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DPNC Insight

KEY HIGHLIGHTS OF THE MODEL GST LAW

As the Empowered Committee of Finance Ministers granted in-principle nod to the draft of Model GST Law, it was placed in the public domain on 14th June, 2016, with the government seeking feedback and comments from trade and industry. It is a laudable way forward with optimism to see it implemented in full swing by April 2017.

GST is a destination based value added tax which will remove trade barriers and create one common Indian market. By providing seamless credit of input tax across entire supply chain, it will remove the cascading effects of tax, thereby reducing the cost of indigenous goods and services and making them more competitive in the international market.

The highlights:

1. The Model GST Law comprises of draft Central Goods and Service Tax (CGST) Act, 2016; draft State Goods and Service Tax (SGST) Act, 2016; GST Valuation (Determination of the Value of Supply of Goods & Services) Rules, 2016 and the Integrated Goods and Services Tax (IGST) Act, 2016.
2. CGST Act, would extend to whole of India , including J&K.
3. SGST Act would be applicable to each relevant state.
4. It's a dual GST Model. On intra- state supplies, CGST and SGST would be applicable
5. On inter – state supplies, IGST would be applicable.
6. Exports would be zero rated including supply to SEZs.
7. Import of goods and / or services shall be treated as inter-state supplies. It will follow the destination tax principle. Full Input Tax Credit (ITC) available on the GST paid on imports.
8. Taxable event shall be 'SUPPLY' of goods or services.
9. Scope of 'SUPPLY' :

- All forms of supply of goods and/or services such 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 of business.
 - Importation of service, whether or not for a consideration and whether or not in the course of business.
 - A supply specified in Schedule I, made or agreed to be made without a consideration; which covers transactions like permanent transfer/disposal of business assets, supply of goods and/ or services by a taxable person to another taxable or non-taxable person in the course of business.
 - Supplies covered under Schedule II, which covers deemed supply of goods or deemed supply of services.
 - Transactions between principal and agent shall be deemed to be a supply.
 - The supply of any branded service by an aggregator, under his brand name or trade name shall be deemed to be a supply.
10. Reverse Charge mechanism (RCM) would be applicable, as may be notified.
11. Benefit of composition scheme may be granted to a registered taxable person, whose aggregate turnover in a financial year does not exceed Rs. 50 lakhs. The composition rate may be prescribed, but it shall not be less than 1% of the turnover during the year, subject to :
- A taxable person undertaking Inter-State supplies cannot avail this benefit.
 - The taxable person shall not collect any tax from its customers.
 - No Input Tax Credit (ITC) shall be allowed.
12. Threshold limit for Registration (Schedule III): A person needs to take registration once his aggregate turnover in a F.Y exceeds Rs. 9 Lakhs (4lakhs in case of N.E States). However, a person required to be registered shall not be considered as a taxable person until his aggregate turnover in a F.Y exceeds Rs. 10 Lakhs (5 lakhs in case of N.E States)
13. Threshold exemption not available to taxable persons engaged in inter-state supply and those covered under RCM.
14. Time of supply of goods: CGST/SGST shall be payable at the earliest of the following:
- (i) Date on which the goods are removed for supply to the recipient (in case of movable goods);

- (ii) Date on which the goods are made available to the recipient (in case of goods not required to be removed);
 - (iii) Date of issuing invoice by supplier;
 - (iv) Date of receipt of payment by supplier,
 - (v) Date on which recipient shows the receipt of the goods in his books of account.
15. Time of supply of service: CGST/SGST shall be payable at the earliest of the following:
- (vi) Date of issuance of invoice
 - (vii) Date of receipt of payment
 - (viii) Date of completion of service (if invoice is not issued within the prescribed period)
16. Date on which recipient reflects the receipt of services in his books of account.
- Time of supply in case of RCM: CGST/SGST shall be payable at the earliest of the following:
- (ix) Date of receipt of service
 - (x) Date on which payment is made
 - (xi) Date of receipt of invoice
 - (xii) Date of debit in the books of accounts
17. Value of taxable supply: Value of taxable supply of goods and services shall be the **transaction value**, that is the price which is actually paid for such supply, when the parties are not related and price is the sole consideration. Discounts are not to be included in the transaction value subject to certain conditions.
- However, supplies where consideration is not wholly in money; where the parties are related; where transaction is undertaken by a pure agent, money changer, insurer, air travel agent, distributor or selling agent of lottery; in all such cases GST Valuation (Determination of Value of Supply of Goods and Services) Rules, 2016 shall apply. Under these Rules, value is determined by way of Comparison Method; Computed Value Method or Residual Method.

18. Utilization of ITC:
 - Input of IGST to be set off against IGST, CGST and then SGST, in that specific order
 - Input of CGST to be set off first against CGST, and then IGST
 - Input of SGST to be set off first against SGST, and then IGST
 - No cross utilization between CGST & SGST.
19. Supply of goods to a job worker shall not be considered as supply of goods.
20. The scheme provides for provisions for filing of returns, payment recovery and refund of tax.
21. The scheme provides for Rules for Place of supply of goods and also the Place of supply of services which are more or less same as under the current service tax regime.
22. Schedule II of the Model Law also provides for matters to be treated as supply of goods or services, which are in line with the 'Declared Services' as under the current service tax regime.
23. The Central and/or State Governments have the power to grant exemption to certain goods and/ or services, as in the current regime.
24. TDS where total value of supply, under a contract, exceeds Rs. 10 lakhs: Central or State Government may mandate departments of Central / State Government or local authority or Governmental agencies or any other notified person to deduct tax at source at the rate of 1% from the payment made or credited to the supplier of taxable goods / services, where the total value of supply, under a contract, exceeds Rs. 10 lakhs.
25. TCS: Every e-commerce operator shall collect tax at source out of the amount payable to the supplier, at the time of credit of such amount or at the time of payment, whichever is earlier.
26. Transitional Provisions:
 - On the appointed day, all existing taxpayers shall be migrated to GST. They will be issued a Certificate of Registration on a provisional basis, which shall be valid for six months. On submission of certain information, as may be prescribed, they shall be granted a certificate of registration on final basis.

- Unutilized CENVAT/ VAT credit, if carried forward in the returns, shall be allowed to be retained under the new GST law.
 - Pending refund claims shall be disposed off under earlier laws only.
27. Schedule IV provides a list of services, in respect of which the Central Government, a State Government or a local authority shall not be considered as a taxable person.
 28. The IGST Act, 2016 shall apply in the case of inter-state supply of goods and/or services. It shall be administered by the Central Government.
 29. Constitution of a National GST Appellate Tribunal by Centre on the recommendation of the GST Council has been proposed. A National GST Settlement Commission has also been proposed to be set up by the Centre.
 30. Every taxable person shall have a GST compliance rating score, which shall be updated at regular intervals and would be placed in the public domain.

In conclusion, the government is trying to bring all the stakeholders on board for a successful passage of the Constitution Amendment GST Bill in the Rajya Sabha in the upcoming monsoon session.

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