

Preliminary

1. Short title, extent and commencement.—

- (1) This Act may be called the Himachal Pradesh Goods and Services Tax Act, 2017.
- (2) It extends to the whole of the State of Himachal Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint :

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions

2. Definitions.—

In this Act, unless the context otherwise requires,—

- (1) “actionable claim” shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882, (4 of 1882.) ;
- (2) “address of delivery” means the address of the recipient of goods or services or both indicated on the tax invoice issued by a registered person for delivery of such goods or services or both;
- (3) “address on record” means the address of the recipient as available in the records of the supplier;
- (4) “adjudicating authority” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Commissioner, Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal;
- (5) “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;

(6) “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value 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 the same Permanent Account Number, to be computed on all India basis but excludes Central tax, State tax, Union territory tax, integrated tax and cess;

(7) “agriculturist” means an individual or a Hindu Undivided Family who undertakes cultivation of land—

(a) by own labour, or

(b) by the labour of family, or

(c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

(8) “Appellate Authority” means an authority appointed or authorised to hear appeals and referred to in section 107;

(9) “Appellate Tribunal” means the Goods and Services Tax Appellate Tribunal referred to in section 109;

(10) “appointed day” means the date on which the provisions of this Act shall come into force;

(11) “assessment” means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgement assessment;

(12) “associated enterprises” shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961, (43 of 1961);

(13) “audit” means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder;

(14) “authorised bank” shall mean a bank or a branch of a bank authorised by the Central Government to collect the tax or any other amount payable under this Act;

(15) “authorised representative” means the representative as referred to under section 116;

(16) “Board” means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963, (54 of 1963);

(17) “business” includes—

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to subclause (a);

(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;

(e) 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;

(f) admission, for a consideration, of persons to any premises;

(g) 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;

(h) services provided by a race club by way of totalisator or a licence to book maker in such club; and

(i) any activity or transaction undertaken by the Central Government, the State Government or any local authority in which they are engaged as public authorities;

(18) “business vertical” means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other

business verticals.

Explanation.—For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—

- (a) the nature of the goods or services;
- (b) the nature of the production processes;
- (c) the type or class of customers for the goods or services;
- (d) the methods used to distribute the goods or supply of services; and
- (e) the nature of regulatory environment (wherever applicable), including banking, insurance or public utilities;

(19) “capital goods” means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;

(20) “casual taxable person” means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in the taxable territory where he has no fixed place of business;

(21) “central tax” means the central goods and services tax levied under section 9 of the Central Goods and Services Tax Act, 2017, (No.12 of 2017);

(22) “cess” shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act, 2017, (No.15 of 2017);

(23) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949, (38 of 1949);

(24) “Commissioner” means the Commissioner of State tax appointed under section 3 and includes the Principal Commissioner or Chief Commissioner of State tax appointed under section 3;

(25) “Commissioner in the Board” means the Commissioner referred to in section 168 of the Central Goods and Services Tax Act, 2017, (No.12 of 2017);

(26) “common portal” means the common goods and services tax electronic portal referred to in section 146;

(27) “common working days” shall mean such days in succession which are not declared as gazetted holidays by the Central Government or the State Government;

(28) “Company Secretary” means a Company Secretary as defined in clause (c) of subsection (1) of section 2 of the Company Secretaries Act, 1980, (56 of 1980);

(29) “competent authority” means such authority as may be notified by the Government;

(30) “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 in the ordinary course of business, one of which is a principal supply;

Illustration: Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

(31) “consideration” in relation to the supply of goods or services or both includes—

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or the State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or the State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

(32) “continuous supply of goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent 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 periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

(33) “continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;

(34) “conveyance” includes a vessel, an aircraft and a vehicle;

(35) “Cost Accountant” means a Cost Accountant as defined in clause (c) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959, (23 of 1959);

(36) “Council” means the Goods and Services Tax Council established under article 279A of the Constitution;

(37) “credit note” means a document issued by a registered person under sub-section (1) of section 34;

(38) “debit note” means a document issued by a registered person under sub-section (3) of section 34;

(39) “deemed exports” means such supplies of goods as may be notified under section 147;

(40) “designated authority” means such authority as may be notified by the Commissioner;

(41) “document” includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000, (21 of 2000);

(42) “drawback” in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods;

(43) “electronic cash ledger” means the electronic cash ledger referred to in sub-section (1) of section 49;

(44) “electronic commerce” means the supply of goods or services or both, including

digital products over digital or electronic network;

(45) “electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

(46) “electronic credit ledger” means the electronic credit ledger referred to in sub-section (2) of section 49;

(47) “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 the Integrated Goods and Services Tax Act, 2017, (13 of 2017.) and includes nontaxable supply;

(48) “existing law” means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by the Legislature or any Authority or person having the power to make such law, notification, order, rule or regulation;

(49) “family” means,—

(i) the spouse and children of the person, and

(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;

(50) “fixed establishment” means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;

(51) “Fund” means the Consumer Welfare Fund established under section 57;

(52) “goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part

of the land which are agreed to be severed before supply or under a contract of supply;

(53) “Government or State Government” means the Government of Himachal Pradesh;

(54) “Goods and Services Tax (Compensation to States) Act” means the Goods and Services Tax (Compensation to States) Act, 2017, (15 of 2017.);

(55) “goods and services tax practitioner” means any person who has been approved under section 48 to act as such practitioner;

(56) “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, (80 of 1976) and the air space above its territory and territorial waters;

(57) “Integrated Goods and Services Tax Act” means the Integrated Goods and Services Tax Act, 2017, (No. 13 of 2017);

(58) “integrated tax” means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act, 2017, (No. 13 of 2017);

(59) “input” means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;

(60) “input service” means any service used or intended to be used by a supplier in the course or furtherance of business;

(61) “Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;

(62) “input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both and includes—

(a) the integrated goods and services tax charged on import of goods;

(b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;

(c) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act, 2017; or

(d) the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the Central Goods and Services Tax Act, 2017; but does not include the tax paid under the composition levy;

(63) “input tax credit” means the credit of input tax;

(64) “intra-State supply of goods” shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act, 2017;

(65) “intra-State supply of services” shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act, 2017;

(66) “invoice” or “tax invoice” means the tax invoice referred to in section 31;

(67) “inward supply” in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means, with or without consideration;

(68) “job work” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly;

(69) “local authority” means—

(a) a “Panchayat” as defined in clause (d) of article 243 of the Constitution;

(b) a “Municipality” as defined in clause (e) of article 243P of the Constitution;

(c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006, (41 of 2006);

(e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(f) a Development Board constituted under article 371 of the Constitution; or

(g) a Regional Council constituted under article 371A of the Constitution;

(70) “location of the recipient of services” means—

- (a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
- (b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the recipient;

(71) “location of the supplier of services” means-

- (a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;
- (b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and
- (d) in absence of such places, the location of the usual place of residence of the supplier;

(72) “manufacture” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;

(73) “market value” shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

(74) “mixed supply” means two or more individual supplies of taxable goods or services, 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.

Illustration: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

(75) “money” means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognized by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

(76) “motor vehicle” shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988, (59 of 1988.);

(77) “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;

(78) “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act, 2017, (No. 13 of 2017.);

(79) “non-taxable territory” means the territory which is outside the taxable territory;

(80) “notification” means a notification published in the Official Gazette and the expressions ‘notify’ and ‘notified’ shall be construed accordingly;

(81) “other territory” includes territories other than those comprising in a State and those referred to in sub-clauses (a) to (e) of clause (114);

(82) “output tax” in relation to a taxable person, means the tax chargeable under this

Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

(83) “outward supply” in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business;

(84) “person” includes—

(a) an individual;

(b) a Hindu Undivided Family;

(c) a company;

(d) a firm;

(e) a Limited Liability Partnership;

(f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

(g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013, (18 of 2013);

(h) any body corporate incorporated by or under the laws of a country outside India;

(i) a co-operative society registered under any law relating to co-operative societies;

(j) a local authority;

(k) Central Government or a State Government;

(l) society as defined under the Societies Registration Act, 1860, (No. 13 of 2017.);

(m) trust; and

(n) every artificial juridical person, not falling within any of the above;

(85) “place of business” includes—

(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

(b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

(86) “place of supply” means the place of supply as referred to in Chapter-V of the Integrated Goods and Services Tax Act, 2017, (No. 13 of 2017.);

(87) “prescribed” means prescribed by rules made under this Act, on the recommendations of the Council;

(88) “principal” means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

(89) “principal place of business” means the place of business specified as the principal place of business in the certificate of registration;

(90) “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;

(91) “proper officer” in relation to any function to be performed under this Act, means the Commissioner or the officer of the State tax who is assigned that function by the Commissioner;

(92) “quarter” shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;

(93) “recipient” of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

(94) “registered person” means a person who is registered under section 25, but does not include a person having a Unique Identity Number;

(95) “regulations” means the regulations made by the Government under this Act on the recommendations of the Council;

(96) “removal” in relation to goods, means-

(a) despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or

(b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

(97) “return” means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;

(98) “reverse charge” 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 subsection (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017, (No. 13 of 2017);

(99) “Revisional Authority” means an authority appointed or authorised under this Act for revision of decision or orders referred to in section 108;

(100) “Schedule” means a Schedule appended to this Act;

(101) “securities” shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956, (42 of 1956.);

(102) “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;

(103) “State” means the State of Himachal Pradesh;

(104) “State tax” means the tax levied under this Act;

(105) “supplier” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

(106) “tax period” means the period for which the return is required to be furnished;

(107) “taxable person” means a person who is registered or liable to be registered under section 22 or section 24;

(108) “taxable supply” means a supply of goods or services or both which is leviable to tax under this Act;

(109) “taxable territory” means the territory to which the provisions of this Act apply;

(110) “telecommunication service” means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means;

(111) “the Central Goods and Services Tax Act” means the Central Goods and Services Tax Act, 2017, (No. 12 of 2017);

(112) “turnover in State” or “turnover in Union territory” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes Central tax, State tax, Union territory tax, integrated tax and cess;

(113) “usual place of residence” means—

- (a) in case of an individual, the place where he ordinarily resides;
- (b) in other cases, the place where the person is incorporated or otherwise legally constituted;

(114) “Union territory” means-

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli;
- (d) Daman and Diu;
- (e) Chandigarh; and
- (f) other territory;

Explanation.— For the purposes of this Act, each of the territories specified in subclauses (a) to (f) shall be considered to be a separate Union territory.

(115) “Union territory tax” means the Union territory goods and services tax levied under the Union Territory Goods and Services Tax Act, 2017;

(116) “Union Territory Goods and Services Tax Act” means the Union Territory Goods and Services Tax Act, 2017;

(117) “valid return” means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full;

(118) “voucher” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;

(119) “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair,

maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract; and

(120) words and expressions used and not defined in this Act but defined in the Integrated Goods and Services Tax Act, 2017, (No. 13 of 2017.) the Central Goods and Services Tax Act, 2017, (No. 12 of 2017.) the Union Territory Goods and Services Tax Act, 2017, (No. 15 of 2017.) and the Goods and Services Tax (Compensation to States) Act, 2017 shall have the same meanings as assigned to them in those Acts.