

Revised model GST law vis-à-vis Old Model GST Law: Part I-Definitions, Levy and Scope

Definitions

Heading	Draft Model GST Law dated 7.6.2016	Revised model GST law dated 25.11.2016	Impact
	[Section 2]	[Section 2]	
Adjudicating authority	Means any authority competent to pass any order or decision under this Act, but does not include the Board, the First Appellate Authority and the Appellate Tribunal	In addition to the previous exclusions, now also exclude the Revisional Authority, Authority for Advance Ruling and Appellate Authority for Advance Ruling.	The orders passed by adjudicating authority are appealable.
Aggregate turnover	Included non-taxable supplies	Non- taxable supplies not included.	The concept is used for determining threshold for registration, composition levy etc. Hence, exclusion of non-taxable supplies will reduce the turnover to be considered for thresholds.
Business	<ul style="list-style-type: none"> No specific inclusion of services provided by a race club to book maker as business Further, no explicit reference to activity /transaction by Govt. as business. However, hitherto section 9 provided that the Central Govt., a State Govt. or any local authority shall be regarded as a taxable person in respect of activities or transactions in which they are engaged as public authorities other than the activities or transactions as specified in Schedule IV to this Act. 	<ul style="list-style-type: none"> Specifically includes services provided by a race club by way of totalisator or a licence to book maker in such club. A new explanation has been inserted which deems any activity or transaction undertaken by the Central Govt., a State Govt. or any local authority in which they are engaged as public authorities as business. Further new Schedule IV specifies the activities and transactions undertaken by them which shall be treated neither as supply of goods nor supply of services. 	<p>Scope of GST extended to such services.</p> <p>In respect of second part, there is only shuffling of provisions under different sections and hence no impact.</p>

Business Vertical	Reference to AS-17 definition of business segment.	Specifically defined	The definition as per revised version corresponds exactly to the definition of business segment as per AS-17. Hence no impact
Capital assets	Defined.	Definition not present	There is no reference to capital assets in the old and revised version except in the definition of term "Business". So, no impact.
Capital goods	As per CENVAT Credit Rules	Capital goods means goods, the value of which is capitalised in the books of accounts of the person claiming the credit and which are used or intended to be used in the course or furtherance of business;	Revised version seeks to expand the scope of capital goods. By this, even furniture will be eligible as capital goods. Important here is that such goods should be capitalised in the books of the account.
Composite supply	Means a supply consisting of : (a) two or more goods; (b) two or more services; or (c) a combination of goods and services provided in the course or furtherance of business, whether or not the same can be segregated.	Means a supply made by a taxable person to a recipient comprising two or more supplies of goods or services, 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	The definitions have relevance in terms of Goods or services combined but bearing differential rates. The earlier version has defined it but there was no reference of the term elsewhere in the draft. The revised version has brought two different concepts of composite supply and mixed supply for supply comprising combination of goods and/or services. Specific provisions have been inserted to deal with them separately.
Consideration	No specific exclusion of subsidy	Specific exclusion of any subsidy given by the Central Government or a State Government.	Now the transaction value shall not include any subsidy given by State or Central Govt. This is important to make the product competitive as well as market price linked.

Electronic commerce	Reference to Section 43B	Means supply of goods and/or services including digital products over digital or electronic network	The new definition is more broad and very much inclusive and subjective
Electronic commerce operator	Reference to Section 43B	Means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce	The new definition is more broad and very much inclusive and subjective
First stage dealer	Not defined	Now defined.	The definition has been incorporated to introduce transition provisions for such dealers to maintain the input credit chain. This is a welcome step.
Goods	Means every kind of movable property other than actionable claim and money but includes securities , growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply; Explanation- For the purpose of this clause, the term 'moveable property' shall not include any intangible property.	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	<ul style="list-style-type: none"> • Securities now excluded from ambit of GST • Actionable claims now covered under GST, posing trouble for securitization and other debt related businesses. • Intangible goods have not been excluded from definition of goods which might lead to litigated position on treatment of software.
“input”	The definition required that the inputs should be used by a supplier for making an outward supply in the course or furtherance of business.	No such restriction in revised version	The revised version has broadened the scope of “inputs” <i>by removing the restriction that inputs should be used or making the outward supply”.</i>
Input service	The definition required that the input services should be used by a supplier for making an outward supply in the course or furtherance of business	No such restriction in revised version	The revised version has broadened the scope of “input service” <i>by removing the restriction that inputs should be used or making the outward supply”.</i>
Input tax	Means the {IGST and CGST}/{IGST and SGST} charged on any supply of	Means the IGST, including that on import of goods, CGST and SGST charged on	The definition has been amended to make it compatible with the

	goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 7	any supply of goods or services to him and includes the tax payable under sub-section (3) of section 8, but does not include the tax paid under section 9	revised definition of inputs and input services.
Mixed supply	Not defined	Means two or more individual supplies of 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	The definition has relevance in terms of Goods or services combined but bearing differential rates. The revised version has brought two different concepts of composite supply and mixed supply for supply comprising combination of goods and/or services. Specific provisions have been inserted to deal with them separately.
Motor vehicle	Not defined	Meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988)	No impact as in normal business practice, definition of motor vehicle is sought from Motor Vehicles Act
Outward supply	Excluded supplies where the tax is payable on reverse charge basis;	No such exclusion	Change was necessary in light of various provisions using term "outward supply" such as returns, transition provisions etc..
Principal place of business	Additional clause stating maintenance of accounts and records at the such principal place	No such clause.	Mere redundancy in older version. No impact as section 53 (erstwhile sec 42) even requires maintenance of accounts and records at principal place of business.
Principal supply	Not defined	Defined in relation to composite supply as discussed above	Refer impact as discussed for composite supply.
Registered importer	Not defined	Now defined.	The definition has been incorporated to introduce transition provisions for

			such importers to maintain the input credit chain. This is a welcome step
Second stage dealer	Not defined	Now defined.	The definition has been incorporated to introduce transition provisions for such importers to maintain the input credit chain. This is a welcome step
Securities	Not defined	Now defined	In view of specific exclusion of securities from GST, the definition was necessary to define the scope of securities excluded.
Services	Services include intangible property and actionable claim but do not include money.	Services to include transactions in money but does not include money and securities. Further, services does not include transaction in money other than an activity 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	<ul style="list-style-type: none"> • Specific exclusion of securities from services as well as goods • Intangibles and actionable claims moved to definition of goods • Services to include limited transactions in money. Specific indication to money changing business.
Turnover in a State	Included non-taxable supplies	Does not include non-taxable supplies as well as the value of inward supplies on which tax is payable by a person on reverse charge basis and the value of inward supplies.	The clarification will impact the calculation of turnover threshold used under various other provisions.
Works Contract	<ul style="list-style-type: none"> • Covers both moveable or immovable property • Consideration includes cash, deferred payment or other valuable consideration. 	<ul style="list-style-type: none"> • Covers only immovable property • Apart of activities specified in older version, includes contract for completion, maintenance and alteration also. 	The definition is likely to change the interpretation of term used in provisions relating to input tax credit, transition provisions etc.

		<ul style="list-style-type: none"> Transfer of property in goods involved in the execution of such contract is must. 	
Zero rated supply	Includes exports	Includes exports and supply of goods and/or services to a SEZ developer or an SEZ unit.	The revised version has made supplies to SEZ as zero-rated supplies for which there was no mention in the older version.

Meaning and scope of supply

Heading	Draft Model GST Law dated 7.6.2016 [Section 3]	Revised model GST law dated 25.11.2016 [Section 3]	Impact
Importation of service	Supply includes importation of service, whether or not for a consideration and whether or not in the course or furtherance of business.	Supply includes importation of services, for a consideration whether or not in the course or furtherance of business. A provision has been inserted in Schedule I <i>Importation of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business</i> will be treated as supply even if made without any consideration.	Importation of services without consideration <i>out of taxable net</i> except for specified scenarios. Importation of services for personal use still continues to be considered as supply.
Supply without consideration	Supply includes a supply specified in Schedule I made or agreed to be made without consideration	Supply includes a supply specified in Schedule I made or agreed to be made without consideration	Schedule I has been trimmed to do away with situations like assets retained after deregistration, business assets put to private use etc.
Principal and agent	Supply includes the transaction between principal and agent where an agent who, for an agreed commission or brokerage, either supplies or receives any goods and/or services	The clause has been omitted in revised version but shifted to Schedule I which includes the following as supply even if made without consideration.	Principal and agent transaction made free of cost now covered under taxable net. However above taxability is restricted to transactions

	on behalf of any principal.	“Supply of goods— (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal, or (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.”	involving supply of goods only, not services.
Exempted supply	-	Schedule III has been newly inserted which covers activities which shall be treated neither as supply of goods nor as supply of services.	Services rendered by employee to employer in course of employment specifically excluded.
Deemed supply by aggregator	Deemed supply in case of supply of any branded service by an aggregator, as defined in section 43B, under a brand name or trade name owned by him.	Omitted	Separate charging provisions have been inserted for taxability of services supplied by e-commerce operator. Hence concept of deemed supplies, no longer required.
Mixed supply	No concept of mixed supply	In case of a mixed supply comprising two or more supplies, it shall be treated as supply of that particular supply which attracts the highest rate of tax.	The provision seeks to determine taxability of bundled supplies.
Composite supply	No concept of composite supply	In case of a composite supply comprising two or more supplies, one of which is a principal supply, it shall be treated as a supply of principal supply.	The provision seeks to determine taxability of bundled supplies.

Levy and exemption

Heading	Draft Model GST Law dated 7.6.2016 [Section 7]	Revised model GST law dated 25.11.2016 [Section 8]	Impact
E-commerce	-	The revised version casts the liability to pay tax on	This is in line with the recent amendment in

		representative/appointed person of e-commerce operator where he does not have a physical presence in the taxable territory.	Service tax rules related to Online Information Access and Data Retrieval Services
Rate capping	Not capped	CGST/SGST capped at 14%	The cap means a rate of 28% GST on bill.

Composition levy

Heading	Draft Model GST Law dated 7.6.2016 [Section 8]	Revised model GST law dated 25.11.2016 [Section 9]	Impact
Computation of threshold for eligibility for composition levy	Aggregate turnover in a financial year does not exceed fifty lakh of rupees	Aggregate turnover in the preceding financial year does not exceed fifty lakh rupees	Revised version brings clarity on the turnover to be used for calculating threshold which was ambiguous in earlier version
Minimum Cap	Minimum rate capped at 1%	Minimum rate capped at 2.5 % in case of a manufacturer and 1% in any other case	Differentials rates capping for manufacturer and others
Turnover for calculation of tax	Tax to paid at the prescribed rate on the turnover during the year	Tax to be paid on the turnover in a State during the year	Revised version brings clarity on the turnover to be used for calculating tax which was ambiguous in earlier version
Supply eligible for composition levy	Both supply of goods and services eligible for composition levy	Supply of services excluded	Now service providers cannot opt for composition scheme.
Supply eligible for composition levy	-	Specific exclusion for supply of goods which are not leviable to tax under this Act	This step will impact the registration process only owing to no impact relating to tax payment and input credit.
Categories not eligible for composition levy	-	Specific exclusion for person who makes any supply of goods through an e-commerce operator required to collect tax at source under section 56	Suppliers making supply using electronic platform will be out of composition scheme.
Timing of	-	Composition levy shall	Welcome clause to bring

Cessation of scheme crossing threshold		stand withdrawn from the day on which aggregate turnover during a financial year exceeds fifty lakh rupees.	clarity on the timing of cessation of scheme.
Penalty in case of wrong availment of scheme	Show cause notice and a reasonable opportunity of being heard must before imposing	Clause Omitted	This is subject to interpretation and judgement as general principles for penalty requires show cause notice.

Taxable person

Heading	Draft Model GST Law dated 7.6.2016 [Section 9]	Revised model GST law dated 25.11.2016 [Section 10]	Impact
Meaning of Taxable person	Taxable Person means a person who carries on any business at any place in India and who is registered or required to be registered under Schedule III of this Act	Taxable Person means a person who is registered or liable to be registered under Schedule V of this Act.	For being a taxable person, now it is not necessary to carry on business in India. The clause has been omitted to include 'every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered taxable person' for mandatory registration.
Turnover threshold for registration	Aggregate turnover in a FY exceeding 9 lakhs (4 lakhs for NE states including Sikkim)	Aggregate turnover in a FY exceeding 20 lakhs (10 lakhs for Special category States)	The limits have been revised based on recommendation from Council. Further the lower limit has been extended to States of Jammu and Kashmir, Himachal Pradesh and Uttarakhand , in addition to NE states.
Concept of distinct persons	-	Each registration of an entity having same PAN to be treated as a distinct person. Schedule I now provides that supply of goods or	Transfers between different entities /registrations under same PAN now within GST ambit. Its valuation, however, is

		services between distinct persons when made in the course or furtherance of business to be treated as supply even if made without consideration.	still a grey area.
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Time and place of supply

Heading	Draft Model GST Law dated 7.6.2016 [Section 12 & 13]	Revised model GST law dated 25.11.2016 [Section 12 & 13]	Impact
Time of supply of goods	Time of supply of goods to be determined based on: <ul style="list-style-type: none"> • Date of removal of goods, • Date of receipt of goods by recipient, • Date of issue of invoice • Date of receipt of consideration • Date of accounting for receipt in books. 	Time of supply of goods to be determined based on: <ul style="list-style-type: none"> • Date of issue of invoice and • Date of receipt of consideration. 	This has simplified the determination of point of taxation (PoT)
Time of supply of services	Time of supply of services was dependent on factors such as issue of invoice within prescribed time, payment, accounting the receipt in books and completion of service	Time of supply dependent only on issue of invoice and receipt of payment.	This has simplified the determination of point of taxation (PoT)
Optional PoT for excess receipt	-	Option to treat date of issue of invoice as PoT for the excess where the supplier receives an amount up to INR 1000 in excess of the amount indicated in the tax invoice	This primarily relates to portion of the advance received in excess of invoice amount.
Time of supply in case of supplies on which tax is charged on reverse charge basis	Time of supply of goods/services to be determined based on: <ul style="list-style-type: none"> • Date of receipt of goods/services by recipient, • Date of receipt of invoice, • Date of payment of consideration 	Time of supply of goods/services to be determined based on: <ul style="list-style-type: none"> • Date of receipt of goods by recipient, • Date of payment of consideration • Date of issue of invoice. (30 days for goods/60 days for services post 	This has simplified the determination of point of taxation (PoT) providing a limit of 30 days from date of issue as time of supply.

	<ul style="list-style-type: none"> • Date of debit accounting for receipt in books of accounts. 	<p>issue considered).</p> <p>Date of entry in books of recipient to be considered when time of supply cannot be determined as above.</p>	
Continuous supply of goods	<p>Time of supply is determined based on whether successive account statements or successive payments are involved or not. In this case, it will be determined with reference to date of expiry of period to which successive account statements or successive payments, relate.</p> <p>In other cases, it will be determined with reference to:</p> <ul style="list-style-type: none"> • The date of issue of the invoice (or any other document) • The date of receipt of payment. 	<p>No such clause.</p> <p>However, Sec 28 makes a reference to issue of invoice in case of continuous supply of goods, where successive account statements or successive payments are involved. Time to issue invoice shall be before or at the time of issue of statement or receipt of payment.</p>	<p>The position differs only where successive accounts statements or payments are involved.</p> <p>Time of supply is now linked to date of issue of invoice or receipt of payment.</p>
Continuous supply of services	<p>The time of supply shall be -</p> <p>(a) Where the due date of payment is ascertainable from the contract, the date on which the payment is liable to be made by the service recipient despite issue of any invoice or receipt of any payment.</p> <p>(b) where the due date of payment is not ascertainable from the contract, each such time when the supplier of service receives the payment, or issues an invoice, whichever is earlier;</p> <p>(c) where the payment is linked to the completion of an event, the time of completion of that event.</p>	<p>No such provision.</p> <p>However section 28 makes reference to issue of invoice in case of continuous supply of services.</p>	<p>On analysis, the differences arises only on in cases where due date of payment is ascertainable from contract as well as where payment is linked to completion of event. In such cases, under revised law, issue of invoice might precede payment date, and accordingly time of supply will differ as compared to older version</p>

Time of supply in case of vouchers	No provision	Time of supply to be determined with reference to : <ul style="list-style-type: none"> • Date of issue of voucher, if supply is identifiable at that point. • Date of redemption of voucher 	Voucher evidences a right to supplies in future. Where, the supply to be made in future against the voucher can be identified at the time of issue, PoT shall be date of issue of voucher else date of redemption. The revised version is adequate from perspective of determining PoT in case of vouchers when supply to be made against them is identifiable and not before.
Goods sent on approval or sale or return	Time of supply shall be the time when it is ascertainable that the supply has taken place or six months from the date of removal, whichever is earlier.	No provision	In general, goods sent on approval or on sale or return basis do not <i>per se</i> amount to supply as title is not transferred. The question of determination of PoT arises only when such goods are either approved or not rejected within a mentioned or reasonable time. More clarification is sought.
Deemed PoT	Where the supply of services ceases under a contract before the completion of the supply, such services shall be deemed to have been provided at the time when the supply ceases.	No such provision. However Sec 28 provides for issue of invoice in such a case at the time when the supply ceases and such invoice to be issued to the extent of the supply effected before such cessation.	The time of supply primarily will be date of issue of invoice and hence, no major impact.