Road map of GST

Final GST bills

Enacted by the Parliament

7 Rules & formats are finalized. Draft Rules (7) issued. FAQs provided as a guide.

Notification & Rates

Draft rates, RCM list & Exempted service list has been provided on 18.05.2017

Likely to be issued by June 2017.

GSTN

Development of GSTN – substantially completed

Testing & making it live soon

Transition

Transition to GST till 30th June 2017

Go LIVE

Actual Rollout targeted from 1st July 2017?

Compliance for CAs + Audit in GST

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Levy and collection

- CGST/SGST - shall be levied on all intra-State supplies of goods and/or services
- IGST - shall be levied on all inter-State supplies of goods and or services
- This Act extends to the whole of India except the state of Jammu & Kashmir*
- The tax on the supply of petroleum products crude/HS/ diesel/ petrol/ natural gas ATF levied from notified date
- Alcoholic liquor for human consumption shall be levied from the date notified.
- Reverse Charge – Goods (URD) & Services (Unregistered, Unorganised, Import)
- Notification issues by Govt specifying categories of supply of goods/services-recommended by Council
- E-commerce operator- notified services-Govt on recommendation of Council
- Apply to all stages of the value chain – primary, secondary & tertiary including retail

Steps to determine liability

- Determining taxability or identifying the tax payable
- Different aspects like
  - location of supplier,
  - time of supply,
  - place of supply,
  - rate of tax, which needs to be determined.
- What is the sequence which needs to be adopted for determining the GST liability?????

Identification of Supply

Supply Includes

For consideration & for Business Purposes

All form of supply of goods & Services

- Sale
- Transfer
- Barter
- Exchange
- License
- Rental
- Lease
- Disposal

Whether or not for business

- Importation of service for consideration

Supply without consideration made or agreed to be made – Schedule I & II

- Permanent transfer/disposal of business assets where ITC availed
- Supply of goods or services between related persons, or between distinct persons , when made in the course or furtherance of Business (Gifts provided by the employer to employee exceeding Rs.50,000)
- Supply between agent and principal
- Import of service from a related person .
- Goods put to private/ non business use whether or not for consideration

Identification of Supply

Schedule II : Activities to be treated as supply of goods or services

Supply of goods

- Transfer of title.
- Hire Purchase
- Transfer/ Disposal of business assets whether or not for consideration
- Supply of goods by any unincorporated association to a member

Supply of services

- Transfer of right
- Lease/tenancy/license to occupy land
- Lease of any building for business/commerce
- Treatment or process applied to other's goods.
- Goods put to private/ non business use whether or not for consideration
- Renting of immovable property.
- Construction of complex except where the consideration is recd after OC.
- Temporary transfer of IPR.
- Development, designing of software.
- Agreeing to tolerate an act.
- Transfer of right to use.
- Works contract
- Supply of food for human consumption.

Note : Sale of assets by a person who ceases to be a taxable person shall be deemed to be supplied in the course or furtherance of business unless –

1. **Transferred as a Going Concern to another person**
2. **Business carried on by a personal representative**

Identification of Supply

Schedule III : Specifies certain activities as neither supply of goods nor supply of service

- Services by:
  - Employee to the employer
  - Any Court & Tribunal
  - Funeral, burial services
- Actionable claims other than lottery, betting and gambling
- Sale of land & Building after OC;
- Functions performed by the MP's, MLA's, Members of Panchayats, Members of Municipalities and Members of Local Bodies and Person who hold post in pursuance of provisions of Constitution etc.,

Goods or Service?

- Identify whether supply is of goods or service?
- Where the transaction is combination of both goods or service or multiple goods and/or multiple services – Schedule II, Schedule III, Composite/Mixed supply

Composite vs Mixed Supply

COMPOSITE SUPPLY

- A supply naturally bundled in the course of business, consisting of:
  - One or more goods/services
  - Service + Goods
  - Principal Supply (Essentiality concept) – Tax rate is determined based on such supply.
- Ex: Supply of Consultative Concurrent Audit + Reimbursements
- Main intention needs to be considered to determine whether this is a supply of good or a supply of service and also all other supplies ancillary to the main supply

MIXED SUPPLY

- A two or more supplies provided at a single price, which is not a composite supply.
- Ex: 'All in 1' pricing mechanism, may be avoided.
- Taxability – GST shall be payable on entire value at the highest rate applicable for goods/service forming part of the mixed supply.
- it is relevant that each of the elements of goods or services has to be identified, each of the said goods or services has to be classified under the appropriate heading and identify the applicable rate of tax under GST

Classification

- Classification of such goods or services has to be made since there are differential rates applicable to goods and service.
- **Composite supply** identified with principal supply,
- **Mixed supply** -to identify whether supply is goods or service, whereas in case of only goods or only services or
- Exemptions would be linked to classification.
- The classification of a product determined on the basis of Harmonized System of Nomenclature (HSN) issued by World Customs Organization considering the headings, sub-headings, sections notes, chapter notes. In case of services, Services Accounting Codes (SAC)

Rate of tax

- Identification of rate of tax
- Most of the goods they have given applicable rate of tax. Based on the same, one has to determine the applicable rate of tax
- 5%, 12%, 18%, 28%, (upto 40%) + cesses upto 160%!!
- Goods-various items rates list given
- Services-18% mean rate

Exemptions

- Whether there is any exemption?
- Levy of GST is attracted on supply of all goods / service or both.
- The Central or State Government empowered to exempt certain goods/service from the levy of GST. Such exemptions are need based and intended to serve public interest..
- Substantive conditions need to be mandatorily fulfilled

Services under Reverse Charge

S. No	Description of service	Tax payable by
1	Taxable services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory other than non-assessee online recipient (OIDAR)	person located in the taxable territory other than non-assessee online recipient
2	Services provided by GTA in respect of transportation of goods by road	• Factory • Society • Co-operative society • any person registered under CGST/SGST/UTGST Act • Body corporate • Firm (and AoP) • Casual taxable person
3	Services provided by an individual advocate or firm of advocates by way of legal services, directly or indirectly	Any business entity
4	Services provided by an arbitral tribunal	Any business entity

Services under Reverse Charge

S. No	Description of service	Tax payable by
5	Services provided by an insurance agent to any person carrying on insurance business	Any person carrying on insurance business.
6	Transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works	Publisher, Music company, Producer
7	Radio taxi or Passenger Transport Services provided through electronic commerce Operator and received by any person	100% by Electronic Commerce Operator
8	Unregistered Dealer/ supplier goods/ services – coffee/ cleaning, other professionals not registered	100%

Types of Audit Under GST

- An IDT review for ensuring past compliances under VAT/ ST/ CE
- A GST transition compliance audit – 2/3 months of implementation
- Audit by Dept/ CAG – Assistance in pre audit
- Internal audit of GST
- Mandatory Audit – 2 cr

GST aspects in Statutory Audit

Enhanced responsibility on Chartered Accountants-

New format of Audit report

Auditor report which usually deals with,

- The preparation of Financial Statements based on the generally accounting policies
- Disclosures as per CARO (Disputed issues, pending at various stages)
- The applicability and compliance of the Accounting Standards

GST Aspects in Statutory Audits

- Method of accounting turnover (Inclusive method or exclusive method)
- Notes to accounts- (Foreign payments- GST- RCM)
- Comments on Going Concern
- Qualification of Auditor, if any

Possible GST Impact

- GST has a direct impact on profitability
- If GST (CE/ST/VAT) not collected/ short collected for various reason.
- Impact of GST would be 17% or 35% on turnover, whereas the profitability may be around 3 to 5 %
- Demand for 6.5 years +Interest +Penalty
- If the demand is confirmed – No credit - profits get eroded + **GOING CONCERN** assumption is questioned.

Possible GST Impact

- Examine the major agreements, to ascertain the nature of supply rendered.
- If not sure client to take opinion
- In case of dispute, check principles of going concern is effected or otherwise
- List down the disputed cases + legal consultants view + probability of confirmation of demand + amounts involved in the case

Audit For management

- Mostly done for the satisfaction to the management
- Check the controls and test the controls
- Assures management if controls are in place
- An assurance to statutory auditor.
- Builds a moral check, as to being monitored by an independent person.

Audit for management..

- Tax optimization with good accounting system
- Check regular availment of eligible credits
- GST payment on import of services – in cash
- Documents based on which credit availed
- Working papers for preparation of GST returns
- Knowledgeable person interacting with department, during audit

Audit for management..

- Reconciliations b/w IT system to Books to returns under GST
- Reconciliation of difference between sales register and GST returns
- Timely and regular replying to automated & other departmental queries
- In case manual A/c entries made later , in computerized environment, check for authorization from higher ups.

Audit for management..

- System of computing the correct amount of tax payable
- Ensure taxes paid are in terms with various tax laws
- Ensuring reco of ALL tax as per books & as per return
- Checking of regular deposit of tax with exchequer

Tax Audit

Point 4- IDT- GST Liability – Customs, Central/ State Excise, VAT/ CST, Service Tax, Entry Tax/ Octroi, Profession Tax, Luxury tax, Entertainment tax.

Point 16 – FTP benefits

Point 18 – Depreciation – Double benefit?

Point 21 – Liquidated damages/ mandatory penalty- GST payable

Tax Audit

Point 26 – 43B – Reconciliation of due Vs paid

-> Point 27 – Credits – ITC [Restriction/ eligibility/ Reversal for other use]

- Cenvat Credits – Capital Goods, Inputs, Input Service

[Restriction/ eligibility/ Reversal for inputs + IS]

-> Point 41 – Listing of demand/ refunds

THANK YOU

For any clarification

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