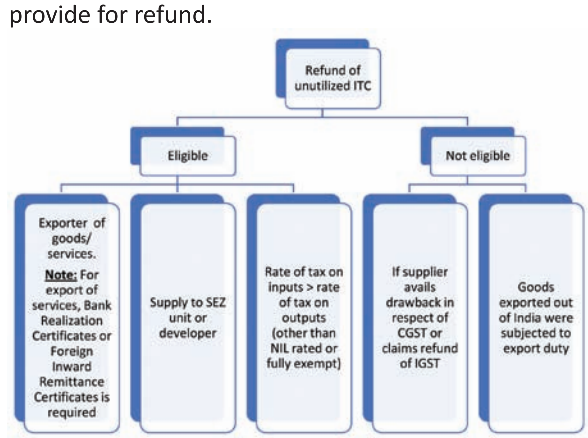
- Details of forms required and time limit for claiming these refunds are hereunder:-

Sr. No.	Types of refund	Form	Time limit
1.	Unutilized ITC	GST RFD-01	Within 2 years from relevant date (Point IV)
2.	Balance in electronic cash ledger	GST RFD-01 Or As may be applicable, 1. GSTR-3 (Monthly Return); or 2. GSTR-4 (Composition supplier); or 3. GSTR-7 (Person required to deduct TDS)	
3.	Advance tax deposited by CTP or NRTP (If furnished all returns under Section 39)	GST RFD-01 Or In the last return	
4.	Refund by persons specified under Section 55 (Embassy, Agency of UNO, etc.) - Refund of tax on inward supply	GST RFD-10	Quarterly - within 6 months from the quarter end of receipt of supply

- Taxes claimed as refund = GST (CGST, IGST, SGST, UTGST), interest paid and any other amount (say, penalty, fees)
- No refund - if amount is less than Rs. 1000/-

III. Eligibility & requirement for refund of unutilized ITC

Section 54(3) of CGST Act, 2017 and Rule 1 of Refund Rules provide for refund.



Note 1: "refund" includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit

as provided under sub-section (3)

Note 2 : If the personhas defaulted in furnishing return or if the person is required to pay any taxes, thenproper officer may withhold the refund or may deduct tax payable from the refund amount

Note 3: If refund is on account of export or supply to SEZ, then 90% amount shall be refunded on provisional basis.

IV. Meaning of relevant date:-

While claiming refund in above 4 situations, "relevant date" is crucial in different situations. Meaning of relevant date is as under:-

Sr. No.	Situation	Relevant date
1.	Export of goods (In respect of goods/inputs/ input services	When ship or aircraft leaves India or goods pass the frontier or goods are dispatched by Post Office.
2.	Deemed export	When return of such deemed exports is filed
3.	Person other than supplier	date of receipt of goods/ services by such person
4.	Export of services (In respect of services/ inputs/ input services	1. Receipt of CFE, if supply of service is prior to the receipt of such payment. 2. Issue of invoice, if payment is received prior to the invoice date
5.	Consequence of judgment, order or direction of Appellate Authority, etc.	Date of communication of such judgment, order, etc
6.	Unutilized input tax credit	End of the FY in which such refund claim arises
7.	Provisional payment of tax	Date of tax adjustment after the final assessment
8.	Other case	Date of payment of tax

V. Documents required for filing refund of unutilized ITC

Documents to be enclosedfor claiming refund by the exporter/Person supplying to SEZ/Person whose refund does not exceeds Rs. 2 Lacs, are:-

i. Export of goods – Statement containing details of bills of export, export invoices, etc.

ii. Export of services – Statement containing details of invoices, BRC or FIRC.

iii. Supply of goods/services to SEZ – Statement containing details of invoices, evidence regarding endorsement by specified officer regarding receipt of goods/services for authorized operations.

iv. If refund claim < Rs. 2 Lakh - No documentary evidence – Only declaration that tax incidence is not passed on.

VI. Transfer to Consumer Welfare Fund

If the applicant is not able to follow the prescribed procedure as per rules, then in such cases the amount of refund claimed will be transferred to Consumer Welfare Fund. Cases where the same is not applicable are, i.e. refund is not to be transferred to consumer welfare fund in the following cases:-

i. It's a case of tax paid on Export/sale to SEZ or inputs/ input services used.

ii. Refund of unutilized ITC

iii. Refund of tax on supply which is not provided and (invoice not been issued/refund voucher issued)

iv. Refund of tax wrongfully collected and paid.

v. Tax incidence not passed on.

VII. Section 56 of CGST Act – Interest on delayed refunds

As per the current provisions of Service Tax and Excise, if refund is not granted within 3 months, interest is payable @6% p.a. from the date of receipt of application by the Department. In GST, the provisions are as under:-

Sr. No.	Particulars	Description
1.	Eligibility	If not refunded within 60 days from date of receipt of application
2.	Period covered	Period of expiration of 60 days to the date of grant of refund
3.	Rate	Interest up to 6% - General case Interest up to 9% - If not refunded within 60 days of application filed after the favourable order by adjudicating or appellate authority or court.

VIII. Types of Forms relating to refund

Sr. No.	Form No.	Description
1.	GST RFD-01	Refund application
2.	GST RFD-02	Acknowledgement at the common portal
3.	GST RFD-03	Communication of deficiencies
4.	GST RFD-04	Provisional - Order sanctioning the amount of refund
5.	GST RFD-05	Payment advice
6.	GST RFD-06	Final order sanctioning the amount of refund
7.	GST RFD-07	Order giving details of adjustment of outstanding demands with refund amount
8.	GST RFD-08	Issuance of notice if refund not admissible
9.	GST RFD-09	Reply to notice
10.	GST RFD-10	Refund application by embassies, etc.
11.	GST RFD-11	Statement of inward supplies of goods/ services by embassies, etc

The industry is eagerly waiting for the GST to be implemented and the exporters are looking forward to be much more globally competitive with icing on the cake of refunds with minimum costs in a time bound manner.

– Contributed by Ahmedabad Group

IMPACT OF GST ON HOTEL INDUSTRY

CGST Act, UTGST Act and IGST Act have received the assent of the President on 12th April 2017 and now there is finality and clarity with regard to the provisions contained therein. The stage is set for the roll out of these Acts from the appointed day – 1st July 2017.

There is confusion and anxiety among the owners of Hotels and Restaurants with regard to the liability of tax under CGST Act and SGST Act. The CGST Act and the SGST Act have more or less identical provisions and there is no change of tax liability under these Acts. SGST Act has not become law as yet. The SGST Act will have to be passed by the State Legislature of all the 31 States of Union of India and will become law when the Governor of the State shall grant the assent to the said Act.

Constitutional validity of Service tax on "Accommodation Services"

The Constitutional validity of service tax on provision of Short-Term accommodation service by a hotel, guest house, etc. ,and service provide by restaurants was once again challenged before the Hon.Delhi High Court in Federation of Hotel and Restaurant Association of India v. UOI in WP (C) No.6482 of 2011, dated 12.08.2016[2016(44)S.T.R.3(Del.)]. The Hon'ble High Court of Delhi in this case upheld the constitutional validity of levy of Service Tax on restaurant services but, struck down the validity of Service Tax on Short-Term Accommodation Services.Entry 62,List –II, i.e., State List,which empowers only the State Legislatures to levy tax on Accommodation services. The said Entry reads as follows-

62 "taxes on luxuries including taxes on entertainments, amusements , betting and gambling."

Parliament has no power to levy service Tax on Accommodation services under residuary entry in the Seventh Schedule to the Constitution. The same principle has been upheld by the Hon'ble Apex Court in Godfrey Philiphs India Limited v. State of UP –(2005) 2SCC 515.

Article 246 A introduced through the Constitution (One Hundred and First Amendment Act) empowers Parliaments and the Legislatures every States to tax accommodation services.

PROVISIONS OF ACCOMMODATION SERVICES IN THE STATES

The Centre and the States are levying tax on Services and Goods provided by restaurants respectively. This has resulted on overlapping of VAT and Service Tax on restaurants.

Further, the States have also levied tax on accommodation services under Entry 62, List –II, i.e., State List.Tax on accommodation has been discussed in this article with regards to provisions contained in Madhya Pradesh Vilasita , Manoranjan, Amod Evam Vigyapan Kar Adhiniyam , 2011 (LEAT Act) as a test case to illustrate the difference between the present regime and the GST regime on the impact on Hotel Industry on pan-India basis

Similar provisions may also exist in other states regarding the taxability of accommodation services.

Taxability of Hotels under Present laws with respect to the State of Madhya Pradesh

The taxability on luxuries (services) provided in a Hotel can be summarized as under:-

- The owners of Hotels are liable to pay tax @10% on the turnover means the receipts of monetary consideration as per Section 6 of LEAT Act.
- The threshold limit for being liable to pay tax under LEAT Act is Rs.10 lacs of turnover per annum.
- There is no payment of Luxury Tax on hoteliers where rate of charges per day is Rs. 3,000/- or less.
- The new Hotels or existing Hotels undergoing expansion are enjoying the benefit of exemption from payment of Luxury Tax for a period of 5 years or 8 years depending upon the location of the Hotel, as per Notification No.8 dated, 05.02.2011,
- Heritage Hotels have been granted the exemption from

payment of Luxury Tax for period of 10 years as per the Notification No.10 dated, 05.02.2011.

- There is also the benefit from payment of Luxury Tax to Hotels registered under **Bed & Breakfast Scheme** of M.P. Tourism.
- No Luxury Tax is leviable on Hotels during off season of 3 months in a year in Hotels located at the places other than Municipal limit of Bhopal, Gwalior, Indore and Jabalpur.
- Similar provisions with regard to levy of tax on accommodation on Hotels exit in Other states as well.

Taxability of Restaurants under Present laws with respect to the State of Madhya Pradesh

The taxability of VAT under MPVAT Act on the sale of food provided in a Restaurant can be summarized as under:-

- VAT is leviable @5% on cooked foods and snacks provided by a restaurant.
- VAT is leviable @20% on Cold drinks and @14% on other non food items.
- Entry Tax is also payable @1% on raw material and incidental goods used in the manufacture of cooked food.
- Luxury Tax is also payable by outdoor caterers @10% under LEAT Act with the deduction of sale price on which tax is liable to be paid under MP VAT Act with the exception of Hospitals and Educational Institutions.
- Tax on sale of alcoholic liquor to customers is levied @ 5% under MP VAT Act.
- Similar provisions with regard to levy of tax on sale of cooked food by restaurants in other states as well.

Tax liability of Hotels and Restaurants under Service Tax

The Service Tax liability on Hotels and Restaurants can be summarized as under:-

- There is no Service Tax on services provided in a Hotel.
- Service Tax is leviable @15% on services provided by Air Conditioned Restaurants with the abatement of 30%.

Composition Scheme under MP VAT Act

- The dealer opting for composition u/s 11 of MP VAT Act is liable to pay composition money @3% on the turnover of cooked food manufactured without the facility of input tax rebate.
- No input tax rebate is available to composition holders u/s 11.
- The manufacturers u/s 11 have the benefit of buying goods taxable @5% from unregistered dealers without the liability of payment of purchase tax.
- Composition under VAT regime is available to the dealers whose turnover per annum is upto Rs.1 crore
- Similar provisions exit in different States in respect of composition provisions to restaurants.
- There is also provision in some States to grant licence to restaurants at nominal rates on advance payment of licence fee.

Tax liability on Hotels under GST regime

- Luxury Tax on services provided in a Hotel is leviable @10% on receipt basis. As all services under GST regime are to be taxed @18% while the present rate of Service Tax is 15%.
- The services provided under GST regime by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite by whatever name called and including a house boat or any other vessel will be taxable @18% on the transaction value of supply of services in all probability.
- There is no Luxury Tax under LEAT, where the rate per day for accommodation is upto Rs. 3,000/-. Such exemption on daily rate basis may not be available under GST regime.
- The threshold limit under GST regime on supply of services is aggregate turnover of Rs.20 lacs per annum. On discount, some of the owners who are paying tax under LEAT may not be liable to pay tax under GST regime.
- Some of the owners of the Hotel who are enjoying exemption from payment of Luxury Tax will not get the benefit of exemption under GST regime.
- The supplier of Hotel services will be entitled to input tax rebate on the inputs, capital goods and input services used by them in the course or furtherance of business.
- Alcoholic liquor for human consumption alongwith Perto Products has been retained in entry 54 of List –II, i.e., State List of the Seventh Schedule of the Constitution. As such, tax on Alcoholic liquor for human consumption, as provided to customers in restaurants will continue to attract Vat under VAT Laws of the states. Being a super luxury, it may attract a higher rate in the interest of state revenue.
- No Input Tax credit will be available to sale of alcoholic liquor for human consumption as it is outside the GST regime.

Tax liability on Restaurants under GST regime

- Schedule II u/s 7 of CGST Act incorporates activities to be treated as supply of goods or supply of services.
- As per clause 6(b) of Schedule II, Restaurant services are specified as composite supply and have been defined as follows:-

  "Supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration".
- As per clause 6(b) of Schedule II, tax under GST regime will be leviable as supply of services, not as supply of goods @18% on transaction value i.e. the consideration paid or payable.
- No tax will be payable on the goods supplied by the Restaurants to the customers as Restaurant services have been specified as composite service.

- The supplier of Restaurant services will be entitled to input tax rebate on the inputs, capital goods and input services used by them in the course or furtherance of business.
- As such Restaurant service supplier shall pay tax @18% on supply of services in place of 5% which is being paid under VAT regime.

Service Tax Liability on Mandap keeper , Hotels and convention Services , providing full catering services

- Mandap keeper, Hotels and convention Services, providing full catering services shall pay service tax on 60% of the gross amount charged, under abatement scheme.
- Outdoor caterers shall, under abatement scheme, charge service tax on 50% of the amount where he provides full and substantial meal.
- Similarly, under the abatement Scheme, the Pandal and Shamyana Service providers shall be liable to pay tax on 70% of gross amount charged if full catering service is provided.
- The rate of service tax on above services is 15%.
- Simultaneously, the states are also subjecting to tax the services provided by Marriage hall,Mandap Keepers etc with a general rate of 10%. The same receipts re being subjected tax both by the Central Govt. and the State Govt., resulting in double taxation without any grant of credit for Input Tax on goods and services.

Taxability on Mandap Keeper Services etc under GST

- Mandap keeper, Hotels and convention Services,etc. , as mention above are proposed to be taxable @ 18% under GST.
- There is abatement on these services under Service Tax law which may not be available under GST as these services will not be taxable separately under any state law.
- There will not be overlapping of taxation as present state taxation laws have been subsumed in GST.
- There will be availability of Input Tax Credit of taxes paid on supply of Inputs and Input Services.

Composition under GST regime for supply of Restaurant services

- As per Section 10(1)(b) of CGST / SGST Act, the Restaurant service provider whose aggregate turnover in a previous financial year does not exceed Rs.50 lacs shall pay tax @2.5% as CGST and 2.5% as SGST totalling 5%, which is as under:-

  "(b) two and a half per ,cent of the turnover in State in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II".
- The composition Restaurant suppliers will not be entitled to input tax credit.
- The composition u/s 10 of CGST Act/ SGST Act is subject to provisions of Section (3) and (4) of Section 9. It means that composition persons will pay tax at full rate on reverse charge basis, if they get supplies from notified suppliers of goods / services and from unregistered persons. Restaurant Service providers have to buy the goods and services from the unregistered persons in the course of nature of services provided by them. This will result in unnecessary burden on restaurant service providers on unregistered inward supplies .This will make the provisions contain in Section 10 of GST laws impractical and redundant while the intention odof the Council is to give the relief to small restaurants and dhawas whom cannot keep the complicated accounts and documentation and to reduce the burden of taxation on restaurant service supplies.

Classification Issues

With the adoption of Five rate – taxation slab i.e. 0% ,5% ,12% 18% and 28% , there are bound to be classification issues and litigation. Such issues shall be resolved with the application of principles decided under the present regime.It takes at least 20-25 year for the taxation law to mature and to settle the classification disputes.

For example, if a customer takes cold drinks in a hotel/ restaurant, it will result in complications to whether the cold drinks to be subject to tax under 28% tax slab with a cess of 15% or @18% as Restaurant services.

Similarly where a customer orders for alcoholic drinks alongwith meals,further complications will arise as alcoholic drinks, although outside the GST regime,will be taxed alongwith restaurant services. Further, no input tax credit will be available on VAT paid on purchase of alcoholic drinks.

Conclusion

It is evident that the hoteliers will pay Service Tax under GST regime @18%, while they are paying tax @10% on average under State Acts. They will not get any benefit of exemption as notified under State Act. Every State has exempted accommodation services for specified periods to promote tourism in their State.They will also not get any benefit where the daily tariff charges has been fixed beyond which the luxuries provided in a hotel are taxable. Such limit is Rs.3,000/- in the State of M.P.

Similarly, restaurant service suppliers will pay tax @18% on services provided while they are paying tax @5% under VAT regime with the benefit of input tax rebate. Only those registered persons who opt for composition u/s 10 will pay tax @5% on aggregate turnover under GST regime, that too without the benefit of Input Tax Credit. As the restaurant owners have to make a lot of supplies from unregistered persons, therefore in accordance with Section 9(4) of GST laws, they shall be liable to pay tax on such supplies from unregistered persons at full rate under reverse charge mechanism (RCM).This will cause real hardship to composition holders restaurant. Also the limit of Aggregate Turnover of Rupees 50 Lakh for composition is too low to get the real benefit. Under VAT laws, restaurants are enjoying higher limits with lower tax rates.Also in the VAT regime, composition holders not liable to pay purchase tax on purchases made from unregistered persons.

Restaurant service providers and hoteliers are in for real hardship under GST regime with higher burden of taxation on outward supplies. There will also be issues with regard to compliance under GST regime where the Supplier has to maintain accounts and documentation meticulously to claim Input Tax credit and also comply with the different provisions of the GST laws.

– Contributed by Ernakulam Group

Certificate Course on GST

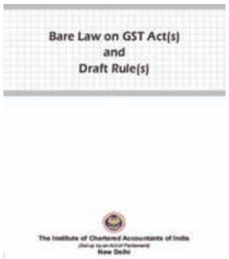
S. No.	BATCH NAME	START DATE	END DATE	BRANCH NAME
1	Kolkata	28-04-2017	21-05-2017	EIRC
2	Trivandrum	28-04-2017	20-05-2017	TRIVANDRUM
3	Gurgaon	03-05-2017	27-05-2017	GURGOAN
4	Dibrugarh	06-05-2017	06-06-2017	DIBRUGARH
5	Noida62	06-05-2017	04-06-2017	NOIDA
6	Jaipur	08-05-2017	19-05-2017	JAIPUR
7	Indore	13-05-2017	11-06-2017	INDORE
8	Warangal	13-05-2017	11-06-2017	WARANGAL

Publication

The Indirect Taxes Committee of ICAI keeps the members updated with the changes through its publications. The following publication have been published by the Committee:

Bare Law on GST Act(s) and Draft Rule(s)

Bare Law on GST Act(s) and Draft Rule(s) which is a compilation of four key legislations viz. The Central GST Act, 2017, The Integrated GST Act, 2017, The GST (Compensation to States) Act, 2017, and The Union Territory GST Act, 2017 and 11 draft Rules i.e. Composition, Input Tax Credit, Determination of Value of Supply, Transitional Provisions, Registration, Tax Invoice, Credit and Debit Notes, Payment of Tax, Refund, Return, Assessment and Audit Rules and Electronic Way Bill Rules.



Ordering Information

The Publication can be purchased directly from the sales counter at the ICAI's Regional Offices / Branches or at the Head Office. Member may also download from Indirect Taxes Committee Website: http://idtc.icai.org/publications.php . To order by post, requisition may be sent to the Postal Sales Department of the ICAI at postalsales@icai.in or can be order online at https://icaionlinestore.org/indirect-taxes-committee

The Institute of Chartered Accountants of India (Set up by an Act of Parliament)

ICAI's contribution for smooth implementation of GST as partner in Nation Building

1. **New Publication on GST:** The Institute has recently developeda publication "Bare Act on GST Act(s) and GST Rule(s)" which is a compilation of four key legislations and the draft rules as released recently in the public domain. In addition to this, following publication on GST were earlier published:
   (a) Background Material on Revised Model GST Law
   (b) FAQ and MCQ on Revised Model GST Law
   (c) Simplified GST Guide for Manufacturer
   (d) Study Paper on Taxation of E-Commerce under GST
   (e) Study Paper on Unjust Enrichment

   These publications can be downloaded athttp://idtc.icai.org/publications.php
2. **Series of Webcasts on Indirect Taxes**

   The Committee has organised 4 Live webcasts in April 2017 in association with Service Tax Commissionerate – Delhi zone.

   Earlier, 21 Live webcasts were organised as a part of its series of webinars as a nationwide outreach programme for awareness on GST. Recordings of all the aforesaid webcasts can be viewed at http://idtc.icai.org/live-webcasts-series.html
3. **Standardised National PPT on GST Act**

   The committee is developing a Standardised Nationalised PPT on GST Act comprising of CGST Act, IGST Act, UGST Act and GST (Compensation to States) Act, 2017along with the draft rules on GST.
4. **Interactive Programme on GST for trade associations**

   The committee is proactively involved in co-ordinating with the trade associations for organising Interactive Programme on GST. In addition to earlier organised 7 programme, 4 more programmes have been organised by the committee as part of its initiatives for partner in nation building. Further, more than 10 interactive programme on GST have been scheduled.
5. **Outreach Programme on GST in Association with Service Tax Commissionerate**

   The Committee has organised another outreach programmes on GSTas knowledge partnerwith the Ahmedabad Commissionerate in addition to the earlier organised 3 programmes in association with Kolkata and Delhi.
6. **Suggestions on GST:** The Institute has submitted its suggestions on Revised Model GST Law and the draft Rules on GSTto the Government.
7. **A Study Report to enable smooth Transition from Pre-GST to Post-GST Regime:** With a view to facilitate the Government in smooth transition from Pre-GST to Post-GST Regime, the report prepared and submitted by ICAI and it can be downloaded from http://idtc.icai.org/budget-memorandum.html
8. **A Study Report on Impact of GST on Jammu & Kashmir Taxation System:** With a view to facilitate the Government of Jammu & Kashmir in understanding the impact of GST on Jammu & Kashmir Taxation System, the ICAI submitted a Study Report to the Government of Jammu & Kashmir. The reports submitted by ICAI can be downloaded from http://idtc.icai.org/publications.php
9. **Impact of GST Regime on Finances & Economy in Delhi**

   With a view to facilitate the Government of Delhi in understanding the impact of GST on Delhi Taxation System, the Indirect Taxes Committee has submitted a Study Report to the Delhi Government. The report entails the impact of GST implementation on Delhi economy, provides a comparative report on revenue under the present and GST regime etc.
10. **Nomination at the Advisory Committee constituted by Goods and Services Tax Network (GSTN):** Considering the expertise of members of ICAI, Goods and Services Tax Network requested ICAI to nominate its two members at the Advisory Committee constituted by Goods and Services Tax Network. Accordingly, ICAI has nominated two members at the said advisory Committee.
11. **Support extended to Goods and Services Tax Network (GSTN):** Based on the request from GSTN, following supports have been provided:
    (i) Sharing of data of ICAI's members for online validation by GSTN.
    (ii) Nominating members for providing feedback on the software module of GST developed by GSTN.
    (iii) List of IT Firm provided to GSTN for providing training so that IT Firm may make necessary changes compatible with GST.
12. **Standardised National PPT on GST**

    The Committee has developed Standardised National PPT on GST with a view to provide guidance to the faculty members and bring uniformity in the session of GST in the programme and session organised by the ICAI. It is hosted on website of the Committee.
13. **Formation of Study Group for helping State Government in smooth implementation of GST:** The Institute has already formed twenty (20) State level Study Group for extending its support to the State Government in smooth implementation of GST.
14. **Identification and Training of new speakers on GST:** 400 new speakers have been identified and trained on Model GST Law making the expert pool of over 500 faculties across India.
15. **Workshops, Seminars and Conferences:** More than100 workshops, seminars and conferences on GST have been organised across the country.

TEST YOUR KNOWLEDGE

Q 1. Whether credit on capital goods can be taken immediately on receipt of the goods?

(a) Yes

(b) No

(c) After usage of such capital goods

(d) After capitalizing in books of Accounts

Q 2. Whether credit on inputs should be availed based on receipt of documents or receipt of goods?

(a) Receipt of goods

(b) Receipt of Documents

(c) Both

(d) Either receipt of documents or Receipt of goods

Q 3. The tax paying documents in section 16(2) is

(a) Bill of entry, Invoice raised on RCM supplies, etc.

(b) Acknowledged copy of tax paid to department

(c) Supply invoice by the recipient

(d) Any of the above

Q 4. The time limit to pay the value of supply with taxes to avail the input tax credit?

(a) Three months

(b) Six Months

(c) One hundred and eighty days

(d) Till the date of filing of Annual Return

Q 5. Can the recipient avail the Input tax credit for the part payment of the amount to the supplier within one hundred and eighty days?

(a) Yes, on full tax amount and partly value amount

(b) No, he can't until full amount is paid to supplier

(c) Yes, but proportionately to the extent of value and tax paid

(d) Not applicable

Q 6. What is the maximum time limit to claim the Input tax credit?

(a) Till the date of filing annual return

(b) b) Due date of September month which is following the financial year

(c) c) Earliest of a) or b)

(d) d) Later of a) or b)

Q 7. Exempt supplies under Section 17 (apportionment of credit) includes

(a) Only exempted supplies

(b) Reverse charge supplies and sale of land

(c) Exempted supplies, reverse charge supplies, Transaction in securities, sale of land, sale of building

(d) None of the above

Q 8. Can the unutilized input tax credit be transferred in case of change in constitution of business?

(a) Not possible

(b) No, it will be exhausted

(c) Yes, It will be transferred only if there is provision for transfer of liabilities

(d) It will be transferred only if it is shown in books of Accounts of transferor

Q 9. Credit on Input services or capital goods can be availed in case of new Registration/Voluntary Registration

(a) Yes

(b) No

(c) Yes, on Input services only

(d) Yes, on capital goods only

Answers

1. (d) After capitalizing in books of Accounts 2. (c) Both 3. (a) Bill of entry, Invoice raised on RCM supplies, etc. 4. (c) One hundred and eighty days 5. (b) No he can't until full amount is paid to Supplier 6. (c) Earliest of a) or b) 7. (c) Exempted supplies, reverse charge supplies, Transaction in securities, sale of land, sale of building 8. (c) Yes, it will be transferred only if there is provision for transfer of liabilities 9. (b) No

FORTH COMING EVENTS UNDER THE AEGIS OF INDIRECT TAXES COMMITTEE

06th, 07th, 13th & 14th May, 2017

Place : Agra • CPE Hours : 12 Hours

Title of the Seminar : Four Days Workshop on GST
Contact Details : Agra Branch of CIRC of ICAI
Ph: 0562-4040598
Email : icaiagra@gmail.com

8th to 13th May, 2017

Place : Goa • CPE Hours : 27 Hours

Title of the Seminar : Residential Refresher Course on GST
Contact Details : Patna Branch of CIRC of ICAI
Ph: 0612-2261044
Email : patna@icai.org

11th & 12th May, 2017

Place : Kanpur • CPE Hours : 12 Hours

Title of the Seminar : Two Days Seminar on GST
Contact Details : Kanpur Branch of CIRC of ICAI
Ph: 0512-3011181, 3011156
Email : circ@icai.in

11th, 12th & 13th May, 2017

Place : Belgaum • CPE Hours : 18 Hours

Title of the Seminar : Three Days Workshop on GST
Contact Details : Belgaum Branch of SIRC of ICAI
Ph: 831-2425018
Email : belgaumbranch@gmail.com

12th & 13th May, 2017

Place : Bhilwara • CPE Hours : 12 Hours

Title of the Seminar : Two Days Workshop on GST
Contact Details : Bhilwara Branch of CIRC of ICAI
Ph: 01482-267921, 922
Email: icaibhl@gmail.com
bhilwara@icai.org

13th and 14th May, 2017

Place : Vasai • CPE Hours : 12 Hours

Title of the Seminar :
Contact Details : Vasai Branch of WIRC of ICAI
Ph: 022- 65568900/65568901
Email : vasaibranch@gmail.com

17th & 18th May, 2017

Place : Varanasi • CPE Hours : 12 Hours

Title of the Seminar : **Two Days Workshop on GST**
Contact Details : Varanasi Branch of CIRC of ICAI
Ph: 0542-2277191
Email : varanasi@icai.in

19th, 20th and 21st May, 2017

Place : Visahapatnam • CPE Hours : 18 Hours

Title of the Seminar : **Three Days Programme on GST**
Contact Details : Visakhapatnam Branch of SIRC of ICAI
Ph: 891-2793196
Email : visakhapatnam@icai.org

20th May, 2017

Place : Kolkata • CPE Hours : 6 Hours

Title of the Seminar : **GST Conclave at Kolkata**
Contact Details : EIRC of ICAI
Ph : 91-33-30211104
Email : eircevents@icai.in

20th and 21st May, 2017

Place : Bhilai • CPE Hours : 12 Hours

Title of the Seminar : **National Conference on GST**
Contact Details : Bhilai Branch of CIRC of ICAI
Ph : 0788-4015125, 0788-2322939
Email : bhilai@icai.org

26th, 27th and 28th May, 2017

Place : Bilaspur • CPE Hours : 18 Hours

Title of the Seminar : **National Conference on GST**
Contact Details : Bilaspur Branch of CIRC of ICAI
Ph: 07752428611
Email: bilaspur@icai.org

FAQs ON GST

Q 1. Who is responsible to pay taxes?

Ans. Generally, the person effecting taxable supplies is liable to pay taxes. However, following are certain exceptions:

a. Reverse charge: In terms of Section 5(3) of the IGST Act, 2017, supply of goods or services or both, as may be notified by the Government on the recommendations of the Council, the tax shall be paid by the recipient under reverse charge; and

b. E-Commerce: Categories of supplies as may be notified by the Government on the recommendation of Council where supply is effected through e-commerce operator in terms of Section 5(5) of the IGST Act, 2017. In the event the e-commerce operator do not have physical presence in the taxable territory, following persons will be liable to pay tax:

i. a person who is representing the e-commerce operator in the taxable territory;

ii. in the absence of such representative, e-commerce operator should appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Q 2. How to distinguish whether a particular supply involves supply of goods or services or both?

Ans. The Schedule II appended to CGST Act, 2017 enlists the activities whether to be treated as supply of goods or services. One may refer Schedule II with reference to Section 7 to classify the transaction whether involves supply of goods or services.

Q 3. Whether transfer of goods to another branch located outside the State is taxable?

Ans. In terms of Section 25(4), the branches which are required to obtain separate registration whether located within the State or otherwise shall be treated as distinct persons. Accordingly, the transfer of goods (stock transfers) to a branch / unit located outside India will qualify as supply liable to tax in terms of clause 2 to Schedule I of the CGST Act, 2017. Further, it is important to note that, transfer of goods to a branch / unit located within the same State having separate registration will also be liable to tax since both such units (supplying unit and recipient unit) would qualify as distinct person in terms of Section 25(4).

Q 4. How to ascertain the taxable value for levy of CGST & SGST/UTGST be levied?

Ans. Section 15 of the CGST Act, 2017 specifies that the value of supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. Further Section 15 provides for certain inclusions which will form part of the value viz., incidental expenses, commission, interest, penalty etc. In case where the supplier and recipient are related persons, the draft valuation rules published contains the provisions and method for ascertaining the value of supplies.

Similar provisions have been specified under Section 7 of UTGST Act, 2017.

Q5. Whether Council has powers to grant exemption on payment of taxes?

Ans. No. The power to grant exemption is vested with the Government. In other words, the Government by way of issuance of notification on the recommendations of the council may either grant the exemption absolutely or subject certain conditions.

Q6. What is time of supply with respect to escalation in price after the issuance of invoice (Eg: Invoice is issued for Rs. 5,000 on June 22, 2017 by the supplier. Subsequently, due to variation in price the recipient pays scenario 1: Rs. 5,500/- and scenario 2: 8,000/-)?

Ans. In terms of the proviso to Section 12(2)(b) of the CGST Act, 2017, the time of supply with respect to the amount received in excess up to Rs. 1,000/- of the amount indicated in tax invoice, the time of supply shall be the date of issue of invoice. Where the amount is received exceeds Rs. 1,000/- the time of supply of goods shall be the earliest of the following (in case where the invoice is already issued):

a. Date on which payment is entered in books of accounts of the supplier; or

b. Date on which payment is credited to the bank account.

Accordingly, the time of supply in each of the scenarios given in the example would be as follows:

Scenario 1: The time of supply of goods with respect to the amount of Rs. 500/- received in excess shall be the date of invoice.

Scenario 2: The time of supply would be as follows:

Date on which payment is entered in books of accounts of the supplier	July 30, 2017	Time of supply shall be July 28, 2017
Date on which payment is credited to the bank account	July 28, 2017	

Q7. What would be the time of supply of services taxable under reverse charge mechanism?

Ans. In terms of Section 13(3) of the CGST Act, 2017, the time of supply of services for remittance of tax under reverse charge mechanism shall be the earliest of the following:

a. Date of payment recorded in the books of accounts;

b. Date of debit in bank account;

c. Sixty days from the date of issue of invoice or any other document by the supplier; or

d. Date of entry in the books of accounts of the recipient.

Q 8. Time of supply where services are supplied online?

Ans. The CGST Act, 2017 does not provide separate provisions for ascertaining the time of supply of service where such services are supplied online. Accordingly, in terms of Section 13, the time of supply of services shall be the earliest of the following:

a. Date of issue of invoice; or

b. Due date of issue of invoice under Section 28; or

c. Date when the payment entry in relation to supply of services is recorded in books of accounts; or

d. Date on which the payment is credited to suppliers bank account.

Q 9. Can the transaction value be questioned if supplier and recipient's relationship come into existence after entering into a contract/arrangement to supply goods or services?

Ans. The laws assume that the relationship between the contracting parties prima facie has influenced the price at which the transaction is being carried out. Since the relationship did not exist on the date the prices were finalized (i.e., entering into the contract), the transaction value should be accepted in case of supplies effected prior to the forming of such relationship. However, for supplies effected after the two persons become 'related persons' for the purpose of the GST law, the transaction value cannot be accepted and reference must be made to the valuation rules.

Q 10. Will GST be applicable on any interest charged for payment after the credit period?

Ans. Interest, Penalty or Late fee charged from the customer would also be liable to GST. However, the law provides that the GST liability on such values can be paid only on receiving such additional amounts.

Q 11. Will compliance of the provisions of Section 17(2) regarding restriction of credits relatable to exempt supplies be mandatory to a Banking Company/ Financial Institution engaged in accepting deposits or extending loans or?

Ans. No. A Banking Company/ Financial Institution engaged in supplying services by way of accepting deposits, extending loans or advances has the following options:

- Comply with the provisions of Section 17(2) regarding restriction of credits relatable to exempt supplies in the manner prescribed; or
- Avail 50% of the eligible input tax credit every month on inputs, capital goods and input services.

The option exercised cannot be withdrawn in the same year. The restriction of 50% will not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN.

Q 12. What is the need for apportionment of tax collected between Centre and State?

Ans. As we all know, that unlike CST, GST is destination based consumption tax. The State where the goods or services or both are consumed will get the right upon tax paid on the said goods or services or both so as to ensure the flow of input tax credit to the recipient in the consuming State. Further, in the case of inter-State supplies, where the tax is collected and paid by the supplier in the origin State, the burden is borne by the receipt in the consuming State. Hence, the integrated tax collected by the central government needs to apportioned between center and consuming state in the proportion to CGST and the SGST. In case of consumption in the Union Territories, the entire tax will be retained by the central government though under different account.

FAQs ON COMPOSITION LEVY

Q 1. What is the rate of tax applicable to a taxable person choosing to pay tax under composition scheme?

Ans. The rate of tax applicable to a taxable person choosing to pay tax under composition scheme is not notified yet. However, Section 10(1) of the CGST Act, 2017 prescribes, subject to such conditions and restrictions as may be prescribed, that the rate of tax shall not exceed:

1. one per cent of the turnover in State or turnover in Union territory in case of a manufacturer;
2. two and a half per cent, of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II; and
3. half per cent, of the turnover in State or turnover in Union territory in case of other suppliers

Q 2. Whether every taxable person may choose to pay tax under composition scheme?

Ans. No. The registered taxable persons whose aggregate turnover in the preceding financial year do not exceed fifty lakhs rupees may opt to pay tax subject to satisfaction of the following conditions:

1. he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;
2. he is not engaged in making any supply of goods which are not leviable to tax under this Act;
3. he is not engaged in making any inter-State outward supplies of goods;
4. he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
5. he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

Q 3. A taxable person having same PAN can opt to pay tax under composition scheme by seeking separate registration for branches?

Ans. No. A registered person shall not be eligible to opt for the composition scheme unless all such registered persons (branches having separate registration under a single PAN) opt to pay tax under composition scheme.

Q 4. Can the taxable person under composition Scheme is eligible to claim input tax credit?

Ans. No, taxable person under composition scheme is not eligible to claim input tax credit

Q 5. Can the customer who buys from a taxable person who is under composition scheme claim composition tax as input credit?

Ans. No. A taxable person paying taxes under composition scheme is not entitled to collect taxes from the recipient in terms of Section 10(4) of the CGST Act, 2017. Accordingly, there does not arise a question for the recipient to claim input tax credit.

Q 6. A taxable person can still pay tax under composition scheme even after the turnover in the current financial year exceeds fifty lakh rupees?

Ans. In terms of Section 9(3), the option availed for paying tax under composition scheme shall lapse with effect from the day on which the aggregate turnover during a financial year exceeds.

Q 7. What are the penal consequences if a taxable person violates the conditions prescribed for composition scheme?

Ans. Following are the consequence for non-compliance with the conditions specified therein:

1. shall be liable to pay additional taxes at the rates applicable to regular taxable persons;
2. shall be liable to penalty; and
3. the amount of tax and penalty shall be recovered in terms of Section 73 & 74 of CGSt Act, 2017.

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