

Overview of GST

Q 1. What is Goods and Services Tax (GST)?

Ans. It is a destination based tax on consumption of goods and services. It is proposed to be levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. In a nutshell, only value addition will be taxed and burden of tax is to be borne by the final consumer.

Q 2. What exactly is the concept of destination based tax on consumption?

Ans. The tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply.

Q 3. Which of the existing taxes are proposed to be subsumed under GST?

Ans. The GST would replace the following taxes:

taxes currently levied and collected by the Centre:

- a. Central Excise duty
- b. Duties of Excise (Medicinal and Toilet Preparations)
- c. Additional Duties of Excise (Goods of Special Importance)
- d. Additional Duties of Excise (Textiles and Textile Products)
- e. Additional Duties of Customs (commonly known as CVD)
- f. Special Additional Duty of Customs (SAD)
- g. Service Tax
- h. Central Surcharges and Cesses so far as they relate to supply of goods and services

(ii) State taxes that would be subsumed under the GST are:

- a. State VAT
- b. Central Sales Tax
- c. Luxury Tax
- d. Entry Tax (all forms)
- e. Entertainment and Amusement Tax (except when levied by the local bodies)
- f. Taxes on advertisements
- g. Purchase Tax
- h. Taxes on lotteries, betting and gambling
- i. State Surcharges and Cesses so far as they relate to supply of goods and services

The GST Council shall make recommendations to the Union and States on the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed in the GST.

Q 4. What principles were adopted for subsuming the above taxes under GST?

Ans. The various Central, State and Local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

- (i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.
- (ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.
- (iii) The subsumation should result in free flow of tax credit in intra and inter-State levels. The taxes, levies and fees that are not specifically related to supply of goods & services should not be subsumed under GST.
- (v) Revenue fairness for both the Union and the States individually would need to be attempted.

Q 5. Which are the commodities which have been kept outside the purview of GST?

Ans. Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. So alcohol for human consumption is kept out of GST by way of definition of GST in constitution. Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out and GST Council shall decide the date from which they shall be included in GST.

Q 6. What is the status in respect of taxation of above commodities after introduction of GST?

Ans. The existing taxation system (VAT & Central Excise) will continue in respect of the above commodities.

Q 7. What is the status of Tobacco and Tobacco products under the GST regime?

Ans. Tobacco and tobacco products is leviable to GST. In addition, the Centre has the power to levy Central Excise duty on these products.

Q 8. What type of GST is proposed to be implemented?

Ans. It would be a dual GST with the Centre and States simultaneously levying it on a common tax base. The GST to be levied by the Centre on intra-State supply of goods and / or services would be called the Central GST (CGST) and that to be levied by the States/ Union territory would be called the State GST (SGST)/ UTGST. Similarly, Integrated GST (IGST) will be levied and administered by Centre on every inter-state supply of goods and

Q 9. Why is Dual GST required?

Ans. India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST will, therefore, be in keeping with the Constitutional requirement of fiscal federalism.

Q 10. Which authority will levy and administer GST?

Ans. Centre will levy and administer CGST & IGST while respective states /UTs will levy and administer SGST/ UTGST.

Q 11. Why was the Constitution of India amended recently in the context of GST?

Currently, the fiscal powers between the Centre and the States are clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre has the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States have the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the States. As for services, it is the Centre alone that is empowered to levy service tax.

Introduction of the GST required amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India has been amended by the Constitution (one hundred and first amendment) Act, 2016 for this purpose. Article 246A of the Constitution empowers the Centre and the States to levy and collect the GST.

Q 12. How a particular transaction of goods and services would be taxed simultaneously under Central GST (CGST) and State GST (SGST)?

Ans. The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services made by registered persons except the exempted goods and services, goods and services which are outside the purview of GST. Further, both would be levied on the same price or value unlike State VAT which is levied on the value of the goods inclusive of CENVAT. While the location of the supplier and the recipient within the country is immaterial for the purpose of CGST, SGST would be chargeable only when the supplier and the recipient are both located within the State.

Illustration I: Suppose hypothetically that the rate of CGST is 10% and that of SGST is 10%. When a wholesale dealer of steel in Uttar Pradesh supplies steel bars and rods to a

construction company which is also located within the same State for, say Rs. 100, the dealer would charge CGST of Rs. 10 and SGST of Rs. 10 in addition to the basic price of the goods. He would be required to deposit the CGST component into a Central Government account while the SGST portion into the account of the concerned State Government. Of course, he need not actually pay Rs. 20 (Rs. 10 + Rs. 10) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his purchases (say, inputs). But for paying CGST he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

Illustration II: Suppose, again hypothetically, that the rate of CGST is 10% and that of SGST is 10%. When an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say Rs. 100, the ad company would charge CGST of Rs. 10 as well as SGST of Rs. 10 to the basic value of the service. He would be required to deposit the CGST component into a Central Government account while the SGST portion into the account of the concerned State Government. Of course, he need not again actually pay Rs. 20 (Rs. 10+Rs. 10) in cash as it would be entitled to set-off this liability against the CGST or SGST paid on his purchase (say, of inputs such as stationery, office equipment, services of an artist etc.). But for paying CGST he would be allowed to use only the credit of CGST paid on its purchase while for SGST he can utilise the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

Q 13. What are the benefits which the Country will accrue from GST?

Ans. Introduction of GST would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax and allowing set-off of prior-stage taxes, it would mitigate the ill effects of cascading and pave the way for a common national market. For the consumers, the biggest gain would be in terms of a reduction in the overall tax burden on goods, which is currently estimated at 25%-30%. Introduction of GST would also make our products competitive in the domestic and international markets. Studies show that this would instantly spur economic growth. There may also be revenue gain for the Centre and the States due to widening of the tax base, increase in trade volumes and improved tax compliance. Last but not the least, this tax, because of its transparent character, would be easier to administer.

Q 14. What is IGST?

Ans. Under the GST regime, an Integrated GST (IGST) would be levied and collected by the Centre on inter-State supply of goods and services. Under Article 269A of the Constitution, the GST on supplies in the course of inter- State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Q 15. Who will decide rates for levy of GST?

Ans. The CGST and SGST would be levied at rates to be jointly decided by the Centre and States. The rates would be notified on the recommendations of the GST Council.

Q 16. What would be the role of GST Council?

Ans. A GST Council would be constituted comprising the Union Finance Minister (who will be the Chairman of the Council), the Minister of State (Revenue) and the State Finance/Taxation Ministers to make recommendations to the Union and the States on

- (i) the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed under GST;
- (ii) the goods and services that may be subjected to or exempted from the GST;
- (iii) the date on which the GST shall be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel;
- (iv) model GST laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;
- (v) the threshold limit of turnover below which the goods and services may be exempted from GST;
- (vi) the rates including floor rates with bands of GST;
- (vii) any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster;
- (viii) special provision with respect to the North- East States, J&K, Himachal Pradesh and Uttarakhand; and
- (ix) any other matter relating to the GST, as the Council may decide.

Q 17. What is the guiding principle of GST Council?

Ans. The mechanism of GST Council would ensure harmonization on different aspects of GST between the Centre and the States as well as among States. It has been provided in the Constitution (one hundred and first amendment) Act, 2016 that the GST Council, in its discharge of various functions, shall be guided by the need for a harmonized structure of GST and for the development of a harmonized national market for goods and services.

Q 18. How are decisions be taken by GST Council?

Ans. The Constitution (one hundred and first amendment) Act, 2016 provides that every decision of the GST Council shall be taken at a meeting by a majority of not less than 3/4th of the weighted votes of the Members present and voting. The vote of the Central Government shall have a weightage of 1/3rd of the votes cast and the votes of all the State Governments taken together shall have a weightage of 2/3rd of the total votes cast in that meeting. One half of the total number of members of the GST Council shall constitute the quorum at its meetings.

Q 19. Who is liable to pay GST under the proposed GST regime?

Ans. Under the GST regime, tax is payable by the registered taxable person on the supply of goods and/or services. Liability to pay tax arises when the taxable person crosses the turnover threshold of Rs.20 lakhs (Rs. 10 lakhs for NE & Special Category States) except in certain specified cases where the taxable person is liable to pay GST even though he has not crossed the threshold limit. The CGST / SGST is payable on all intra-State supply of goods and/or services and IGST is payable on all inter- State supply of goods and/or services. The CGST /SGST and IGST are payable at the rates specified in the Schedules to the respective Acts.

Q 20. What are the benefits available to small taxpayers under the GST regime?

Ans. Tax payers with an aggregate turnover in a financial year up to [Rs.20 lakhs & Rs.10 Lakhs for NE and special category states] would be exempt from taking registration under GST. Further, a person whose aggregate turnover in the preceding financial year is less than Rs.1 Crore (75 lakhs for 9 special category states viz 1. Arunachal Pradesh, 2. Assam, 3. Manipur, 4. Meghalaya, 5. Mizoram, 6. Nagaland, 7. Sikkim, 8. Tripura, and 9. Himachal Pradesh) can opt for a simplified composition scheme where tax will payable at a concessional rate on the turnover in a state.

[Aggregate turnover shall include the aggregate value of all taxable supplies, exempt supplies and exports of goods and/or services and exclude taxes viz. GST.] Aggregate turnover shall be computed on all India basis. For NE States and special category states, the exemption threshold shall be [Rs. 10 lakhs]. All taxpayers eligible for threshold exemption will have the option of paying tax with input tax credit (ITC) benefits. Tax payers making inter-State supplies of goods or paying tax on reverse charge basis shall not be eligible for threshold exemption.

Q 21. How will the goods and services be classified under GST regime?

Ans. HSN (Harmonised System of Nomenclature) code shall be used for classifying the goods under the GST regime. Taxpayers whose turnover is above Rs. 1.5 crores but below

Rs. 5 crores shall use 2-digit code and the taxpayers whose turnover is Rs. 5 crores and above shall use 4-digit code. Taxpayers whose turnover is below Rs. 1.5 crores are not required to mention HSN Code in their invoices.

Services will be classified as per the Annexure to Notification No. 11/2017-Central tax dated 28th June, 2017. In this regard, Central Board for Indirect Tax and Customs has also issued “Explanatory Notes to the Scheme of Classification of Services” on 12th June 2018.

Q 22. What is the scope of composition scheme under GST?

Ans. Small taxpayers with an aggregate turnover in a preceding financial year up to Rs. One Crore (75 lakhs for special category States – except Jammu & Kashmir and Uttarakhand) are eligible for composition levy. This scheme is basically for suppliers of goods and restaurant service providers only. Under the scheme, a taxpayer shall pay tax as a percentage of his turnover in a state during the year without the benefit of ITC. The rate of tax for CGST and SGST/UTGST shall not exceed [1% for manufacturer as well as traders; 5% for specific services as mentioned in para 6(b) of Schedule II viz serving of food or any other article for human consumption i.e. restaurant service providers]. A tax payer opting for composition levy shall not collect any tax from his customers.

Tax payers making inter- state supplies (except persons making inter-state supplies of certain specified handicraft goods) or making supplies through e-commerce operators who are required to collect tax at source shall not be eligible for composition scheme. Also manufacturers of ice-cream, pan masala and tobacco products will not be eligible for composition scheme.

As per the recent amendment in the CGST Act vide the CGST (Amendment) Act, 2018 following changes have come in respect of composition scheme, however, the notification for date of implementation of the amendment Act is yet to be issued.

(i) Government empowered to enhance upper limit for composition scheme to Rs.1.5 crore by notification

(ii) A person who opts to pay tax under composition scheme may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.

Q 23. What is GSTN and its role in the GST regime?

Ans. GSTN stands for Goods and Service Tax Network (GSTN). A Special Purpose Vehicle called the GSTN has been set up to cater to the needs of GST. The GSTN shall provide a shared IT infrastructure and services to Central

and State Governments, tax payers and other stakeholders for implementation of GST. The functions of the GSTN would, inter alia, include: (i) facilitating registration; (ii) forwarding

the returns to Central and State authorities; (iii) computation and settlement of IGST; (iv) matching of tax payment details with banking network; (v) providing various MIS reports to the Central and the State Governments based on the tax payer return information; (vi) providing analysis of tax payers' profile; and (vii) running the matching engine for matching, reversal and reclaim of input tax credit.

The GSTN is developing a common GST portal and applications for registration, payment, return and MIS/ reports. The GSTN would also be integrating the common GST portal with the existing tax administration IT systems and would be building interfaces for tax payers. Further, the GSTN is developing back-end modules like assessment, audit, refund, appeal etc. for 19 States and UTs (Model II States). The CBIC and Model I States (15 States) are themselves developing their GST back-end systems. Integration of GST front-end system with back-end systems will have to be completed and tested well in advance for making the transition smooth.

Q 24. How are the disputes going to be resolved under the GST regime?

Ans. The Constitution (one hundred and first amendment) Act, 2016 provides that the Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute-

- (a) between the Government of India and one or more States; or
 - (b) between the Government of India and any State or States on one side and one or more other States on the other side; or
 - (c) between two or more States,
- arising out of the recommendations of the Council or implementation thereof.

Q 25. What is the purpose of Compliance rating mechanism?

Ans. As per Section 149 of the CGST/SGST Act, every registered person shall be assigned a compliance rating based on the record of compliance in respect of specified parameters. Such ratings shall also be placed in the public domain. A prospective client will be able to see the compliance ratings of suppliers and take a decision as to whether to deal with a particular supplier or not. This will create healthy competition amongst taxable persons.

Q 26. Whether actionable claims liable to GST?

Ans. As per section 2(52) of the CGST/SGST Act actionable claims are to be considered as goods. Schedule III read with Section 7 of the CGST/SGST Act lists the activities or transactions which shall be treated neither as supply of goods nor supply of services. The Schedule lists actionable claims other than lottery, betting and gambling as one of such transactions. Thus only lottery, betting and gambling shall be treated as supplies under the GST regime. All the other actionable claims shall not be supplies.

Q 27. Whether transaction in securities be taxable in GST?

Ans. Securities have been specifically excluded from the definition of goods as well as services. Thus, the transaction in securities shall not be liable to GST.

Q 28. What is the concept of Information Return?

Ans. Information return is based on the idea of verifying the compliance levels of registered persons through information procured from independent third party sources. As per section 150 of the CGST/SGST Act, many authorities who are responsible for maintaining records of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, are mandated to furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed. Failure to do so may result in penalty being imposed as per Section 123.

Q 29. Different companies have different types of accounting software packages and no specific format are mandated for keeping records. How will department be able to read into these complex software?

Ans. As per Section 153 of the CGST/SGST Act, having regard to the nature and complexity of a case and in the interest of revenue, department may take assistance from an expert at any state of scrutiny, inquiry, investigation or any other proceedings.

Q 30. Is there any provision in GST for tax treatment of goods returned by the recipient?

Ans. Yes, Section 34 deals with such situations. Where the goods supplied are returned by the recipient, the registered person (supplier of goods) may issue to the recipient a credit note containing the prescribed particulars. The details of the credit note shall be declared by the supplier in the returns for the month during which such credit note was issued but not later than September following the end of the year in which such supply was made or the date of filing of the relevant annual return, whichever is earlier. The details of the credit note shall be matched with the corresponding reduction in claim for input tax credit by the recipient in his valid return for the same tax period or any subsequent tax period and the claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in claim for ITC by the recipient shall be finally accepted and communicated to both parties.

Q 31. What is Anti-Profiteering measure?

Ans. As per section 171 of the CGST/SGST Act, any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices. In pursuance of the powers conferred by this section, the government has constituted the National Anti-Profiteering Authority (NAA). NAA is required to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

NAA has power to investigate cases against the registered person who has not passed on the benefits by way of commensurate reduction in prices and order reduction in prices, cancel registration, impose penalty and/or return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest.

Q 32. What tax will be levied on goods manufactured but not cleared from factory before 01.07.2017?

Ans. Goods manufactured, but not cleared from factory before 01.07.2017 have been exempted from Central Excise duty vide Tariff Notification No. 12/2017-CE dated 30.06.2017. Appropriate GST will have to be paid whenever the goods are cleared after 01.07.2017.

Q 33. Is there any provision for cross empowerment of officers of State and Central Government under GST?

Ans. Yes. As per Section 6 (1) of CGST Act, 2017, the officers appointed under the SGST / UTGST Act are authorised to be the proper officers for the purposes of CGST/IGST Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify. Similar provisions in the SGST/UTGST Act empower the central government officials to be the proper officers under the SGST/UTGST Act.

Notification no. 39/2017-Central Tax dated 13/10/2017 and Notification no. 11/2017 –Integrated Tax dated 13/10/2017 as amended by notification no. 1/2018-Integrated Tax dated 23/01/2018 have been issued in order to cross-empower State Tax officers for processing and grant of refund.