

# GOODS AND SERVICES TAX

---

## 2. Goods and Services Tax – Framework and definitions

### Introduction to GST

Goods and Services Tax is very much like Value Added Tax, where tax is levied on value addition in goods and service and tax paid on inputs can be claimed as credit. It was first introduced in France in 1954 and today almost 164 countries have adopted it and many others are in the process of adoption.

The introduction of Goods and Services (GST) in India is a significant step in the field of indirect tax reforms. By amalgamating many Central and State taxes into a single tax, it would mitigate the cascading (*Cascading effect means a tax on tax. It is a situation where consumer must bear the load of tax on tax and inflationary prices as a result of it*) or double taxation in a major way and pave the way for common national market. From consumers point of view, the biggest advantage will be in terms of a reduction in the overall tax burden on goods and services. GST will also make Indian products competitive in the domestic and international market. It will have a boosting impact on the economic growth. Because of the transparency and self-policing character of GST, it would be easier to administer.

### Background or Journey of GST

- **2003:** The Kelkar Task Force was constituted with the mandate to recommend measures to enable the Government of India to implement the Fiscal Responsibility and Budget Management (FRBM) Act, 2003, which seeks to eliminate revenue deficit by March 31<sup>st</sup>, 2008.

As the main proposal of tax reform, Dr. Vijay Kelkar and his team have recommended a single GST – replacing the CENVAT / Excise Duty, sales tax, VAT, Service tax etc. it would use the VAT principal to tax consumption of almost all goods and services – with full tax.

The task force has suggested Unified GST (A Single GST) which classically entails unification of all levies on goods and services. In the Indian context, this would mean merging the following:

- Tax on manufacture of goods (excise duty levied by the Centre)
  - Tax on sale of goods (CST / VAT levied by both Centre and State)
  - Tax on services (levied by Centre)
- **2006-07:** Proposal for GST was first mooted in the Budget speech for financial year (then, Finance Minister P Chidambaram). The discussion was made with States with this regard.
  - **2008:** The Finance Minister during his Budget speech 2007-08 announced that, at his request, the empowered committee of State Finance Ministers has agreed to work with Central Government to prepare roadmap for the introduction of GST from 1<sup>st</sup> April 2010

# GOODS AND SERVICES TAX

---

- **2009:** Based on the discussion between State Government and Central government, the Empowered Committee released its first discussion paper on GST in November 2009. This highlighted out the features of the proposed GST and has formed the basis for discussion.

In order to take the GST related work further, a Joint Working Group consisting of officers from Central as well as State Government was constituted in September 2009.

- **2011:** 115<sup>th</sup> Constitutional Amendment bill was introduced in the Parliament on 22<sup>nd</sup> March 2011, deals with key transaction taxes in India. The proposed GST bill, inter-alia seeks to introduce articles effecting the introduction of GST and introduction of GST Council.

- **2013:** To review the Constitutional Amendment Bill Standing Committee was appointed to provide recommendations and suggestions. In August 2013, Parliamentary Standing Committee submitted its report. Recommendations of Standing Committee incorporated in the bill.

The final draft Constitutional Amendment Bill incorporating the above stated changes was sent to Empowered Committee for consideration in September 2013. The Empowered Committee once again made certain recommendations on the bill after its meeting in Shillong in November 2013. Certain recommendations of Empowered Committee were incorporated in the draft (115<sup>th</sup>) bill. the revised draft was sent for consideration of the Empowered Committee in March 2014.

- The 115<sup>th</sup> Constitutional Amendment Bill, 2011 for the introduction of GST was introduced in Lok Sabha in March 2011 lapsed with the dissolution of the 15<sup>th</sup> Lok Sabha.

- **2014:** In June 2014, the draft Constitution Amendment Bill was sent to Empowered Committee after approval of new Government.

Based on the broad consensus reached with Empowered Committee on the contours of the bill, the cabinet on 19<sup>th</sup> December 2014 approved the proposal for 122<sup>nd</sup> Constitution Amendment Bill for introduction of GST in Lok Sabha.

- **2015:** The Lok Sabha passed the Constitutional Amendment bill on 6<sup>th</sup> May 2015.
- **2016:** The modified Constitutional Amendment Bill was passed in Rajya Sabha on 3<sup>rd</sup> August 2016.
- Finally, the bill received the assent of President on 8<sup>th</sup> September 2016 and became 101<sup>st</sup> Constitutional Amendment Act, 2016 which paved for introduction of GST.

# GOODS AND SERVICES TAX

---

- On 1<sup>st</sup> July 2017 GST was implemented as “One Nation One Tax” in whole of India except in Jammu and Kashmir. But by passing SGST Act and Ordinances relating to IGST and CGST promulgated to extend GST to Jammu and Kashmir.

## Meaning

Goods and Services Tax is a comprehensive tax levy on manufacture, sales and consumption of goods and services. It is an Indirect tax. It is a destination-based tax on consumption of goods and services.

GST is the multi-level tax levied at all stages of supply chain with the credit of taxes paid at previous stage available as setoff.

In simple words, only the additional value will be taxed, and entire tax burden would be borne by the final consumer

## Definition

The Article 366 (12 A) of the Constitutional (101<sup>st</sup> Amendment) Act, 2016 defines “Goods and Services Tax” as any tax on supply of goods, or services or both, except for taxes on the supply of the alcoholic liquor for human consumption.

According to CGST Act, 2017, “GST is a tax on goods and services with value addition at each stage having comprehensive and continuous chain of setoff benefits from the producers or service providers point up to the retailer’s level where only the final consumer should bear the tax”

## Salient features of Goods and Services Tax

- Dual GST Model:** India is a federal country where both the Centre and States have been assigned the powers to levy and collect taxes through appropriate legislation. The model of GST implemented in India is a “Dual GST” model, taxes will be levied by both central Government and State Government on both goods and services. Hence, a dual GST would be according to the constitutional requirement of fiscal federalism.
- Destination-based tax on consumption:** GST is a destination-based tax. This implies that all SGST collected will ordinarily accrue to the state where the consumer of goods or services sold resides.
- Many indirect taxes are subsumed:** The various Central (i.e. Central Excise Duty, Service Tax, Central sales tax etc.), State (Purchase tax, VAT, Entry tax, Entertainment tax etc.) and Local levies were replaced by GST to reduce their cascading effect.
- GST on Export and Import:** Exports will not be subject to GST. Integrated Goods and Services Tax (IGST) will be levied on import of goods and services into the Country. The incidence of the tax will follow the destination principle and the tax revenue in case of SGST will accrue to the state where the imported goods and services are consumed. Full and complete set-off will be available.

# GOODS AND SERVICES TAX

---

- e) **Computation of GST on the basis of invoice credit method or Input Tax Credit method:** The liability under the GST will be computed as per invoice credit method i.e. credit will be allowed on the basis of invoices issued by the suppliers.
- f) **Payment of GST:** The IGST must be paid to Central Government in case of inter-state transaction. CGST and SGST are to be paid to the accounts of Centre and State respectively in case of intra-state transaction.
- g) **Goods and Services Tax Network (GSTN):** A not-for profit and non-government organization, jointly set up by the central government and state governments will provide shared IT infrastructure and services to the central and state governments, taxpayers and other stake holders. GSTN provides the services like registration, filing of tax returns and maintaining tax details, payments and refunds.
- h) **Input Tax Credit or set-off is available:** One of the most important features of the GST system is that the entire supply chain would be subject to GST levied by the central and state government concurrently. Therefore, credit of the tax paid at every stage would be available as set-off for payment of tax at every subsequent stage.
- i) **Maintenance of records:** A taxpayer or importer would have to maintain separate details in the books of account for availing, utilizing of Input Tax Credit of CGST, SGST and IGST.
- j) **Administration of GST:** Administration of GST will be the responsibility of the GST Council, which is the apex policy making body of the GST. Members of GST Council comprised of the central and state ministers in-charge of the finance portfolio.
- k) **GST Council:** The GST Council will be the joint forum of the Centre and States. The council will make recommendations to the union and the states on important issues like tax rates, exemption list, threshold limit etc.,
- l) **Rate of tax:** Determining a revenue neutral rate for GST will be a difficult task because all the states would be required to reach a consensus on it. It has been proposed to adopt a two-rate structure, a lower rate for necessary items and items of basic importance and standard rate for goods in general. Special rates for precious metals.
- m) **IGST Mechanism:** The Centre would levy and collect the IGST on all inter-state supply of goods or services. The IGST mechanism has been designed to ensure seamless flow of input tax credit from one state to another. The inter-state seller would pay IGST on the sale of his goods to the Central Government after adjusting credit of IGST, CGST and SGST on his purchase. The exporting state will transfer to the Centre the credit of SGST used in payment of IGST. The importing (the state where the goods or services are consumed) dealer will claim credit IGST while discharging his

# GOODS AND SERVICES TAX

---

output tax liability in his own state. The Centre will transfer to the importing state the credit of IGST used in the payment of SGST.

- n) **GSTIN:** A PAN-linked Goods and Services Tax Identification Number will be allotted to each taxpayer.

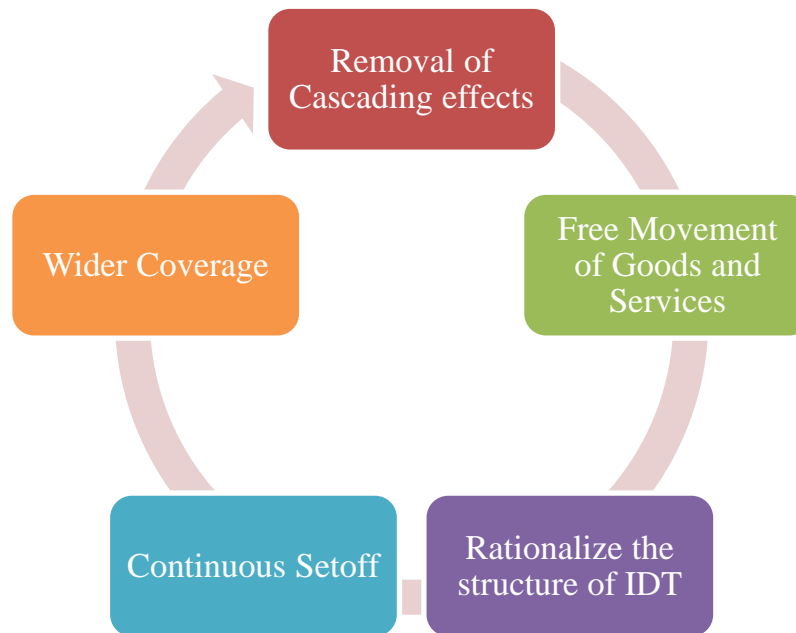
## Objectives of GST

- 1) **One Country- One Tax:** Implementation of GST aims at creating one tax rate one market across the country by removing different rates of taxes applicable. By the implementation of GST only one rate of tax is applicable on a particular product across the country.
- 2) **Consumption based instead of manufacturing based:** GST is a destination-based tax on consumption, that means the tax will be paid by the state where final product is purchased or consumed rather than where the product is produced or manufactured.
- 3) **Uniform GST registration, Payment and Input tax credit:** To create simple administrative procedure this GST system needs only one uniform registration i.e. under GST across the states. The manufacturer, wholesaler, retailer, trader will be eligible for Input Tax Credit on inputs used for the final product being sold.
- 4) **To eliminating cascading effect of indirect taxes:** The key objective of implementation of GST is to remove cascading effect of tax i.e. tax on taxes. In the earlier system where the value added tax or sales tax was levied on excise duty, customs duty included in the purchase price of the inputs which was led to cascading effect of taxes and thereby the selling price will be increased, it was burden to final consumers. Under GST the tax paid on inputs in the earlier stages will be allowed as input tax credit hence the tax will be levied only on the value addition in each stage of consumption. Hence, the cascading of taxes will be removed to a maximum extent.
- 5) **Subsume all indirect taxes at Centre and State level:** The pre-GST implementation taxes will Central excise duty, special additional duty, value added tax, Service tax etc., will be subsumed under dual system.
- 6) **Reduce tax evasion:** Implementation of GST aims at reducing the tax evasion by the businessman, public and entities.
- 7) **Increases productivity:** By allowing taxes paid in the earlier stages as inputs the cost of the products will be reduced and there by consumption will be increased which will in turn leads for increase in productivity.
- 8) **Increases Tax to GDP ratio and revenue surplus:** The implementation of GST assists all the sectors to contribute to the higher extent than at present contribution.

# GOODS AND SERVICES TAX

- 9) **Enhance ease in compliance:** Under GST only single registration, single return is required to be submitted compared to old indirect tax system. It can be expected that the compliance level will be enhanced.
- 10) **Reductions in economic problems:** Implementation of GST tries to solve the economic problems by making the necessity products cheaper to all category of people.

## Why GST in India? Or Need for GST in India



- a) **Removal of cascading effects:** The major reason for introduction of GST is completely remove the cascading effect of old indirect taxes. Due to cascading and double taxation final consumers used to face huge burden of tax. With availability of seamless flow of tax credit throughout the supply chain would ensure the elimination of cascading effect of taxes.
- b) **Free movement of goods and services:** GST has helped in creating a single unified market across India and allow free movement and supply of goods or services or both in every part of the country.
- c) **Rationalize the structure of Indirect tax:** The prime objective behind implementation of GST is provide more efficient, simplified, and transparent indirect taxation in India. The rationalization in taxation system will help in administration to generate more tax revenue which can be used for social, economic and welfare activities.
- d) **Continuous chain of setoff:** GST aims at providing seamless flow of Input Tax Credit throughout the value-chain, and across boundaries of states. This is one of the main fundamental features of GST.

# GOODS AND SERVICES TAX

---

- e) **Wider coverage of supply of goods and services:** GST covers wider range of goods and services.

Hence, there is distinction between goods or services.

## **Benefits of implementation of GST**

GST is a significant reform in the field of indirect tax in India. By amalgamating a number of indirect taxes both at the Central and State level into a single tax and allowing the input tax credit at every stage, it has helped in mitigating the ill effects of cascading and has paved a path for a common National market. The benefits of GST can be discussed with respect in various stakeholders.

### **To Traders**

- Reduction in multiplicity of taxes
- Mitigation of cascading (i.e. tax on tax) effect
- More neutralization of taxes especially for exports
- Development of common national market
- Simpler tax regime
- Equity in rates of tax

### **To Government**

- Simpler system – one nation one tax
- Broadening the tax base
- Improved compliance and revenue collections
- Efficient use of resources
- Automation of compliance procedures to reduce errors and increase efficiency
- A unified common national market to boost foreign investment and “Make in India” campaign
- Boost to export / manufacturing activity, generation of more employment, leading to reduced poverty and increased GDP growth
- Improving the overall investment climate in the country which will benefit the development of states
- Uniform SGST and IGST rates to reduce the incentive for tax evasion
- Reduction in compliance costs as no requirement of multiple record keeping
- Wider coverage of goods and services.

### **To the Citizens**

- Simple to understand
- Transparency in taxation system
- Reduction in prices of goods and services due to elimination of cascading effect
- Uniform price throughout the country

# GOODS AND SERVICES TAX

- Increase in employment opportunities
- Increase in purchasing power
- Increase in savings and investments due to reduction in cost

## **Other benefits**

- GST will widen the tax base, improve tax compliance, remove existing unhealthy competition among states and re-distributable the burden of taxation equitably among manufacturing and services.
- GST will ensure the uniformity of taxes across the states, regardless of place of manufacture or distribution.
- GST would integrate the tax base and allow seamless flow of input tax credit across the value addition chain of goods and services which will lead to reduced cost of goods and services.
- GST environment would lead to improved disclosure of economic transactions which may have a positive impact on direct tax collection also.
- It will mitigate the cascading and double taxation and enable better compliance through the lowering of overall tax burden on goods and services.
- GST will improve Ease of doing business in India.
- With the introduction of GST, the distinction between goods and services will be avoided, thereby making compliance.

## **Types of GST – Internationally**

<b><u>GST Model</u></b>	<b><u>Main Features</u></b>	<b><u>Adopted By</u></b>
National GST	Tax is levied by the Centre with the provision of revenue sharing with the states	Australia and China
State GST	Tax is levied by respective States	USA
Non-Concurrent Dual GST	GST on goods is levied by States and GST on services to be levied by Centre	-----
Concurrent Dual GST	Where both the Centre and State have the concurrent powers to levy GST on both goods as well as services	Brazil and India

## **GST Model in India**

India has adopted dual GST model with the Centre and state simultaneously levying tax one common tax base.



# GOODS AND SERVICES TAX

---

GST to be levied by the Centre on intrastate supply of goods or services is known as CGST and that levied by the State is known as SGST

However, in case of interstate supply of goods or services, the Centre would have exclusive powers to levy the taxes, which is IGST.

India being the federal country where Centre and state distinct responsibilities to be performed in accordance with the Constitution of India, resources need to be raised at both the level and hence the dual GST model has been adopted keeping the fiscal federalism of the Constitution in mind.

## **Indirect taxes subsumed under GST**

The implementation of GST replaces the following taxes:

### **a) Which were levied and collected by Centre**

- Central excise duty
- Duty of excise (medical and toilet preparation)
- Additional duties of excise (goods of special importance)
- Additional duties of excise (textile and textile products)
- Counter-veiling duty (CVD)
- Special additional duty (SAD)
- Central sales tax (CST)
- Central surcharge and cess relating to goods and services

### **b) Which were levied and collected by the state**

- State VAT
- Luxury tax
- Entry tax
- Entertainment and amusement tax
- Purchase tax
- Taxes on lotteries
- Betting and gambling
- State surcharge and cess relating to goods and services

The taxable levies subsumed under GST are primarily in the nature of indirect taxes either on goods or services. The subsumation of these taxes under single tax has resulted in the free flow of tax credit in intra and inter-state transactions.

# GOODS AND SERVICES TAX

## Indirect taxes to continue along with GST or Indirect taxes which are not subsumed under GST

- 1) Basic Custom Duty (BCD)
- 2) Security Transaction Tax (STT)
- 3) Commodity Transaction Tax (CTT)
- 4) Property Tax
- 5) Taxes on alcoholic liquor for human consumption and petroleum products
- 6) Stamp Duty
- 7) Professional Tax.

### Comprehensive analysis of Indirect taxation system in India before GST and under GST regime

<i>Point of Difference</i>	<i>Pre- GST Indirect Tax</i>	<i>GST Regime</i>
<i>Tax Laws</i>	<i>Multiple tax laws at central and state level. Central Taxes – Excise Duty, Customs Duty, Service tax, CST etc., State Taxes – VAT, Entry tax, Purchase tax, Entertainment tax etc.,</i>	<i>Central Taxes – CGST, IGST and Basic Customs Duty  State Taxes - SGST</i>
<i>Constitutional Provision</i>	<i>Article 246 and schedule VII (list I, list II &amp; list III)</i>	<i>Article 246A</i>
<i>Legal framework</i>	<ul style="list-style-type: none"> <li>• <i>Central Excise Act, 1944</i></li> <li>• <i>Finance Act, 1994 (Service tax)</i></li> <li>• <i>Central sales tax Act, 1956</i></li> <li>• <i>Customs Act, 1962 and Separate state VAT Acts</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>CGST Act, 2017</i></li> <li>• <i>IGST Act, 2017</i></li> <li>• <i>Customs Act, 1962 and</i></li> <li>• <i>State wise SGST Acts</i></li> </ul>
<i>Taxable event</i>	<i>Excise Duty – Manufacture of goods Service Tax – Provision of Services Customs Duty – Import or Export CST – Interstate Sales VAT – Intrastate sales</i>	<i>Supply of goods and services. If intrastate – CGST &amp; SGST If intrastate - IGST</i>

# GOODS AND SERVICES TAX

<p><i>Threshold Limit for Non - taxability</i></p>	<p><i>Excise Duty – 1.5 Crores</i>  <i>Service Tax – 10,00,000</i>  <i>Customs Duty – Nil</i>  <i>CST – Nil</i>  <i>VAT – 5,00,000 or 10,00,000 depending on state</i></p>	<p><i>Threshold limit is 20,00,000</i>  <i>It is raised to 40,00,000 in some states.</i></p>
<p><i>Principle of taxability</i></p>	<p><i>Mix of principle of origin and principle of destination i.e. some taxes were based on the principle of origin and some were based on principle of destination.</i></p>	<p><i>Single principles adopted i.e. principle of Destination.</i></p>
<p><i>Availability of ITC</i></p>	<p><i>Excise Duty and service tax. ITC is available on inputs, capital goods and input services to manufacturer and service provider but not to mere dealers.</i>  <i>CST – No credit was available</i>  <i>VAT – ITC was available on inputs and capital goods.</i></p>	<p><i>Seamless Credit of GST paid at earlier stages of the value chain is available.</i></p>
<p><i>Cascading effect</i></p>	<p><i>Since the credit of Excise duty and service tax was not interchangeably usable against VAT. Further CST credit was not available. Basic Customs Duty was includable to determine CVD &amp; SAD. All these led to double taxation and tax on tax. In other words, the cascading effect existed.</i></p>	<p><i>With most of the Indirect taxes subsumed under GST the interchangeability of tax credit issue has been resolved to a great extent except the fact that GST charged in the case of imports on the value inclusive of BCD.</i></p>
<p><i>Filing of returns</i></p>	<p><i>Earlier returns are to be filed under multiple tax laws at different intervals with different due dates. For instance: a manufacture was required to file a return of excise duty as well as return of VAT monthly.</i></p>	<p><i>Under the current GST regime. All registered person, irrespective of manufacturer, service provider or trader are required to file returns only under GST Laws.</i></p>

# GOODS AND SERVICES TAX

	<i>Service providers were required to file half. Yearly returns and traders were required to file VAT and CST returns.</i>	
<i>Accounting records to be maintained</i>	<i>Different tax laws required the assesses to maintain different records like – Excise duty laws required on assesses to maintain the daily stock register, CENVAT credit register. The VAT Acts require to maintenance of the Input VAT and Output VAT register, VAT payable Ledger etc.,</i>	<i>Records need to be maintained only under single law and most of it are required to be maintained on an online portal.</i>
<i>Matching concept</i>	<i>There was no concept of matching tax credit in the earlier Indirect tax system.</i>	<i>The input credit and GST payable records will be maintained online and the matching concept is applied permitting the assesses to only available the credit that has, thereby eliminating the cases of false credit.</i>
<i>Tax rates</i>	<i>The rate of taxes applicable were governed by various laws like Excise duty was governed by CETA, VAT varied from state to state. CST was 2% against form 'C' etc.,</i>	<i>Common rates of tax applicable across India i.e., 0%, 5%, 12%, 18% and 28%.</i>
<i>Tax burden</i>	<i>Heavy tax burden in the consumers due to cascading effect of tax.</i>	<i>The tax burden on the consumer is expected to be reduced due to the mitigation of the cascading effect of tax.</i>
<i>Classification of goods and services</i>	<i>Under Excise duty, goods were classified on HSN (Harmonized System of Nomenclature) Under VAT, the respective state laws-based classification was applied. Under Service tax, the negative list of services was available.</i>	<i>Classification of goods is based on HSN (Harmonized System of Nomenclature) and that of services is based on SAC (Service Account Codes).</i>

# GOODS AND SERVICES TAX

---

## Constitutional Framework

The Amendments made in the Constitution related to GST is called Constitution (101<sup>st</sup> Amendment) Act, 2016. It shall come into force on such date as Central Government notifies in official gazette.

In order to implement GST, there was a requirement of amendment to Constitution whereby the powers to levy GST concurrently by both Union and States has been provided for. Accordingly, 101<sup>st</sup> Amendment Act was enacted by Presidential assent on 8<sup>th</sup> September 2016. With the changes made in the Constitution under the GST regime, concurrent Jurisdiction for levy and collection was given for both Centre and State to tax the supply of goods or services or both.

### The constitution (101<sup>st</sup> Amendment) Act, 2016

1. The constitutional provisions hitherto had delineated separate powers for the central government and the state government to impose various taxes. Where Centre levied excise duty, service tax, the states levied Value Added Tax, entry tax, entertainment tax, and so on.
2. With respect to goods imported from outside the country into India, Centre levied customs duty and additional duties of customs together with applicable cess, if any.
3. Consequently, a constitutional amendment was needed to enable integration of the central excise duty including additional duties of customs, State VAT, CST and certain state specific taxes and service tax levied by the Centre into a comprehensive goods and services tax.
4. Constitution (101<sup>st</sup> Amendment) Act, 2016 was enacted on 8<sup>th</sup> September, 2016. Significant amendments made by the Constitution (101<sup>st</sup> Amendment) Act, 2016 are as follows

➤ **Insertion of New Article 246 A:** The article 246 gives power to Union and State Government to make law relating to matter covered under list I (Union List), List II (state List) and List III (Concurrent List).

**The Article 246A (1)** gives right to parliament and the legislator of every state can make the law in respect of goods and service tax to be imposed by Central or State government. This amendment would subsume the taxes like Excise duty, Service tax, Central Tax at Central level and VAT, Entry tax, Entertainment tax etc. at state level.

**The Article 246A (2)** covers the provision of inter-state supply of goods or services or both, in such circumstances only parliament (i.e. Central Government) can make the law. However, the provision of article 246A, in case of petroleum crude, high speed, petrol, natural gas and aviation turbine fuel shall take effect from the date recommended by GST Council as constituted under Article 279A.

# GOODS AND SERVICES TAX

---

- **Insertion of 279A (Constitution of GST Council):** With the insertion of Article 279A, President of India has power to constitute GST Council within 60 days from the date of commencement of this Act.
- **Amendment of Article 269 and insertion of new Article 269A (Inter-state sale and purchase):** Article 269(1) facilitates the levy and collection of tax on sale of goods or consignment of goods in the course or furtherance of inter-state trade or commerce. Now, the provision of this clause is subject to new article 269A. As per article 269A, Goods and Services shall be levied and collected by Government of India and apportioned between states in manner as provided in the law by parliament on recommendation of GST Council. Further, Parliament of India will formulate the law in respect of tax on inter-state trade of goods or services. In addition to above import of goods or services or both will also be equally treated as supply of the goods and services in the course of inter-state trade or commerce.
- **Amendment of Article 270 (1) (Levy and distribution between union and state):** Article 270 (1) provides the distribution of certain taxes between union and states as per clause (2) of Article 270. The interstate GST has been kept outside from the provision of above article. Because the provision of distribution of revenue in case of interstate GST is already incorporated under 269 A. Hence, the same is excluded from the purview of 270 (1). However, the revenue of GST other than interstate GST will be distributed between union and state according to Article 270(2).
- **Amendment of Article 286 (Restriction on imposition of tax):** Article 286 restricts the state laws from imposition of any tax on sale or purchase of goods outside the state or in the course of the import of goods into, or export of the goods out of, the territory of India. Now, supply of goods or services or both will be covered by this clause. This clause will restrict the states from imposition of inter-state GST and same will be levied by Union Government under Article 269A as mentioned earlier.
- **Amendment of Article 366 (Definition):** Article 366 covers various definitions. As per new clause 12A to Article 366 “Goods and Services Tax” means any tax on supply of goods or services or both except taxes by inserted new clause 26A as, anything other than goods.
- **Amendment of Article 368 (Power to parliament to amend the constitution):** Article 368 gives power to parliament to amend any provision of constitution of India by introducing such change into the each house of parliament and get sanctioned from 2/3<sup>rd</sup> majority of the membership of the house present. It shall then present to president for his assent and then it

# GOODS AND SERVICES TAX

becomes an act. However, if the amendment is related with any matters of state, such amendment should be ratified legislature of states by 50% resolution before presentation of the same for president's assent. Now Article 279A is also covered under provision of Article 368. It means any change in Article 279A shall also be ratified by state legislator beside the sanction of each house of parliament and before the assent of president.

- **Levy of addition 1% tax by states:** To protect the revenue loss of manufacturing state additional 1% tax shall be levied by state on sale or purchase in the course of inter-state 2 years of such extended period as allowed by GST Council.
- **Compensation to states for revenue loss:** Parliament may by law and with the recommendation of GST Council provide compensation to state on account of implementation of GST. The period of compensation is restricted to 5 years.
- **Power of president to remove the difficulty:** If any difficulty arises after commencement of these act, the president may by order remove such difficulty. Provided that no such order is made after the expiry of 3 years from the commencement of these Act.

## Goods and Services Tax Council (GSTC)

As per Article 279A (1) of amended Constitution, the GST Council was constituted by the President within 60 days of the commencement of Article 279A. the notification for bringing into force Article 279A with effect from 12<sup>th</sup> September, 2016 was issued on 10<sup>th</sup> September, 2016.

The GST Council will be the joint forum of the Centre and States. The main objective of GSTC is to develop a harmonized national market of goods and services. It has its secretariat office in New Delhi.

The council will make recommendations to the union and the states on important issues like tax rates, exemption list, threshold limit etc.

### Structure of GST Council

<b>Chairperson</b>	<b>The Union Finance Minister, Government of India</b>
Vice – Chairperson	The Members of the GST Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the council for such period as they may decide.
Members	The union Minister of state in charge of Revenue Finance
Members	The Minister in charge of Finance or taxation or any other Minister nominated by each State Government.

# GOODS AND SERVICES TAX

---

## Powers and Functions of GST Council

GST Council is proposed as a statutory body empowered to make recommendations on almost all the issues relevant to the smooth implementation and administration of GST. The recommendations include

- a) The taxes, cesses and surcharges levied by the Union, States and the local bodies which may be subsumed under Goods and Services Tax.
- b) The goods and services that may be subjected to or exempted from Goods and Services Tax.
- c) Model of CSGT, SGST and IGST Legislation
- d) Apportionment of IGST between Centre and States on supplies in course of inter-state trade or commerce under article 269A.
- e) Determination of Place of Supply.
- f) The threshold limit of turnover below which goods and services may be exempted from Goods and Services Tax.
- g) The rates including floor rates with bands of goods and services.
- h) Any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster.
- i) Special provision with respect to the states of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.
- j) GST Council will devise the mechanisms to adjudicate disputes arising between Centre and States.
- k) The date from which the specified petroleum products will be subject to GS.
- l) Any other matter relating to Goods and Services Tax, as the council may decide.

## GST Council Meetings

### Quorum

For a valid meeting of the members of GST Council, at least 50% (i.e. one half) of the total number of the member should be present at the meeting.

### Decision-making

Every decision made during the meeting should be supported by at least 75% majority of the weighted votes of the members who are present and voting at the meeting. In article 279A a principle is there which divides the total weighted vote cast between Central Government and State Government:

- The vote of Central Government shall have the weighted of  $1/3^{\text{rd}}$  of the total votes.
- The vote of State Government shall have the weighted of  $2/3^{\text{rd}}$  of the total votes.



# GOODS AND SERVICES TAX

---

Any act, decision or proceedings shall not be declared as invalid on the basis of any remaining deficiency at the time of establishment of GST Council i.e.

- If there is any vacancy remained in the Council
- If there is any defect in the constitution of Council
- If there is any defect in the appointment of a person as a member of the Council
- If there is any procedural noncompliance

*Some of the important decisions taken in the GST Council meetings are as follows:*

- 1. The threshold limit for exemption from levy of GST would be Rs 20 lakhs for the States except for the Special Category States, as enumerated in Article 279A of the Constitution, for which it will be 10 Lakhs).*
- 2. The threshold for availing the Composition Scheme would be 1.50 crores.*
- 3. Approval of the Draft GST Rules on registration, payment, return, refund and invoice, debit/credit Notes with the understanding that minor changes may be permitted with the approval of the Chairperson, if required, based on suitable suggestions from the stakeholders or from the Law Department.*
- 4. All entities exempted from payment of indirect tax under any existing tax incentive scheme would pay tax in the GST regime and the decision to continue with any incentive scheme shall be with the concerned State or Central government. In case, the State or Central Government decides to continue with any existing exemption/incentive scheme; it will be administered by way of a reimbursement mechanism.*
- 5. Adoption of five slabs tax rate structure of 1%, 5%, 12%, 18% and 28%. In addition, there would be a category of exempt goods and further a cess would be levied on certain goods such as luxury cars, aerated drinks, pan masala and tobacco products, over and above the rate of 28% for payment of compensation to the states.*

Following are the scenarios for understanding GST Model

***Scenario 1: Let us assume that the distributor A in Bangalore purchases goods from a manufacturer B in Mysore.***

*In this scenario the supply is taking place between Bangalore and Mysore i.e. within same state (intra-state). Hence CGST + SGST should be levied on sale.*

# GOODS AND SERVICES TAX

Mysore  $\longrightarrow$  Bangalore

CGST + SGST

**Scenario 2:** Let us assume that distributor A in Bangalore, Karnataka purchases goods from a manufacturer B in Mumbai, Maharashtra

In this scenario the supply is taking place between Karnataka and Maharashtra (i.e. inter-state). Hence IGST should be levied on sale.

Mumbai  $\longrightarrow$  Bangalore

IGST

**Scenario 3:** Let us assume that distributor A in Bangalore, Karnataka purchases goods from a manufacturer B in USA

In this scenario goods are imported from USA. Hence IGST should be levied on sale.

USA  $\longrightarrow$  Bangalore

BCD + IGST

**Scenario 4:** Let us assume that distributor A in USA purchases goods from a manufacturer B in Bangalore, Karnataka

In this scenario the goods are exported to USA. Hence GST should not be levied on sale.

Bangalore  $\longrightarrow$  USA

No GST

CGST

- Applicable within state
- Tax collected by Central Government

SGST

- Applicable within state
- Tax collected by State Government

IGST

- Applicable on inter-state and imports
- Tax collected by Central Government

# GOODS AND SERVICES TAX

---

## Common features of CGST and IGST

1. **State wise single registration:** A state-wise single registration for a taxpayer for filing returns, paying taxes, and to fulfill other compliance requirements.
2. **Low physical interface:** Most of the compliance requirements would fulfill online, thus leaving very little chance for physical interface between taxpayer and tax official.
3. **Single return for all supplies:** A taxpayer has to file one single return state-wise to report all his supplies, whether made within or outside the state or exported out of the country and pay the applicable taxes on them.
4. **No registration required for some cases:** If the annual turnover threshold in the special category states. And if the turnover of the normal registered person exceeds 20 lakhs only then registration is mandatory otherwise registration is not required.
5. **Composition scheme:** It is the simple and easy tax scheme for small traders where lower rate of tax is imposed under this scheme. This scheme is available for all small traders, selected manufacturing sectors whose turnover is less than Rs.1.50 crores.
6. **Availability of Input Tax Credit:** To prevent cascading effect, ITC would be admissible on all goods and services used in the course or furtherance of business.
7. **Manner of utilization:** In order to ensure that ITC can be used seamlessly for payment of taxes, it has been provided that ITC entitlement arising out of taxes paid under Central law can be cross-utilized for payment of taxes under the laws of the states or union territories.  
**For example:** A taxpayer can use the ITC accruing to him due to payment of IGST to discharge his tax liability of CGST / SGST / UTGST. Conversely, a taxpayer can use the ITC accruing him on account of payment of CGST / SGST / UTGST, for payment of IGST.
8. **Input Service Distributor (ISD):** In the service sector, the old mechanism of ISD under service tax law has been retained to allow the flow of ITC in respect of input service distributor.
9. **Single Administration:** In order to ensure single administrative interface for taxpayers, a provision has been made to authorize officers of the tax administrations of the Centre and the States to exercise the powers conferred under all the Acts.
10. **Advance Ruling Authority:** To provide clarification in tax matters, a provision has been made for an Advance ruling Authority.
11. **Appeal:** Exclusive provision for Appellate mechanism have been made.
12. **Transitional Provision:** Detailed transitional provisions have been provided to ensure migration of existing taxpayers and seamless transfer of unutilized ITC in the GST regime.

# GOODS AND SERVICES TAX

---

## Central Goods and Services Tax Act, 2017

Central Goods and Services Tax Act, 2017 has been enacted to make a provision for levy and collection of tax on Intra-state supply of goods or services or both by Central Government and for matters connected therewith or incidental thereto.

### Salient features of CGST Act, 2017

1. This Act was passed by the parliament of India on **12<sup>th</sup> April 2017**.
2. The Act initially extended to the whole of India except the state Jammu and Kashmir. However, it was extended to the Jammu and Kashmir subsequently through an ordinance dated 8<sup>th</sup> July 2017. Therefore, CGST Act, 2017 is applicable to the whole of India.
3. It provides for levy and collection of CGST.
4. To levy tax on all **intra-state supplies** of goods or services or both supply of alcoholic liquor for human consumption at a rate to be notified, not exceeding 20% as recommended by GST Council
5. To provide broad base ITC by making it available in respect of taxes paid on any supply of goods or services in course of business.
6. To impose obligations on electronic commerce operators to collect tax at source, such rate not exceeding 1% of net value of taxable supplies, out of payments to suppliers supplying goods or services through their portals.
7. To provide self-assessment of the taxes payable by registered person
8. The provisions of the Act provide conduct of audit of registered person is compulsory
9. To provide for recovery of arrears of tax using various modes including detaining and sale of goods, movable and immovable property of defaulting taxable person
10. To provide for powers of inspection, search, seizure and arrest to the officers.
11. To establish the GST Appellate tribunal by the Central Government for hearing appeals against the orders passed by the Appellate authority or the revisional authority
12. To make penalties for contravention of the provisions of the proposed legislation
13. To provide for anti-profiteering clause in order to ensure that business passes on the benefit of reduced tax incidence on goods or services or both to the consumers

# GOODS AND SERVICES TAX

---

14. To provide for elaborate transitional provisions for smooth transition of existing taxpayers to goods and services tax regime.

## **Integrated Goods and Services Tax Act, 2017**

The Integrated Goods and Services Tax bill was introduced in Lok-Sabha on 27<sup>th</sup> March 2017. IGST Act, 2017 make a provision for levy and collection of tax on inter-state supply of goods or services or both by Central Government and for matters connected therewith or incidental thereto. The IGST Act envisages that Centre would levy IGST on all inter-state transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services.

## **Features of IGST Act, 2017**

1. This Act was passed by the parliament of India on **12<sup>th</sup> April 2017**.
2. The Act initially extended to the whole of India except the state Jammu and Kashmir. However, it was extended to the Jammu and Kashmir subsequently through an ordinance dated 8<sup>th</sup> July 2017. Therefore, IGST Act, 2017 is applicable to the whole of India.
3. The Centre will levy IGST in case of **inter-state supply of goods and services, imports and exports, supplies to and from SEZ's**.
4. The **IGST revenue collected by the Centre will be apportioned between the Centre and to the states** where supply of goods and services was received. The collected revenue will be apportioned to the Centre at tax rate specified in the CGST Act. The rest will be apportioned to the state.
5. If IGST is paid on B2C transaction, the state where the goods or services or both is consumed will get their share of SGST.
6. Single IGST rates will be applicable.
7. **Cross-utilization of ITC** is possible, as the Inter-state dealer will IGST after adjusting available, input IGST, CGST and SGST on purchases.
8. Maintenance of **uninterrupted ITC chain** on inter-state transactions.
9. Ensures tax neutrality by keeping the tax regime simple.
10. The relevant information shall be submitted to the Central agency which will act as a clearing house mechanism, verify claims and inform respective States or Centre to transfer of funds
11. IGST will be payable on inter-state stock transfer, branch transfers
12. The Provisions of CGST will be applicable to IGST with respect to registration, valuation, time of supply, returns, refunds, prosecution, appeals.

# GOODS AND SERVICES TAX

---

## Karnataka State Goods and Services Tax

Each state has passed its own SGST Act, 2017. The SGST Act of each state is virtually a copy of CGST Act. Even sections and sub-section numbers are same. Rules and notifications are also identical. The only change is in respect of mention of state authority instead of central authority and state tax instead of central tax.

On 15<sup>th</sup> June 2017 the Karnataka assembly passed the SGST Bill 2017 and the Act was been implanted on 16<sup>th</sup> June 2017, paving the way for the nationwide rollout of GST from 1<sup>st</sup> July 2017. Karnataka's then Chief Minister Siddaramaiah said that with the implementation of state will forgo around 60% of old indirect taxes including entry tax, entertainment tax, VAT etc., The State Government has tried to minimize the estimated loss by removing VAT from liquor and replacing it with the additional state excise duty.

### Key features of Karnataka SGST Act, 2017

1. Karnataka is the **25<sup>th</sup> state** to pass the bill
2. The state can levy and collect tax on all **intra-state supply** only
3. The state will also **forgo 60%** of all old indirect taxes like, entry tax, VAT, entertainment tax, luxury tax etc., as all these taxes are subsumed by the Karnataka GST.
4. The stamp duty, motor vehicles tax, municipal tax, excise duty collected by state government.
5. The amendment envisages tax on petrol, diesel, aviation turbine fuel, crude oil and natural gas be levied from a date that the GST Council may decide. Till then and even after that, state will be empowered to levy tax on sale of these products.
6. Cross-utilization of ITC is possible.
7. Maintenance of uninterrupted ITC chain.
8. The provisions of CGST will be applicable to Karnataka SGST with respect to registration, valuation, time of supply, returns, refunds, prosecution and appeals.

### Union Territories Goods and Services Tax Act, 2017

The Union Territories Goods and Services Tax bill, 2017 was introduced in Lok-Sabha on 27<sup>th</sup> March 2017 and passed by parliament on 12<sup>th</sup> April, 2017. The bill provides for the levy of the Union Territories Goods and Services Tax.

**Note:** In India there are 28 states and 8 Union Territories (of which Delhi and Pondicherry have Legislature). Hence Delhi and Pondicherry will enjoy the SGST provisions.

# GOODS AND SERVICES TAX

---

The Centre will levy UTGST on the supply of goods and services within the boundary of a Union Territory. Further, the Union Territories, which do not have legislature, UTGST will be payable.

The provisions of the CGST Act, 2017 will be applicable to this Act. The provision includes:

- Time and value of supply
- Composition levy
- Registration
- Payment of tax
- Assessment, Refunds, Advance rulings and Appeals
- Inspection, search and seizure
- Returns
- Refunds
- Cross-utilization of ITC is possible.
- Maintenance of uninterrupted ITC chain.

## Important Definitions

- 1) **Aggregate Turnover:** It means the aggregate value of all taxable supplies (excluding the values of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-state supplies of persons having same Permanent Account Number, to be computed on all India basis but excludes Central tax, State tax, Union territory tax, Integrated tax and cess etc.,
- 2) **Agent:** As per section 2(5) of Central Goods and Services Tax Act, 2017, the term 'Agent' means a person including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.
- 3) **Adjudicating authority:** As per section 2(4) of Central Goods and Services Tax Act, 2017, the term 'Adjudicating authority' means any authority competent to pass any order or decision under this Act, but does not include the board, the First appellate authority and the Appellate Tribunal.
- 4) **Capital Goods:** As per section 2(19) of Central Goods and Services Tax Act, 2017, the term 'Capital goods' means goods, the value of which is capitalized in the books of accounts of the person claiming input tax credit and which are used or intended to be used in the course or furtherance of business.
- 5) **Casual taxable person:** As per section 2(20) of Central Goods and Services Tax Act, 2017, the term 'casual Taxable Person' means a person who occasionally undertakes the transactions

# GOODS AND SERVICES TAX

---

involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, state or a union territory where he has no fixed place of business.

## Aspects relating to Casual Taxable Person

- Mandatory registration
- There is no principal place of business required
- Registration certificate issued will be valid till 90 days
- Taxable supply can be made only after certificate is obtained
- Casual Taxable Person has to make advance deposit of tax is an amount equivalent to estimated tax liability.
- The amount deposited by Casual Taxable Person will be credited to electronic cash ledger of the person and will be then adjusted.

6) **Taxable person:** As per section 2(107) of Central Goods and Services Tax Act, 2017, the term 'Taxable person' means who is registered or liable to be registered under section 22 or 24 of the GST Act. Further, every supplier whose aggregate turnover in a financial year exceeds 20 lakhs, is required to register under GST in the state / union territory from where he supplies goods / services / both.

7) **Goods:** As per section 2(52) of Central Goods and Services Tax Act, 2017, the term 'Goods' means every kind of movable property other than money or securities but includes actionable claims, growing crops, grass and thing attached to or forming part of the land which are agreed to be served before supply or under a contract supply.

8) **Services:** Services means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

9) **Principal:** As per section 2(88) of Central Goods and Services Tax Act, 2017, the term 'Principal' means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both.

10) **Input Service Distributor:** As per section 2(61) of Central Goods and Services Tax Act, 2017, the term 'Input Service Distributor' means an officer of the supplier of goods or services or both which receives tax invoice issued under section 31 towards the receipt of input services and issues



# GOODS AND SERVICES TAX

---

prescribed documents for the purpose of distributing the credit at central tax, state tax, integrated tax or union territory paid on the said services to a supplier of taxable goods or services or both having the same PAN as that of the said office.

11) **Input Tax:** As per section 2(62) of Central Goods and Services Tax Act, 2017, the term 'Input Tax' in relation to a taxable person, means the (IGST and CGST) / (IGST and SGS) charged on any supply of goods and / or services to him which are used, or are intended to be used, in course of furtherance of his business and includes the tax payable under section 7(3).

12) **Input Tax Credit:** As per section 2(63) of Central Goods and Services Tax Act, 2017, the term 'Input Tax Credit' means the credit of input tax.

13) **Business:** As per section 2(17) of Central Goods and Services Tax Act, 2017, the term 'Business' includes the following:

- i. Any trade, commerce, manufacture, profession, vocation, adventure, wager, or any other similar activity, whether or not it is for a pecuniary benefit.
- ii. Any activity or transaction in connection with or incidental or ancillary to sub clause (i)
- iii. Any activity or transaction in the nature of sub-clause (i), whether or not there is volume, frequency, continuity or regularity of such transaction.
- iv. Supply or acquisition of goods including capital goods and services in connection with commencement or closure of business.
- v. Provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members.
- vi. Admissions, for consideration, of persons to any premises.
- vii. Services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation.
- viii. Services provided by a race club by way of totalizator or a license to boo maker in such club and
- ix. Any activity or transaction undertaken by the central government, a state government or any local authority in which they are engaged as public authorities.

14) **Person:** As per section 2(84) of Central Goods and Services Tax Act, 2017, the term 'Person' includes:

- An individual
- A Hindu Undivided Family
- A company

# GOODS AND SERVICES TAX

---

- A firm
  - A limited liability partnership
  - An association of persons or a body of individual, whether incorporated or not, in India or outside India
  - Any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013
  - Anybody corporate incorporated by or under the laws of a country outside India.
  - A Co-Operative society registered under any law relating to Co-operative societies
  - A local authority
  - Central Government or a State Government
  - Society as defined under Societies Registration Act, 1860
  - Trust
  - Every artificial judicial person, not falling within any of the above
- 15) **Taxable Territory:** As per section 2(109) of Central Goods and Services Tax Act, 2017, the term ‘Taxable territory’ means the territory to which the provision of this Act applies
- 16) **Non-taxable territory:** As per section 2(79) of Central Goods and Services Tax Act, 2017, the term ‘Non-taxable territory’ means a territory which is outside the taxable territory
- 17) **Output tax:** As per section 2(82) of Central Goods and Services Tax Act, 2017, the term ‘Output tax’ in relation to a taxable person, Output tax means tax chargeable under this act on taxable supply of goods or services made by him
- 18) **Job work:** As per section 2(68) of Central Goods and Services Tax Act, 2017, the term ‘Job work’ means any treatment or process undertaken by a person on goods belonging to another registered taxable person and the expression “job worker” shall be constructed accordingly.
- 19) **Works contract:** As per section 2(119) of Central Goods and Services Tax Act, 2017, the term ‘Works Contract’ means an agreement for carrying out for cash, deferred payment or other valuable consideration, building, construction, fabrication, erection, installation, fitting out, improvement, modification, repair, renovation or commissioning of any movable or immovable property.
- 20) **Non-Resident Taxable Person:** As per section 2(77) of Central Goods and Services Tax Act, 2017, the term ‘Non Resident Taxable Person’ means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India

# GOODS AND SERVICES TAX

---

- 21) **Inward supply:** As per section 2(67) of Central Goods and Services Tax Act, 2017, the term 'Inward Supply' means receipt of goods or services or both whether by purchase or acquisition or any other means with or without consideration.
- 22) **Outward supply:** As per section 2(83) of Central Goods and Services Tax Act, 2017, the term 'Outward Supply' means supply of goods or services or both whether by sale, transfer, barter, exchange, license, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business.
- 23) **Taxable supply:** As per section 2(108) of Central Goods and Services Tax Act, 2017, the term 'Taxable Supply' means supply of goods or services or both which are leviable to tax under GST or IGST Act.
- 24) **Non-Taxable supply:** As per section 2(78) of Central Goods and Services Tax Act, 2017, the term 'Non-taxable Supply' means supply of goods or services or both which is not leviable to tax under CGST or IGST Act.
- 25) **Exempt supply:** As per section 2(47) of Central Goods and Services Tax Act, 2017, the term 'Exempt Supply' means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11 or under section 6 of IGST Act and includes non-taxable supply.
- 26) **Continuous supply of Goods:** As per section 2(32) of Central Goods and Services Tax Act, 2017, the term 'Continuous supply of Goods' means a supply of goods which is provided, if agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduct, for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as government may, subject to such conditions, as it may, by notification specified.
- 27) **Continuous supply of Services:** As per section 2(33) of Central Goods and Services Tax Act, 2017, the term 'Continuous supply of Services' means a supply of services which is provided, if agreed to be provided, continuously or on recurrent basis, under a contract, for a period not exceeding 3 months with periodic payment obligations and includes supply of such services as government may, subject to such conditions, as it may, by notification specified.
- 28) **Composite supply:** As per section 2(30) of Central Goods and Services Tax Act, 2017, the term 'Composite supply' means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other on the ordinary course of business, one of which is a principal supply.

# GOODS AND SERVICES TAX

- 29) **Mixed Supply:** As per section 2(74) of Central Goods and Services Tax Act, 2017, the term ‘Mixed Supply’ means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where a supply such supply does not constitute a composite supply.
- 30) **Principal Supply:** As per section 2(90) of Central Goods and Services Tax Act, 2017, the term ‘Principal Supply’ means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.
- 31) **Taxable Event:** Taxable event under GST law is supply of goods or services or both. It means no supply no GST.
- 32) **Electronic Cash Ledger:** As per section 2(43) of Central Goods and Services Tax Act, 2017, the term ‘Electronic Cash Ledger’ means a cash ledger maintained in electronic form by each registered person. The amount deposited through internet banking/NEFT/RTGS shall be credited to the electronic cash ledger. The amount available in this ledger can be used for the payment of interest, penalty fees etc.,
- 33) **Electronic Credit Ledger:** As per section 2(46) of Central Goods and Services Tax Act, 2017, the term ‘Electronic Credit Ledger’ means which is maintained by each registered person, who is eligible for input tax credit on the common portal. Every claim of input tax credit shall be credited to the said ledger. Further the electronic credit ledger shall be debited to the extent of discharge of any liability.
- 34) **Reverse Charge:** It means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub section(3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of IGST Act, 2017.  
Reverse charge mechanism means the liability of paying tax is the recipient of supply of the goods or services instead of the supplier.

Example:

Goods	Supplier	Recipient
Cashew nuts	Agriculturist	Registered Dealer
Bidiwrapper leaves	Agriculturist	Registered Dealer
Silk yarn	Manufacturer	Registered Dealer
Services provided by CG, SG to Business entity	Government	Registered Dealer
Services provided by department of post	Department of post	Registered dealer
Advertisement services provided by Government	Government	Registered business entity

# GOODS AND SERVICES TAX

---

## Supply under GST

### Meaning of Supply

Supply of goods or services or both is defined as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

The taxable event under GST law is supply of goods or services or both. In other words, it means no supply no GST.

### Scope of Supply

Section 7 of CGST Act, 2017 provide for the scope of supply.

1) Section 7(1) provides for the following to be included under the expression of “supply”

a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

Thus, the forms of supply as contemplated in this part appear to have 2 pre-requisites

- ✓ The supply should be for a **consideration**. And
- ✓ In the **course or furtherance of business**.

### *Analysis of various forms of supply*

- ❖ **Sale:** Sale means a transfer of ownership made for cash or deferred payment or other valuable consideration but does not include mortgage, hypothecation, charge or pledge.
- ❖ **Transfer:** Transfer includes sale and also transfer of right in the goods. Hence it is considered as a supply of services.
- ❖ **Barter:** Barter means the exchange of goods and productive services for other goods and productive services, without use of money. Hence, it is considered as supply of goods.
- ❖ **Exchange:** Exchange means exchange of goods and productive services for other goods and productive services with the use of money. Hence, it is considered as supply of goods.
- ❖ **License:** In case of license one person grants permission to another, or to a definite number of other persons, a right to do or continue to do, such right is called a license. Hence, it is considered as supply of services.
- ❖ **Lease:** A lease is an agreement whereby lessor conveys to the lessee in return of payment or series of payments the right to use the asset for an agreed period of time. Hence, it is considered as supply of goods.

# GOODS AND SERVICES TAX

---

- ❖ **Rental:** Rental means a periodical payment for use of another's property. Rent is paid on monthly basis. Hence, it is considered as supply of goods.
- ❖ **Disposal:** Disposal normally considered as selling of used assets, when organization is about to close down or if it wants to upgrade its assets may dispose the old or used assets. Such transactions will also be considered as supply of goods.

- b) Import of services for a consideration whether or not in the course or furtherance of business
- c) The activities specified in Schedule I, made or agreed to made without a consideration.

**Schedule I:** Activities to be treated as supply even if made without consideration.

- I. **Permanent transfer of business asset where ITC has been availed on such asset:** Any kind of disposal or transfer of assets by an entity on permanent basis even though without consideration. However, it is important to note that this provision would apply for if Input Tax Credit has been availed on such assets.

Example: XYZ & Co. donates old laptops to charitable schools when new laptops are purchased. In this case business would qualify as supply if it had claimed ITC on purchase of business assets.

- II. **Supply of goods or services or both between related parties or distinct parties** as specified in section 25 when made in course or furtherance of business, provided that gifts not exceeding Rs.50,000 in value in financial year by an employer to an employee shall not be treated as supply.

- ❖ **Persons shall be deemed to be related if**

- ✓ Such persons are officers or directors of another's businesses.

- ✓ Such persons are employer and employee

- ✓ Such person are recognized partners in business

- ✓ One of them are directly or indirectly controls other

- ✓ Both of them are directly and indirectly controlled by a third person

- ❖ **Distinct person:** Under section 25, a person who has obtained or is required to obtain more than one registration, whether in one state or union territory or more than one state or union territories shall, in respect of each such registrations, to be treated as distinct persons.

- ❖ **Stock or branch transfers:** The inter-state stock transfer will be taxable as a taxable as to take state-wise registration under same PAN. Such transactions will be considered as supply even without consideration.

- III. **Supply of goods –**

- By a principal to his agent where the agent undertakes to supply such goods on behalf of the principal or

# GOODS AND SERVICES TAX

---

- By an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

IV. Import of services by a taxable person from a related person or from any of his other establishments outside India, in course or furtherance of business.

d) The activities to be treated as supply of goods or services or both refer to schedule II

**Schedule II (Deemed Supply):** Activities to be treated as supply of goods or services

## **I. Transfer**

- i. Any transfer of titles in the goods shall be treated as supply of goods.
- ii. Any transfer of right in the goods without the transfer of title shall be treated as supply of services
- iii. Any transfer of title of goods under agreement which provides for transfer of title in goods at future date upon payment full consideration is considered as supply of goods.

## **II. Land and Building**

- i. Any lease, tenancy, or license to occupy land is a supply of services
- ii. Any lease or letting out of the building including a commercial, industrial, or residential complex for business or commerce, either wholly or partly, is supply of services.

## **III. Treatment or process**

Any treatment or process applied to another person is a supply of service.

## **IV. Transfer of Business assets**

- i. Where goods forming part of assets of a business are transferred or disposed of by or under direction of the person carrying on the business so as no longer to form part of those assets, whether or not for consideration, such transfer or disposal is a supply of goods by the person.
- ii. Where, by or under the direction of a person carrying on a business, goods are held or used for the purpose of business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for consideration, the usage or making available of such goods is a supply of services.
- iii. Where any person ceases to be a taxable person, any good forming part of assets of any business carried on by him shall be deemed to be supplied by him in course or furtherance of business immediately before he ceases to be a taxable person unless –
  - ✓ Business is transferred as a going concern to another person.
  - ✓ Business is carried on by a personal representative who is deemed to be a taxable person.



# GOODS AND SERVICES TAX

---

V. **Supply of services:** The following shall be treated as supply of services namely,

- i. Renting of immovable property
- ii. Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

VI. **Composite Supply**

The following composite supplies shall be treated as a supply of services, namely –

- i. Works contract
- ii. 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) by way of services for consideration.

VII. **Supply of goods –**

The following shall be treated as supply of goods, namely –

- i. Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment, or other valuable consideration

2) **Notwithstanding anything contained in sub-section (1) (exclusions):**

a) Activities or transactions specified in **Schedule III**

- Services by an employee to an employer in the course of or in relation to his employment.
- Services by any court or tribunal established under any law for the time being in force.
- (i) The functions performed by the MP's, MLC's, MLA's, or any member of local authorities  
(ii) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.  
(iii) Duties performed by any person as a chairperson or a member or a director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before commencement of this clause.
- Services of funeral, burial, crematorium, or mortuary including transportation of deceased.
- Sale of land and, subject to clause (i) of schedule II, sale of building.
- Actionable claims, other than lottery, betting, and gambling.

- b) Activities or transactions undertaken by Central Government, State Government, or any other local authority in which they are engaged as public authority.



# GOODS AND SERVICES TAX

---

<b>Schedule I</b>	<ul style="list-style-type: none"><li>• Permanent transfer of business asset</li><li>• Supply between related parties or distinct parties</li><li>• Supply between principal and agent</li><li>• Import of services without consideration of from related parties.</li></ul>
<b>Schedule II</b>	<ul style="list-style-type: none"><li>• Transfer</li><li>• Land and building</li><li>• Treatment or process</li><li>• Transfer of business assets</li><li>• supply of services</li><li>• Composite Supply</li><li>• Supply of Goods</li></ul>
<b>Schedule III</b>	<ul style="list-style-type: none"><li>• Services by employees to employer</li><li>• Services by Court or tribunal</li><li>• Functions by MP'S, MLA'S and MLC'S</li><li>• Any other related services related to above</li><li>• Sevices of funeral, burial, crematorium, or mortuary</li><li>• Actionable claims</li></ul>

## Types of Supply

Supply under GST can be broadly classified as under

### **A) Based on Location**

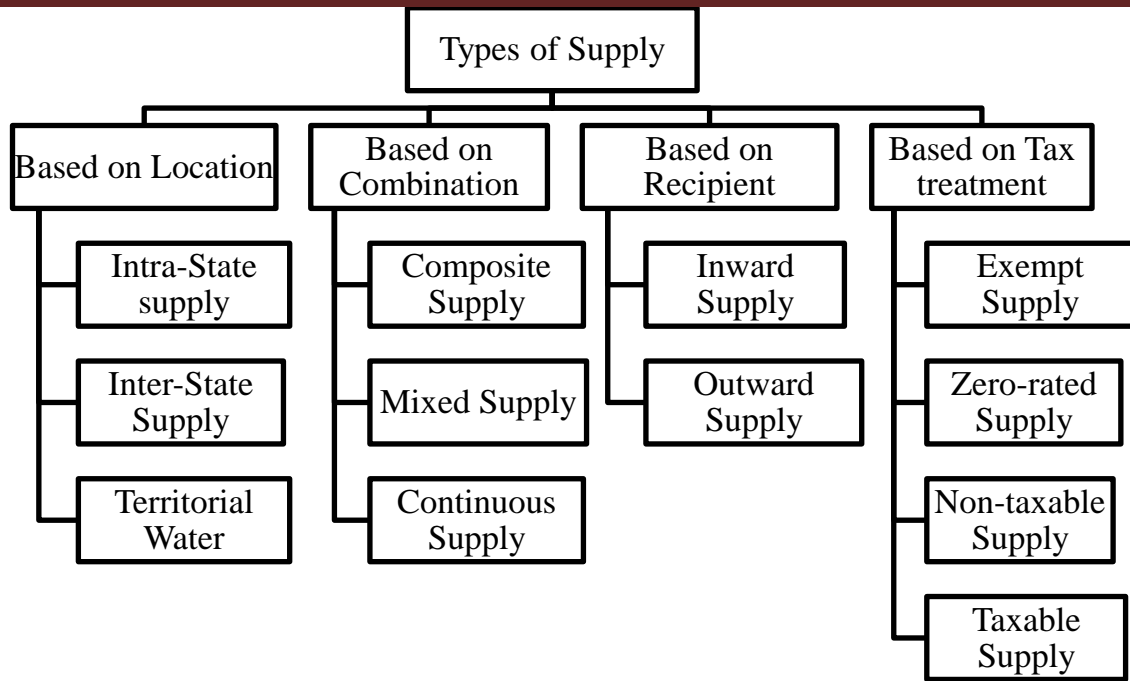
Based on the Location supply is classified into 3 types:

1. **Intra-state Supply:** Under GST, supply of goods or services or both which takes within the same state or union territory is called as Intra-State Supply. In case of intra-state supply, GST rate for the goods or services or both would remain same. However, the GST rate and tax amount are divided equally into two heads namely SGST and CGST.

Exceptions:

- Supply of goods to or by a Special Economic Zone developer or a SEZ Units.
- Goods imported into the territory of India
- Supplies made to a tourist.

# GOODS AND SERVICES TAX



2. **Inter-State Supply:** Under GST, supply of goods or services or both from one state to another state would be called as an inter-state supply. The GST Act defines interstate supply as when the location of the supplier and the place of supply for the customer are in:

- Two different states or
- Two different union territories or
- Between a state and a union territory

3. **Territorial water:**

- Where the location of the supplier is in the territorial water or
- Where the place of supply is in the territorial waters
- The place of supply will be in the nearest coastal state or union territory.

## B) Based on Combination

1. **Composite Supply:** As per section 2(30) of CGST Act, 2017, the “composite supply” means a supply made by a taxable person to recipient consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

The tax liability on the composite supply shall be determined in accordance with provisions of section 8 of CGST Act, 2017. The GST rate applicable on the principal supply shall be applied on the entire consideration.

Example: Supply of TV with Remote. Here TV is the principal supply

# GOODS AND SERVICES TAX

---

2. **Mixed Supply:** As per section 2(74) of CGST Act, 2017, the term “Mixed Supply” means two or more individual supplies or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

In the case of mixed supply, according to provision of section 8 of CGST Act, 2017, the highest of the rate applicable to the respective goods or services individually, shall apply to the mixed supply.

Example: A gift pack comprising of watch, wallet, and pen can be treated as mixed supply as all these are individual products.

3. **Continuous Supply:** Continuous supply is of two types they are,

- **Continuous supply of goods:** It means a supply of goods which provided on continuous basis, under a contract, whether or not by means of a wire, cable pipeline or other conduit and for which the supplier invoices the recipient on a regular or basis and includes supply of notified goods.
- **Continuous supply of services:** It means a supply of services which is provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with periodic payment obligations and includes supply of notified services.

## C) Based on Recipient

1. **Inward supply:** Inward supply means receipt of goods or services or both whether by purchase, acquisition, or any other means with or without consideration.
2. **Outward Supply:** As per Section 2(83) of the Central Goods and Services Tax (CGST) Act, 2017, the term "outward supply" in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, license, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business.

## D) Based on Tax treatment

1. **Exempt supply:** As per section 2(47) of the CGST Act, 2017, the term “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11 or under section 6 of IGST Act, 2017 and includes non-taxable supply.

Exempt supplies comprise the following 3 types of supplies:

- a) Supplies taxable at ‘NIL’ rate of tax.
- b) Supplies that are **wholly or partially exempted** from CGST or IGST, by way of a notification.
- c) Non-taxable supplies as under section 2(78) - supplies that are not taxable under the Act.

### **The following points to be noted:**

- a) Zero-rated supplies such as exports would not be treated as supplies taxable at ‘NIL’ rate of tax.
- b) ITC attributable to exempt supplies will not be available for utilisation or setoff.

# GOODS AND SERVICES TAX

---

2. **Zero rated supply:** Zero rated supply in IGST is being introduced through chapter VIII, Zero-rated supplies refers to items that are taxable under GST, but rate of tax is '0'. The concept of Zero-rated supply is covered under section 16 of the IGST Act, 2017.

Zero-rated supply means any of the following taxable supply of goods or services, namely –

- Export of goods or services
- Supply of goods or services to SEZ developer or an SEZ Unit.

It is also provided that the credit of input tax may be availed for making zero-rated supplies notwithstanding that such supply may be an exempt supply.

The ITC is available for zero rated supplies. This means that export without payment of duty and supply to SEZ will be considered as zero-rated supply and credit will be available. Consequently, there will not be requirement to reverse credit even when the supplies are made without payment of duty in cases of exports and supply made to SEZ.

3. **Non-Taxable Supply:** As per section 2(78) of CGST Act, 2017, “Non-taxable Supply” means a supply of goods or services or both which is not leviable to tax under this Act or Under IGST Act, 2017. It is similar, to exempt supply.
4. **Taxable Supply:** As per section 2(108) of CGST Act, 2017, “Taxable supply” means a supply of goods or services or both which is leviable to tax under the Act.

## Exemptions under GST

The CGST Act, 2017 and IGST Act, 2017 empowers the central government to grant exemption from GST. Section 11 of the CGST Act and Section 6 of the IGST Act provide for such power.

Section 11(1) of CGST Act and Section 6(1) of IGST Act provides the power to grant an exemption through central government by the notification under the recommendations of GST councils.

## Types of Exemptions

Exemptions may be primarily be general in nature or by special order. Further a general exemption may be an absolute exemption or conditional exemption.

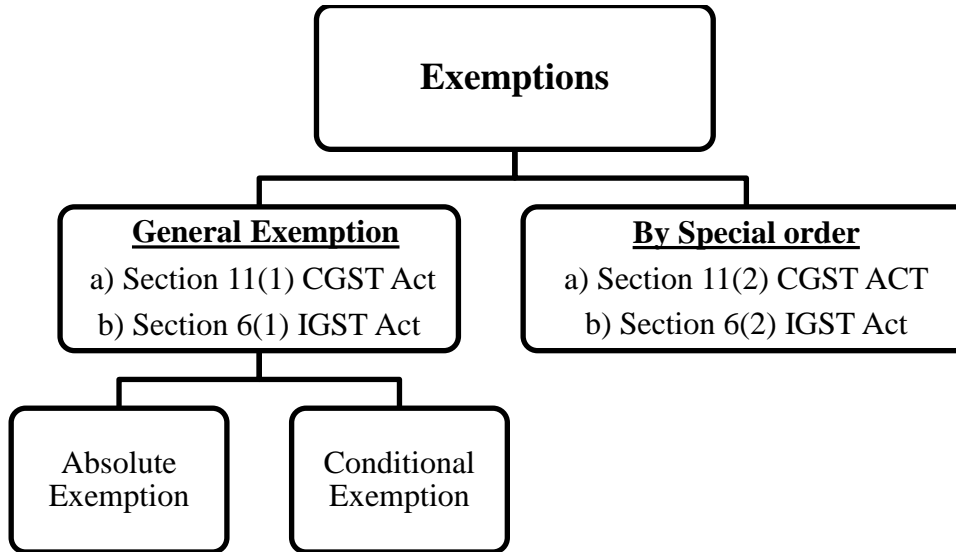
**General Exemption:** A General exemption is an exemption that is granted to all. However general exemption may be of two types.

- a) **Absolute Exemption:** Absolute Exemption is an exemption that is granted unconditionally.

Example: A general exemption granted in relation to Indian National Flag.

# GOODS AND SERVICES TAX

---



b) **Conditional Exemption:** Conditional Exemption is an exemption which can be availed only on the fulfilment of certain conditions.

Example: Services provided by GTA (Goods Transportation Agency) by way of transport of agricultural produce shall be exempted. However, if the same GTA services are provided for transportation of non-agricultural produce GST shall be leviable or charged.

In other words, it is a general exemption subject to the condition of the supply of service shall be exempted only after satisfying the condition.

**By Special order:** As per Section 11(2) of CGST Act and Section 6(2) of IGST Act the Central Government may by special order under circumstances of exceptional nature to be stated in such order exempt from the payment of tax on any goods and / or services.

## **List of goods exempted vide notification number 2/2017 – central tax (rate) dated 28/06/2017**

- 1) Live animals other than live horses
- 2) Meat
- 3) Fish
- 4) Dairy products, bird's eggs, natural honey
- 5) Human hair
- 6) Live trees and other plants, bulbs, roots, cut flowers
- 7) Edible vegetables, fruits or chilled, like potatoes, tomatoes, and onions
- 8) Edible fruits and nuts; peels of citrus fruit or melons
- 9) Non-roasted coffee beans, unprocessed green leaves of tea, fresh ginger and fresh turmeric other than processed

# GOODS AND SERVICES TAX

---

- 10) Cereals (like wheat, rye, barley, oats, maize, rice, buck wheat, millet, canary seeds) other than those put in unit container and bearing a registered name
- 11) Products of milling industry, malt; starches; inulin; wheat gluten
- 12) Ceramic products
- 13) Oil seed, sugar, cane jaggery
- 14) Preparation of cereals, flour
- 15) Bread (branded or otherwise) except when served for consumption and pizza bread
- 16) Prasadam supplied by religious place
- 17) Beverages, spirit, and vinegar, water (other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed containers)
- 18) Salt
- 19) Pharmaceutical product - human blood and its components, plasma and all types of contraceptives
- 20) Organic manure, other than that put in a unit container bearing a brand name
- 21) Essential cosmetics like kum-kum, bindi, sindoor and alta
- 22) Plastic bangles, glass bangles
- 23) Charcoal firewood
- 24) Printed books, newspaper
- 25) Raw silk
- 26) Betel leaves
- 27) Wool
- 28) Gandhi topi and khadi yarn
- 29) Agricultural implements (manually operated or animal driven)
- 30) Handloom weaving machine
- 31) Aircraft, spacecraft
- 32) Surgical instruments and apparatus
- 33) Indigenous made musical instruments
- 34) Slate, slate pencil and chalk sticks
- 35) Pooja samagri
- 36) Indian National Flag

**List of services exempted provided under notification number 12/2017 – central tax (rate) dated 28/06/2017**

- 1) Services by the Central Government, State Government or local authority excluding the following services

# GOODS AND SERVICES TAX

---

- Services by department of post by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government
  - Service in relation to an aircraft or vessel
  - Transport of goods or passengers
  - Any services, other than services covered above provided to business entities
- 2) Service by RBI
- 3) Service by foreign diplomatic mission located in India
- 4) Service related to cultivation plants
- 5) Service by way of access to a road or a bridge
- 6) Transportation or distribution of electricity by an electricity transmission or distribution utility
- 7) Service by way of renting of residential dwelling for use as residence
- 8) Financial service: service by way of extending deposits for loan so far as consideration is represented by way of interest or discount other than interest on credit card services
- Foreign exchange transaction amongst banks or authorized dealer
- 9) Services by way of transportation goods
- By road except the services of GTA or courier agency
  - By inland waterways
- 10) Services by transportation of passengers
- Railway
    - ✓ AC Coach GST chargeable
    - ✓ First class GST chargeable
  - Metro, monorail, trains
  - Inland waterways
  - Public transport
  - Metered cabs or auto rickshaws
- 11) Services provided
- By an educational institution to its students, faculty, and staff
  - To an educational institution by way of transportation, catering, security, hose keeping, services related to admission etc., up to higher secondary school
- 12) Legal services by
- Arbitral tribunal to any person other than a business entity or a business entity with turnover up to 20 lakhs in the preceding financial year

# GOODS AND SERVICES TAX

---

- A firm of advocate or an individual providing legal services to another advocate or firm or any person other than business entity or business entity with turnover up to 20 lakhs in the preceding financial year
- 13) Services of public libraries
  - 14) Services by ESI (Employee State Insurance) to persons governed under the ESI Act, 1948
  - 15) Services by way of public convenience such as bathrooms, washrooms, urinals etc.,
  - 16) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables which do not change their essential characteristics
  - 17) Services by way of admission to a museum, national parks, zoo, wildlife sanctuaries, tiger reserves
  - 18) Services provided by Employee's Provident Fund Organization (EPFO)
  - 19) Services provided by IRDA
  - 20) Services provided by SEBI
  - 21) Services provided by a hotel, inn, guest house, club etc., for residential or lodging purpose having a tariff of less than Rs.1000 per day
  - 22) Services by way of transportation by rail or vessel or GTA (Goods Transportation Agency) to transport following goods
    - Agricultural produce
    - Relief materials meant for victims, natural or man-made disasters
    - Defence or military equipment
    - Milk, salt, food grains, pulses, rice, organic manure
    - Newspaper
  - 23) Any services provided by –
    - The National Skill Development Corporation setup by the Government of India
    - A Sector Skill Council approved by the National Skill Development Corporations
    - Any scheme implemented by National Skill Development Corporation
  - 24) Services of general insurance business in schemes
  - 25) Services of life insurance business in schemes
  - 26) Health care services by a clinical establishment, an authorised medical practitioner, or paramedics
  - 27) Services provided by way of transportation of a patient in an ambulance, other than specified in (26) above.

\*\*\*\*\*



# GOODS AND SERVICES TAX

---

## Assignment 2

### Section A

1. Give the meaning of GST.
2. What is dual GST Model?
3. State two differences between Pre-GST Regime and GST Regime.
4. What are the taxes subsumed under GST?
5. Define the following under CGST Act, 2017
  - a. Casual Taxable person
  - b. Non-Resident person
  - c. Principal Supply
  - d. Input Service Distributor
  - e. Goods
  - f. Aggregate Turnover
6. State any two objectives of GST.
7. What is Mixed Supply?
8. What is Composite Supply?
9. What is Zero-rated supply?
10. What is Reverse Charge Mechanism?

### Section B

1. Explain the salient features of GST.
2. Write a note on dual GST model.
3. Explain the provisions relating to Casual Taxable Person.
4. Explain the types of Supply under GST.
5. Explain the activities that are treated as supply under schedule II.

### Section C

1. What is GST Council? Explain its structure, powers, and functions of GST Council.
2. Explain the salient features of CGST Act, 2017.
3. Explain the features of IGST
4. Briefly explain the benefits of GST.
5. Enumerate the scope of supply under section 7 of CGST Act, 2017.