

Overview of Goods and Services Tax (GST)

What is Goods and Service Tax (GST)?

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.

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

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

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

The GST would replace the following taxes:

- i. 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.

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

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.
- iv. Revenue fairness for both the Union and the States individually would need to be attempted.

Which are the commodities proposed to be kept outside the purview of GST?

Alcohol for human consumption, Petroleum Products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel & Electricity.

What will be the status in respect of taxation of above commodities after introduction of GST?

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

What will be status of Tobacco and Tobacco products under the GST regime?

Tobacco and tobacco products would be subject to GST. In addition, the Centre would have the power to levy Central Excise duty on these products.

What type of GST is proposed to be implemented?

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 would be called the State GST (SGST). Similarly Integrated GST (IGST) will be levied and administered by Centre on every inter-state supply of goods and services.

Why is Dual GST required?

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.

Which authority will levy and administer GST?

Centre will levy and administer CGST & IGST while respective states will levy and administer SGST.

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 recently for this purpose. Article 246A of the Constitution empowers the Centre and the States to levy and collect the GST.

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

The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services except the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits. 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.

What are the benefits which the Country will accrue from GST?

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.

What is IGST?

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 interstate 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.

Who will decide rates for levy of GST?

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.

What would be the role of GST Council?

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.

What is the guiding principle of GST Council?

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.

How will decisions be taken by GST Council?

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.

Who is liable to pay GST under the proposed GST regime?

Under the GST regime, tax is payable by the taxable person on the supply of goods and/or services. Liability to pay tax arises when the taxable person crosses the threshold exemption, i.e. Rs.20 lakhs (Rs. 10 lakhs for NE 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 interstate supply of goods and/or services. The CGST /SGST and IGST are payable at the rates specified in the Schedules to the respective Acts.

What are the benefits available to small tax payers under the GST regime?

Tax payers with an aggregate turnover in a financial year up to Rs.20 lakhs would be exempt from tax. For NE States and Sikkim, 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 or paying tax on reverse charge basis shall not be eligible for threshold exemption.

Aggregate turnover shall include the aggregate value of all taxable and non-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.

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

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 Services Accounting Code (SAC)

How will imports be taxed under GST?

Imports of Goods and Services will be treated as inter-state supplies and IGST will be levied on import of goods and services into the country. The incidence of 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 on the GST paid on import on goods and services.

How will Exports be treated under GST?

Exports will be treated as zero rated supplies. No tax will be payable on exports of goods or services, however credit of input tax credit will be available and same will be available as refund to the exporters.

What is the scope of composition scheme under GST?

Small taxpayers with an aggregate turnover in a financial year up to Rs. 50 lakhs shall be eligible for composition levy. Under the scheme, a taxpayer shall pay tax as a percentage of his turnover during the year without the benefit of ITC. The floor rate of tax for CGST and SGST shall not be less than [1%]. A tax payer opting for composition levy shall not collect any tax from his customers. Tax payers making inter- state supplies or paying tax on reverse charge basis shall not be eligible for composition scheme.

Whether the composition scheme will be optional or compulsory?

Optional

What is GSTN and its role in the GST regime?

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 CBEC 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.

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

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-

- i. between the Government of India and one or more States; or
- ii. between the Government of India and any State or States on one side and one or more other States on the other side; or
- iii. between two or more States, arising out of the recommendations of the Council or implementation thereof.

What are the other legislative requirements for introduction of the GST?

Suitable legislation for the levy of GST (Central GST Bill, Integrated GST Bill and State GST Bills) drawing powers from the Constitution would need to be passed by the Parliament and the State Legislatures. Unlike the Constitutional Amendment which requires 2/3rd majority, the GST Bills would need to be passed by a simple majority. Obviously, the levy of the tax can commence only after the GST law has been enacted by the Parliament and respective Legislatures.

Levy of and Exemption from Tax

Where is the power to levy GST derived from?

Article 246A of the Constitution, which was introduced by the Constitution (101st Amendment) Act, 2016 confers concurrent powers to both parliament and state legislatures to make laws with respect to GST. However, clause 2 of Article 246A read with Article 269A provides exclusive power to the Parliament to legislate with respect to inter-state trade or commerce.

What is the taxable event under GST?

The taxable event is Supply of goods and/or services. CGST & SGST will be levied on intra-state supplies while IGST will be levied on inter-state supplies. The charging section is section 7 (1) of CGST/SGST Act and Section 4(1) of the IGST Act.

Is the reverse charge mechanism applicable only to services?

No, reverse charge applies to supplies of both goods and services.

What will be the implications in case of purchase of goods from unregistered dealers?

The receiver of goods will not be able to get ITC. Further, the recipients who are registered under composition schemes would be liable to pay tax under reverse charge.

In respect of exchange of goods, namely gold watch for restaurant services will the transaction be taxable as two different supplies or will it be taxable only in the hands of the main supplier?

No. In the above case the transaction of supply of watch from consumer to the restaurant will not be an independent supply as the same is not in the course of business. It is a consideration for a supply made by the restaurant to him. The same will be a taxable supply by the restaurant.

Whether supplies made without consideration will also come within the purview of Supply under GST?

Yes only those cases which are specified under Schedule I to the Model GST Law.

Who can notify a transaction to be supply of goods and/or services?

Central Government or State Government on the recommendation of the GST Council can notify a transaction to be the supply of goods and/or services.

Will a taxable person be eligible to opt for composition scheme only for one out of 3 business verticals?

No, composition scheme would become applicable for all the business verticals/registrations which are separately held by the person with same PAN.

Can composition scheme be availed if the taxable person effects inter-State supplies?

No, composition scheme is applicable subject to the condition that the taxable person does not affect interstate supplies.

Can the taxable person under composition scheme claim input tax credit?

No, taxable person under composition scheme is not eligible to claim input tax credit.

Can the customer who buys from a taxable person who is under the composition scheme claim composition tax as input tax credit?

No, customer who buys goods from taxable person who is under composition scheme is not eligible for composition input tax credit because a composition scheme supplier cannot issue a tax invoice

Can composition tax be collected from customers?

No, the taxable person under composition scheme is restricted from collecting tax. It means that a composition scheme supplier cannot issue a tax invoice.

What is the threshold for opting to pay tax under the composition scheme?

The threshold for composition scheme is Rs. 50 Lakhs of aggregate turnover in financial year.

How to compute 'aggregate turnover' to determine eligibility for composition scheme?

The methodology to compute aggregate turnover is given in Section 2(6). Accordingly, 'aggregate turnover' means 'Value of all supplies (taxable and non-taxable supplies + Exempt supplies + Exports) and it excludes Taxes levied under CGST Act, SGST Act and IGST Act, Value of inward supplies + Value of supplies taxable under reverse charge of a person having the same PAN.

What are the penal consequences if a taxable person violates the condition and is not eligible for payment of tax under the Composition scheme?

Taxable person who was not eligible for the composition scheme would be liable to pay tax, interest and in addition he shall also be liable to a penalty equivalent to the amount of tax payable. (Section 8 (3) of the MGL)

What is the minimum rate of tax prescribed for composition scheme?

1%

When exemption from whole of tax collected on goods and/or services has been granted unconditionally, can taxable person pay tax?

No, the taxable person providing such goods or services shall not collect the tax on such goods or services.

What is remission of tax/duty? Whether remission is allowed under GST law?

It means relieving the tax payer from the obligation to pay tax on goods when they are lost or destroyed due to any natural causes. Remission is subject to conditions stipulated under the law and rules made thereunder.

Yes, proposed section 11 of Model GST law permits remission of tax on supply of goods.

Whether remission is allowed for goods lost or destroyed before supply?

Remission of tax will apply only when tax is payable as per law i.e. taxable event should have happened and tax is required to be paid as per law. Under GST Law, levy is applicable upon supply of goods. Where goods are lost or destroyed before supply, taxable event does not occur in order to pay tax. Accordingly, question of remission of tax does not rise.

Whether remission is allowed on goods lost or destroyed for all reasons?

No, on plain reading of the language of proposed Section 11, remission is allowed only for those cases where supply of goods is found to be deficient in quantity due to natural causes.

Does the model GST Law empower the competent government to exempt supplies from the levy of GST?

Yes. Under Section 10 of the Model GST Law, the Central or the State Government, on the recommendation of the GST council can exempt the supplies from the levy of GST either generally or subject to conditions.

Meaning and Scope of Supply

What is the taxable event under GST?

The taxable event under GST shall be the supply of goods and / or services made for consideration in the course or furtherance of business. The taxable events under the existing indirect tax laws such as manufacture, sale, or provision of services shall stand subsumed in the taxable event known as 'supply'.

What is the meaning of 'Supply'?

The term 'supply' is wide in its import and includes 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 or furtherance of business. It also includes import of service. The model GST law also provides for including certain transactions made without consideration within the scope of supply.

What is a taxable supply?

A 'taxable supply' means a supply of goods and /or services which is chargeable to good and services tax under the GST Act.

What are the necessary elements that constitute supply under MGL?

In order to constitute a 'supply', the following elements are required to be satisfied, i.e.-

- i. supply of goods and / or services;
- ii. supply is for a consideration;
- iii. supply is made in the course or furtherance of business;
- iv. supply is made in the taxable territory;
- v. supply is a taxable supply; and
- vi. Supply is made by a taxable person.

Can a transaction in which any one or more of the above criteria is not fulfilled, be still considered as supply under GST?

Yes. Under certain circumstances such as importation of service (Section 3(1) (b)) or supplies made without consideration, specified under Schedule-I of MGL, where one or more ingredients specified in answer to question no.4 are not satisfied, it shall still be treated as supply under GST Law

Importation of Goods is conspicuous by its absence in Section 3. Why?

Importation of goods is dealt separately under the Customs Act, 1962, wherein IGST shall be levied as additional duty of customs in addition to basic customs duty.

Are self-supplies taxable under GST?

Inter-state self-supplies such as stock transfers will be taxable as a taxable person has to take state wise registration in terms of Schedule 1(5). Such transactions have been made taxable even if there is no consideration. However, intra-state self-supplies are not taxable.

Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?

Title as well as possession, both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II (1).

In some cases, possession may be transferred immediately but titled may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

What do you mean by “supply made in the course or furtherance of business”?

No definition or test as to whether the activity is in the course or furtherance of business has been specified under the MGL. However, the following business test is normally applied to arrive at a conclusion whether a supply has been made in the course or furtherance of business:

- i. Is the activity, a serious undertaking earnestly pursued?
- ii. Is the activity is pursued with reasonable or recognisable continuity?
- iii. Is the activity conducted in a regular manner based on sound and recognised business principles?
- iv. Is the activity predominantly concerned with the making of taxable supply for consideration/profit motive?

The test may ensure that occasional supplies, even if made for consideration, will not be subjected to GST.

An individual buys a car for personal use and after a year sells it to a car dealer. Will the transaction be a supply in terms of MGL? Give reasons for the answer.

No, because supply is not made by the individual in the course or furtherance of business. Further, no input tax credit was admissible on such car at the time of its acquisition as it was meant for non-business use.

A dealer of air-conditioners transfers an air conditioner from his stock in trade, for personal use at his residence. Will the transaction constitute a supply?

Yes. As per Schedule-I (1) business assets put to a private or non-business use without consideration will be treated as supply.

Whether provision of service or goods by a club or association or society to its members will be treated as supply or not?

Yes. Provision of facilities by a club, association, society or any such body to its members shall be treated as supply. This is included in the definition of ‘business’ in section 2(17) of MGL.

What are inter-state supplies and intra-state supplies?

Inter-state and intra-state supplies have specifically been defined in Section 3 & 3A of IGST Act respectively. Broadly, where the location of the supplier and the place of supply are in same state it will be intra-state and where it is in different states it will be inter-state supplies.

Whether transfer of right to use goods will be treated as supply of goods or supply of service? Why?

Transfer of right to use goods shall be treated as supply of service because there is no transfer of title in such supplies. Such transactions are specifically treated as supply of service in Schedule-II of MGL

Whether Works contracts and Catering services will be treated as supply of goods or supply of services? Why?

Works contract and catering services shall be treated as supply of service as specified in Schedule-II of MGL.

**Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services?
Why?**

Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

What is time of supply?

The time of supply fixes the point when the liability to charge GST arises. It also indicates when a supply is deemed to have been made. The MGL provides separate time of supply for goods and services.

When does the liability to charge GST arise in respect of supply of goods?

Section 12 of the MGL provides for time of supply of goods. The time of supply of goods shall be the earliest of the following namely,

- the date on which the goods are removed by the supplier, where the supply of goods require removal; or
- the date on which the goods are made available where the supply does not require removal; or
- the date on which the supplier issues invoices with respect to the supply where the above two situations do not apply; or
- the date on which the recipient shows the receipt of the goods in his books of accounts.

What is time of supply of continuous supply of goods?

The time of supply of continuous supply of goods is:

- a) where successive statements of accounts or successive payments are involved, the date of expiry of the period to which such successive statements of accounts or successive payments relate.
- b) where there are no successive statements of account or successive payments involved, the date of issue of the invoice or the date of receipt of payment whichever is earlier.

What is time of supply of goods sent on approval basis?

In case of supply on approval basis, the time of supply shall be the time at which it is known whether a supply will take place or six months from the date of supply, whichever is earlier.

Where it is not possible to determine the time of supply in terms of sub-section 2, 3, 5 or 6 of Section 12 or that of Section 13 of MGL, how will time of supply be determined?

There is a residual entry in Section 12(7) as well as 13 (7) which say that if periodical return has to be filed, then the due date of filing of such periodical return shall be the time of supply. In other cases, it will be the date on which the CGST/SGST/IGST is paid.

When does the liability to pay GST arise in respect of supply of services?

Unlike goods, in the case of services, the time of supply is determined by the fact whether the invoice for supply of services has been issued within the prescribed period or beyond such prescribed period.

What is time of supply of service when invoice is not issued within prescribed period?

The time of supply of service in such cases shall be the earliest of the following:

- i. date completion of the provision of service; or
- ii. the date of receipt of payment.

What is time of supply of service when invoice is issued within prescribed period?

The time of supply of service in such cases shall be the earliest of the following:

- i. date of issue of invoice; or
- ii. the date of receipt of payment.

What does “date of receipt of payment” mean?

It is the earliest of the date on which the payment is entered in the books of accounts of the supplier or the date on which the payment is credited to his bank account.

Suppose, invoice is not issued and date of payment or date of completion of provision of service are also not ascertainable, what will be the time of supply?

The time of supply shall be the date on which the recipient shows the receipt of services in his books of accounts.

Suppose part advance payment is made or invoice issued is for part payment, whether the time of supply will cover the full supply?

No. The supply shall be deemed to have been made to the extent it is covered by the invoice or the part payment.

What is time of supply of service in case of tax payable under reverse charge?

The time of supply will be the earliest of the following dates:

- a) date of receipt of services;
- b) date on which payment is made;
- c) date of receipt of invoice;
- d) date of debit in the books of accounts by supplier.

What will be the time of supply in continuous supply of services?

The time of supply shall be the due date of payment, if ascertainable from the contract. If not ascertainable, it will be earliest of date of receipt of payment or the date of issue of invoice or completion of event where payment is linked to completion of event.

Let's say there was increase in tax rate from 18% to 20% w.e.f. 1.6.2017. What is the tax rate applicable when services provided and invoice issued before change in rate in April 2017, but payment received after change in rate in June 2017?

The old rate of 18% shall be applicable as services are provided prior to 1.6.2017.

Valuation in GST

What is the value of taxable supply to be adopted for the levy of GST?

The value of taxable supply of goods and services shall ordinarily be 'the transaction value' which is the actually the price paid or payable, when the parties are not related and price is the sole consideration. The MGL further elaborates various inclusions and exclusions from the ambit of transaction value. For example, the transaction value shall not include refundable deposit, discount allowed before or at the time of supply.

What is transaction value?

Transaction value refers to the price actually paid or payable for the supply of goods and or services where the supplier and the recipient are not related and price is the sole consideration for the supply. It includes any amount which the supplier is liable to pay but which has been incurred by the recipient of the supply.

Are there separate valuation provisions for CGST, SGST and IGST and Goods and Services?

No, section 15 is common for all three taxes and also common for goods and services.

Is contract price not sufficient to determine valuation of supply?

Contract price is more specifically referred to as 'transaction value' and that is the basis for computing tax. However, when the price is influenced by some factors like relationship of parties or certain transactions are deemed to be supply, which do not have a price, it is required to overcome these factors to determine the transaction value correctly.

Is reference to Valuation Rules required in all cases?

No. Reference to Valuation Rules is required only in cases listed under section 15(4) i.e., where consideration payable is not money, or parties to the transaction are related.

What is to be done if there are certain factors affecting price though the transaction is not covered by section 15(4)?

Section 15(2) provides the list of adjustments that may be made to make the price of a transaction reliable for purposes of determining tax payable.

Can the transaction value declared under section 15(1) be accepted?

Yes, it can be accepted after examining for inclusions in section 15(2). Furthermore, the transaction value can be accepted even where the supplier and recipient are related, provided the relationship has not influenced the price. (Rule 3(4) of draft GST valuation rules)

Whether post-supply discounts or incentives are to be included in the transaction value?

Yes. Unless the post-supply discount is established as per the agreement and is known at or before the time of supply and specifically linked to relevant invoice.

Whether pre-supply discounts allowed before or at the time of supply are includible in the transaction value?

No, provided it is allowed in the course of normal trade practice and has been duly recorded in the invoice.

When are Valuation Rules applicable?

Valuation Rules are applicable when (i) Consideration not in money terms; (ii) parties are related or supply by any specified category of supplier; and (iii) transaction value declared is not reliable.

What are the reasons for doubting transaction value declared?

The reasons have been indicated in Rule 7(b) of the draft GST Valuation Rules. It is:- (i) comparable supplies are at significantly higher value; (ii) transaction is at significantly lower or higher than market value of supplies; and (iii) misdeclaration in parameters like description, quantity, quality, year of make etc. The list is indicative and not exhaustive.

What are the methods provided for determining the value, in terms of draft GST Valuation Rules?

Three methods are prescribed under GST Valuation Rules for determining the transaction value i.e., comparative method, computation method and residual method, which are required to be followed sequentially. Besides, some specific valuation methods have been specified like in case of pure agents and money changers. Further specific rules may later be notified in case of Insurer, Air travel Agent and distributor or selling agents of lottery.

What are the inclusions specified in Section 15(2) which could be added to Transaction Value?

The inclusions specified in Section 15(2) which could be added to Transaction Value are as follows:

- a) Any amounts paid by recipient that are obligation of supplier to pay;
- b) Money value of goods or services provided free or at concession by recipient;
- c) Royalties and license fees payable by recipient as a condition of supply;
- d) Taxes levied under any other law(s) (other than SGST / CGST or IGST);
- e) Expenses incurred by supplier before supply and charged separately;
- f) Subsidy realized by supplier on the supply;
- g) Reimbursements claimed separately by supplier;
- h) Discounts allowed 'after' supply except when known before supply; (Discounts allowed as a normal trade practice and reflected on the face of the invoice shall not be included).