Goods and Service Tax (Compensation to States) Act, 2017

Chapter XXX

Goods and Service Tax (Compensation to States) Act, 2017

FAQ's

Q1. What is compensation cess and from where levy of this Cess is governed by?

Ans. Compensation Cess is levied as per section 8(1) of the Goods and Service Tax (Compensation to States) Act 2017 ["**the GST Compensation Act**"]. As per this section, Compensation Cess is levied on notified supply of goods or services or both for the purpose of providing compensation to the States for loss of revenue for 5 years or for such period as may be prescribed on recommendation of Council, from enactment of GST law, which may arise due to implementation of GST.

Q2. Whether Cess can be levied on supply made by composite dealer?

Ans. No, Cess cannot be levied on supplies made by Composite Dealer in accordance with proviso to section 8(1) of GST Compensation Act.

Q3. Which goods or services are exigible to Compensation Cess and how to calculate Compensation Cess on such goods or services?

Ans. List of goods or services which are exigible to Compensation Cess are provided under Schedule alongwith Tariff item, heading, sub-heading, chapter thereof and rate of compensation cess as notified under *Notification 01/2017-Compensation Cess (Rate) dated 28-06-2017* as amended from time to time. Basis of charging Compensation Cess can be based on value or quantity or rate as prescribed under Schedule.

Q4. Whether Compensation Cess is leviable on GST amount or on taxable amount?

Ans. Compensation Cess is leviable on taxable amount over and above GST amount. Hence, if supply of particular good is valued at Rs.10 Lakh, GST there on is 18% and Cess is 15% then, supplier should raise an invoice of Rs.10 Lakh along with GST of Rs.1,80,000 and Compensation Cess of Rs.1,50,000. Total invoice value will be Rs.13,30,000.

Q5. How to calculate value of goods or services on which Compensation Cess is leviable on the basis of Value?

Ans. As per Proviso to section 8(2), where the cess is chargeable on any supply of goods or services or both with reference to their value, for each such supply the value shall be determined under section 15 of the CGST Act for all intra-State and inter-State supplies of goods or services or both.

Q6. What are the valuation principles to be used for charging of Compensation Cess?

Ans. As per provisos to section 8(2) of the GST Compensation Act, the valuation shall be:

i) For Import of goods – Value as determined under the Customs Tariff Act, 1975.

ii) For all other supplies (both goods and/or services) – Value as determined under section 15 of the Central Goods & Service Tax Act, 2017

Q7. Whether input tax credit of Compensation Cess will be available to set off against liability of CGST, SGST/UTGST or IGST?

Ans. As per proviso to section 11 of the GST Compensation Act, input tax credit in respect of cess on supply of goods and services leviable under section 8, shall be utilized only towards payment of said cess on supply of goods and services leviable under the said section.

Q8. Whether cess is applicable on sale of old and used Motor vehicle also?

Ans. There are two notification issued so far as applicability of cess on old and used motor vehicle is concerned. As per Schedule, Supply of old and used Motor vehicle will also be termed as supply of Motor vehicle as per Entry no. 5 of Schedule and compensation cess rate was 15%.

On 13th October 2017, *vide* Notification no. 07/2017 – Compensation Cess (Rate) dated 13-10-2017 has been issued to reduce compensation cess to 65% of original cess payable on:

(i) For supply of Motor vehicle purchased and leased prior to 01st July 2017 and which are continued to be leased in GST regime also and

(ii) Motor vehicle purchased prior to 1st July 2017 and supplied in GST regime.

The only condition in this notification was that ITC of Central Excise duty, VAT or any other taxes paid is not taken at the time of purchase of such Motor vehicle.

On 25th January, 2018, Notification no. 01/2018 – Compensation Cess (Rate) has been issued to grant exemption from compensation cess on supply of all old and used Motor vehicle provided no ITC of GST or No ITC of Central Excise duty, VAT or any other taxes paid is not taken at the time of purchase of such Motor vehicle.

Q9. Whether an exporter is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the final product is not leviable to Compensation Cess.

Ans. There may be a situation wherein cess is levied on input to manufacture a final product, but on that final product, cess is not levied. Hence there will be accumulation of unutilized input tax credit of cess. Reference may be drawn to Circular No. 45/19/2018-GST dated 30-05-2018, where in it was clarified that in such situation, exporter [registered person making zero rated supply of under bond or LUT] claiming refund of unutilized Input tax credit of cess will be allowed refund thereof.

But if, such Exporter made exports on payment of integrated tax then he cannot utilize the credit of the compensation cess for payment of integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies. Accordingly, he cannot claim refund of compensation cess in case of zero-rated supply on payment of integrated tax.

Q10. Whether dealer of second hand goods is required to pay Compensation Cess on supply made by him?

Ans. *Notification No. 04/2017- Compensation Cess (Rate) dated 20-07-2017*, the levy of cess has been exempted on intra-State procurement of second hand goods from an un-registered supplier when purchased by a registered person dealing in buying and selling of second hand goods and who pays the Cess on the margin basis of computation envisaged under Rule 32(5) of the CGST Rules, 2017.

Q11. What is the meaning of the term “input tax” with regards GST Compensation Act?

Ans. The input tax for the purposes of GST Compensation Act is defined in Sec 2(g) of the Act as:

'input tax' in relation to a taxable person, means,

(i) cess charged on any supply of goods or services or both made to him;

(ii) cess charged on import of goods and includes the cess payable on reverse charge basis.

Q12. Whether the Drawback of Integrated tax and Compensation Cess paid on imported goods upon re-export is allowed?

Ans. As Per Circular No. 21/2017-Customs [F.No.609/54/2017-DBK], dated 30-6-2017 Section 74 of the Customs Act, 1962 provides for drawback of duties paid at time of importation when the imported goods are re-exported. Hitherto this drawback *inter alia* comprised refund of basic customs duty and additional duties under Section 3 of the Customs Tariff Act, 1975.

In this regard, the definition of "*drawback*" under Rule 2 (a) of the Re-export Rules, 1995 has been suitably amended to include refund of duty or tax or cess as referred in the Custom Tariff Act, 1975. Notification No. 57/2017-Customs (N.T.) dated 29-06-2017 may be referred in this regard.

With reference to above the Drawback of Integrated tax and Compensation Cess paid on imported goods upon re-export is allowed.

Q13. What is the criterion for calculating Compensation to States?

Ans. The States shall be compensated on the basis of a pre-defined growth rate per year (14%) considering Financial Year ending 31st March 2016 as the Base Year.

Q14. Whether stock held by mining companies on which Clean Energy Cess has been paid be chargeable to Compensation Cess in GST regime?

Ans. Yes. Compensation Cess will be charged on supply of such stock.

MCQ'S

Short title, extent and commencement (Section 1)

Q1. Whether the Goods and Services Tax (Compensation to States) Act, 2017 is extended to whole of India?

(a) Yes

(b) No

(c) Whole of India except state of Jammu & Kashmir

(d) None of the above

Ans. *(a) Yes*

Definitions (Section 2)

Q2. What is the meaning of '*input tax'* in relation to taxable person?

(a) Cess charged on any supply of goods or services or both made to him

(b) Cess charged on import of goods and includes the cess payable on reverse charge basis

(c) Both of the above

(d) None of the above

Ans. *(c) Both of the above.*

Q3. What is the meaning of '*taxable supp*ly' under the GST Compensation Act?

(a) A supply of goods or services or both which is chargeable to the cess under the GST Compensation Act.

(b) A supply of goods or services or both which is chargeable to the tax under the CGST Act

(c) A supply of goods or services or both which is chargeable to the tax under the SGST Act

(d) A supply of goods or services or both which is chargeable to the tax under the UTGST Act

Ans. *(a) A supply of goods or services or both which is chargeable to the cess under the GST Compensation Act.*

Q4. What do you understand with "*transition date"* in respect of any State under the GST Compensation Act?

(a) The date on which the CGST Tax Act comes into force

(b) The date on which the IGST Act comes into force

(c) The date on which the SGST Act of the concerned State comes into force

(d) The date on which the UTGST Act of the concerned State comes into force

Ans. *(c) The date on which the SGST Act of the concerned State comes into force.*

Q5. How long is the prescribed transition period under the GST Compensation Act?

(a) 3 Years

(b) 7 Years

(c) 2 Years

(d) 5 years

Ans. *(d) 5 Years.*

Projected Growth Rate (Section 3)

Q6. What is the projected nominal growth rate of revenue considered during transition period under the GST Compensation Act?

(a) 10%

(b) 14%

(c) 12%

(d) 8%

Ans. *(b) 14%*

Base Year (Section 4)

Q7. Which financial year has been considered as the base year for calculating the compensation amount payable in any financial year during the transition period, under the GST Compensation Act?

(a) Financial Year ending 31st March, 2015

(b) Financial Year ending 31st March, 2016

(c) Financial Year ending 31st March, 2017

(d) Financial Year ending 31st March, 2018

Ans. (b) *Financial Year ending 31st March, 2016*

Calculation and release of compensation (Section7)

Q8. When the compensation payable to a State shall be provisionally calculated and released?

(a) at the end of every three months period

(b) at the end of every four months period

(c) at the end of every two months period

(d) at the end of every one months period

Ans. *(c) at the end of every two months period*

Q9. When the compensation payable to a State shall be finally calculated for every financial year?

(a) At the end of the financial year

(b) after the receipt of final revenue figures, as audited by the Comptroller and Auditor-General of India

(c) on the date of finalization of financial statement

(d) None of the above

Ans. *(c) after the receipt of final revenue figures, as audited by the Comptroller and Auditor-General of India*

Q10. What shall be the actual revenue collected by a State in any financial year during the transition period?

(a) the actual revenue from State tax collected by the State, net of refunds given by the said State under Chapters XI and XX of the SGST Act.

(b) the integrated goods and services tax apportioned to that State.

(c) any collection of taxes on account of the taxes levied by the respective State under the Acts specified in sub-section (4) of section 5, net of refunds of such taxes.

(d) All of the above.

Ans. *(d) All of the above.*

Q11. What shall be done in case of any difference between the final compensation amount payable to a State calculated in accordance with the provisions of section 7(3) upon receipt of the audited revenue figures from the Comptroller and Auditor-General of India, and the total provisional compensation amount released to a State in the said financial year in accordance with the provisions of section 7(4)?

(a) the difference shall be adjusted against release of compensation to the State in the subsequent financial year

(b) if the difference amount is positive then it shall be paid to the State by the Central Government

(c) if the difference amount is negative then it shall be refunded by the State to the Central Government

(d) None of the above

Ans. *(a) the difference shall be adjusted against release of compensation to the State in the subsequent financial year*

Levy and Collection of Cess (Section 8)

Q12. Which of the following supplies of goods or services or both would be subject to Cess?

(a) Supplies u/s 9 of the CGST Act.

(b) Supplies u/s 5 of the IGST Act.

(c) Supplies under (a) & (b) above.

(d) None of the above.

Ans. *(c) Supplies under (a) & (b) above.*

Q13. Why cess is being levied on supplies of goods or services or both?

(a) For generating extra resources for the welfare of nation

(b) For discouraging use of sin & luxury goods or services

(c) For providing compensation to the Statesfor loss of revenue arising due to GST.

(d) None of the above

Ans. *(c) For providing compensation to the States for loss of revenue arising due to GST.*

Q14. For how many years, cess will be levied on supplies of goods or services or both?

(a) 5 years

(b) 7 years

(c) 2 years

(d) Indefinite

Ans. *(a) 5 years*

Q15. Is all type of taxable persons are liable to pay cess on supplies of goods or services or both under the Act?

(a) Only regular taxable persons

(b) Only composition taxable persons

(c) All taxable persons

(d) None of above

Ans. *(a) Only regular taxable persons*

Q16. What is the basis for levy of cess on supplies of goods or services or both under the GST Compensation Act?

(a) The value of goods or services or both

(b) The quantity of goods or services or both

(c) Mix of both

(d) All of above

Ans. *(d) All of above*

Returns, Payments and Refunds (Section 9)

Q17. Which Act need to be referred for compliances under this Act by taxable person in relation to Returns, payments and refunds.

(a) Central Goods & Service Tax and rules made thereunder

(b) State Goods & Service Tax and rules made thereunder

(c) Integrated Goods & Service Tax and rules made thereunder

(d) None of above

Ans. *(a) Central Goods & Service Tax and rules made thereunder*

Crediting proceeds of cess to Fund (Section10)

Q18. Which of the following statement is true?

(a) All amounts payable to the States under section 7 shall be paid out of the Goods and Services Tax Compensation Fund

(b) Fifty per cent. of the amount remaining unutilised in the Fund at the end of the transition period shall be transferred to the Consolidated Fund of India as the share of Centre

(c) The balance fifty per cent. of the amount remaining unutilised in the Fund at the end of the transition period shall be distributed amongst the States in the ratio of their total revenues from the State tax or the Union territory goods and services tax, as the case may be.

(d) All of the above

Ans. *(d) All of the above*

Q19. Before whom the accounts of the Goods and Services Tax Compensation Fund, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid?

(a) Before each House of Parliament

(b) Before President of India

(c) Before Lok Sabha

(d) All of the above

Ans. *(a) Before each House of Parliament*