MOHINDER PURI & CO.
CHARTERED ACCOUNTANTS

Goods & Services Tax

A Significant Business Reform

(Effective 1st July 2017)

Text updated as on 10th June 2017

1 A-D, Vandhna, 11, Tolstoy Marg,
New Delhi-110001, India

T : +91 11 47102200
F : +91 11 23313908

E : mpco@mpco.in
W : www.mpco.in

A brief insight into Goods and Services Tax (GST)

1. Background

The current Indirect tax structure, which has been prevailing in India for more than last 50 years, is soon going to be replaced with a new uniform tax structure namely Goods and Services Tax (GST).

With introduction of GST, various Central levies (like Central Excise duty, Service Tax, Central Sales Tax, Customs duty in the nature of CVD & SAD, etc.) and State levies (like Value Added Tax, Entry Tax, Octroi, Purchase tax, Luxury Tax, Entertainment Tax, etc.), applicable on goods and services, would subsume in GST.

Indian Parliament has passed the Central laws pertaining to Goods & Services Tax (GST), namely Central GST, Integrated GST & Union Territory GST. Further, GST Council has already finalized certain procedural Rules (e.g. Tax returns, Invoice Rules, Valuation Rules, Credit Rules etc.) and have placed balance procedural Rules in public domain for comments. The pending Rules are expected to be finalized soon. Also, it would be worthwhile to mention that majority of States have already passed their respective State GST laws, with other States to follow soon.

The GST Council, which is the governing body of GST, is meeting regularly to give final touches to the GST law and its Rules, Regulations and Notifications.

Accordingly, it seems likely that GST would be implemented from July 1, 2017. Even in case of any delay in implementation, Government is expected not to go beyond September 16, 2017 deadline for implementation of GST, as the same has been in-built in the Constitution of India vide appropriate amendment.

Government has already initiated State-wise provisional registration under GST law on the Goods & Services Tax Electronic Portal ("Common Portal"/ "GST Portal"). The facility for applying for GSTIN (GST registration number) is open for existing dealers to create their login facilities and apply for provisional GST registration numbers.

Objective of GST

- Avoid multiplicity of taxes (Central levies as well as State levies) which are presently being levied either on same transaction or various transactions forming part of same supply chain;
- Remove cascading effect of taxes as Central levies are not available as set off against the State levies and vice-versa;
- Create India as One Unified Market place for free flow of trade by removing tax barriers;
- Eliminate disparity in terms of tax rates & tax compliances varying from State to State, by bringing Uniformity in Indirect tax laws across PAN India.

Benefits of GST

- Making Indian products & services more competitive, both domestically as well as internationally;
- Expected to increase India's Gross Domestic Product (GDP) due to reduction in direct cost, logistics & distribution costs;
- Boost to Make in India initiative;
- Incentivize the unorganized sector to be part of main stream value chain;
- Backed by robust IT infrastructure, GST to eliminate avenues to circumvent laws and reduce physical touch points between taxpayer and revenue authorities.

2. Legal Framework of GST in India

India is a federal structure, wherein both Central Government and State Government have power to levy indirect taxes within their respective domain, duly carved out in Constitution of India. For example, States levy tax on sale of goods, whereas Centre levy taxes on manufacture of goods and provision of services.

Considering the federal structure of India, GST law in India has been structured as a dual levy, wherein both Central and State Governments have concurrent powers to levy tax on each transaction of supply of goods and/or services.

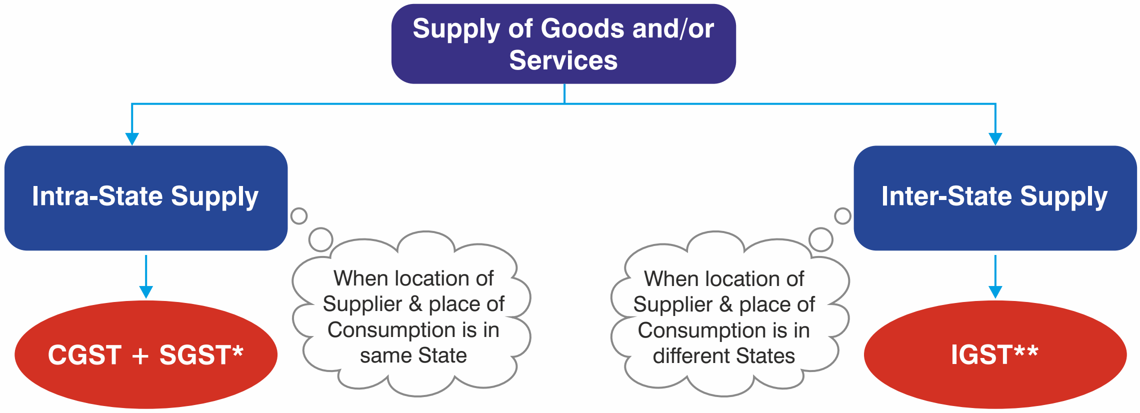
The current taxable events i.e. the concept of manufacture, sale & provision of service have been replaced with the term 'Supply' under GST law. In other words, GST would be levied on every supply of goods and/or services and both Centre and State would levy their respective GST concurrently on each transaction.

Under the GST regime, there would be four taxes namely Central GST ('CGST'), State GST ('SGST'), Union Territory GST ('UT-GST') and Integrated GST ('IGST'). Accordingly, each transaction of supply of goods and/or service shall attract GST as follows:

- In case of Intra-State (within the same State/ Union territory) supplies - CGST and SGST/ UT-GST would be applicable in equal proportion
- In case of Inter-State (from one State to another State) supplies- IGST would be applicable. IGST would be equal to summation of tax rates of CGST and SGST/ UT-GST.

A brief insight into Goods and Services Tax (GST)

Dual GST Model
Centre & States shall have concurrent power to levy tax on both Goods & Services



In case of Intra-State supply, both CGST and SGST would be applicable on supply of goods & services

In case of Inter-State supply, IGST would be applicable on supply of goods & services

To illustrate, assume that GST rate on machine part is fixed at 12%. Say, ABC Ltd., registered dealer in Haryana is engaged in trading of machine parts, makes a sale to XYZ Ltd. who is also registered in Haryana at transaction value of INR 100/-. This transaction would qualify as Intra-State supply and accordingly, both CGST and SGST would be applicable at 6% respectively, on the transaction value.

In the above example, assume XYZ Ltd. is registered in the State of U.P. In such a case, the transaction would qualify as inter-state supply and accordingly, a single tax called IGST would be applicable at 12% on the transaction value.

Further, in case of imports, taxability under GST regime would be as follows:

Import of goods into India - IGST would be levied in addition to the current levy of Basic Customs Duty (BCD). IGST in case of import of goods would be applicable on sum of imported value of goods and BCD.

Import of services – IGST would be applicable and shall be paid by recipient of the services under reverse charge mechanism

3. Proposed Tax Rates

GST is based on minimal exemptions, hence only few essential goods & services enjoy NIL rate of tax. This usually includes those goods & services which were currently exempt PAN India.

GST Council has finalized tax rates for most of the items, except for a few specific commodities. GST Council has approved 4 tax slab structure i.e. 5%, 12%, 18% and 28%. Respective Tax schedules are available in public domain, but are yet to be notified. In addition to the said taxes, there would be a 'Compensation Cess' which would be levied on certain luxury & sin products like tobacco, aerated waters, motor vehicles etc. For Services, the general rate of tax would be 18%. However, for certain specified services, the rate would be 12%.

4. Goods & Services Tax Network (GSTN)

GSTN has been set-up by the Government as a private company. GSTN is the IT platform for Government, which would have the registration, payment and return filing facility for Tax payers. In other words, GSTN would be a single window platform for meeting all compliance related requirements of all the Assesses/Dealers. Besides the said facilities to the taxpayers, GSTN would also provide back-end IT modules for State Governments.

A brief insight into Goods and Services Tax (GST)

5. Key Compliances

Some of the major compliances required to be met by Assesses/ Dealers under GST regime are as under:

a) Filing of Monthly GST returns: The process of return filing, in brief, is as under:

- Details of Outward Supplies would be required to be uploaded in Form GSTR-1 by 10th of the subsequent month on GST Portal.
- Details of Inward Supplies would be required to be uploaded in Form GSTR-2 by 15th of the subsequent month on GST Portal.
- The information furnished by the Supplier in its Form GSTR-1 shall be made available to corresponding Recipient in Form GSTR-2A. On the basis of said Form GSTR-2A, the recipient would furnish the details of inward supplies in Form GSTR-2. Further, the Recipient may add (invoices not uploaded by the supplier), delete or correct the details, as populated in Form GSTR-2A. Once the Recipient submits its final details of inward supplies in Form GSTR-2 after modifications, if any, then such modifications would be reflected in Form GSTR-1A to the Supplier. The Supplier would have the option to generate the revised outward supply return on the basis of Form GSTR-1A or reject the modifications.
- Final Monthly Return would be required to be uploaded in Form GSTR-3 by 20th of the subsequent month

  It is worthwhile to take note of the fact that input tax credit would be available to the receiving dealer only when the supplying dealer has filed a valid return (GSTR-3) and has duly discharged its tax liabilities.

b) Tax Payments:

Tax payments are required to be made electronically by accessing the challan from GST portal. Taxes are required to be deposited prior to the date of filing of GSTR-3 i.e., 20th of the subsequent month.

c) Invoices:

- Tax Invoice: All taxable supplies, whether to a Registered or Unregistered Recipient, are to be made under the cover of a "Tax Invoice".
- Bill of Supply: All exempt supplies or supplies made by a composition dealer, whether to a Registered or Unregistered Recipient, are to be made under cover of a "Bill of Supply".

  Tax Invoice/ Bill of Supply must contain all the prescribed particulars. Such prescribed particulars include-

  - ❖ Name, Address & GSTIN No. of Supplier & Recipient
  - ❖ Date & Serial No.
  - ❖ Place of Supply, State & State Code
  - ❖ Place of delivery, if different from Place of Supply
  - ❖ HSN Code of Goods / Accounting Code of Services
  - ❖ Description of Goods & Services
  - ❖ Quantity & Taxable Value of Goods/Services
  - ❖ Rate of Tax & Amount of Tax (Not applicable in case of Bill of Supply)
  - ❖ Digital Signature or Manual Signature
  - ❖ Whether tax payable under Reverse Charge (Yes/No)(Not applicable in case of Bill of Supply)

- Receipt Voucher: Every registered dealer receiving an advance in respect of supply of goods and/or services would be required to issue a "receipt voucher" acknowledging the receipt of advance. Tax liability arises immediately upon receipt of Advance (applicable for both goods & services) under GST regime vis-a-vis current regime where advances pertaining to Services were only subject to tax.

  The Receipt Voucher should contain all the particulars, similar to as stated above in the case of an invoice.

- Delivery Challan: For the purposes of supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known, transportation of goods for job work, transportation of goods for reasons other than by way of supply, the consigner may issue a delivery challan.
- Debit/ Credit Note: Under GST law, Debit note or Credit note (as the case may be) issued by the supplier is required to be reported in GST return. Accordingly, in case of purchase returns or any post sale discount, the supplier must issue Credit Note, in the prescribed format, for claiming reduction in its GST liability and report the same in GST returns.

  Please note that it is mandatory that the debit/ credit note issued by the Supplier is spcifically linked to the original invoice of supply.

A brief insight into Goods and Services Tax (GST)

6. Input Tax Credit

GST is based on liberal credit regime with seamless flow of tax credit available, subject to certain prescribed restrictions. In general, Input tax means the CGST, SGST, UTGST & IGST paid on purchase of goods and /or services, as may be applicable. Input tax also includes tax paid on reverse charge basis and IGST paid on import of goods and/or services.

Under the current regime, cross utilisation of the input credits of tax paid on procurement of traded goods and on receipt of services were not allowed. However, under the GST regime, cross utilisation of input taxes paid on goods and services would be allowed, thereby leading to tax cost savings on this count.

The manner of utilisation of input credit of CGST, SGST/UTGST & IGST is as follows:

- Input credit of CGST should be first utilised against payment of output CGST. If any balance input is left then the same can be utilised against payment of output IGST liability. However, credit of CGST cannot be utilised against payment of output SGST/UTGST.
- Input credit of SGST should be first utilised against payment of output SGST. If any balance input is left then the same can be utilised against payment of output IGST liability. However, credit of SGST cannot be utilised against payment of output CGST/UTGST.
- Input credit of UTGST should be first utilised against payment of output UTGST. If any balance input is left then the same can be utilised against payment of output IGST liability. However, credit of UTGST cannot be utilised against payment of output SGST/CGST.
- Input credit of IGST should be first utilised against payment of output IGST. If any balance input is left then the same can be utilised against payment of output CGST liability and SGST/UTGST liability, respectively.

Credit available for utilisation	Order of utilization against output tax liability
IGST	IGST, CGST, SGST / UT-GST
CGST	CGST, IGST
SGST	SGST, IGST
UTGST	UTGST, IGST

Please note that availability of input credits in the hands of Recipient Dealer is subject to satisfactory filing of returns and payment of taxes by its Vendors/Suppliers.

A brief insight into Goods and Services Tax (GST)

7. Impact of GST- Rates Comparison

Sector	Activity/Segments	Current Regime	GST Regime
Plant & Machinery/ Construction Industry	Construction Services (of complex, building, civil structure or part thereof, with the value of land)	12% - 17%	12%
	Composite supply of Works Contract Services (with respect to Immovable property only)	15% - 21%	18%
	Services of Supervision, erection, commissioning (without any goods)	15%	18%
	Supply of Plant & Machinery (With/without installation, commissioning etc.)	5% - 26%	5% - 28%
Home Appliances / Consumer durables	Furniture, Floor coverings, AC, Refrigerator, washing machine, etc.	18% - 24%	28%
Services	All Services not specifically specified by Government	15%	18%
Health/ Education / Charitable	Healthcare services, education services, Charitable activities	Exempt	Exempt
Automobiles	Small Cars (<4m, engine <1200cc petrol)	26% - 34%	28%+ 1% Cess
	Small Cars (<4m, engine< 1500cc diesel)	27.5% - 35.5%	28%+ 3% Cess
	Mid-Size Cars (>4m, engine <1500cc)	40.5% - 48.5%	28%+ 15% Cess
	SUVs & Cars with engine >1500cc	47.5% - 54.5%	28%+ 15% Cess
	Commercial Vehicles	28% - 32%	28%
	Two Wheelers	28% - 32%	28%

A brief insight into Goods and Services Tax (GST)

8. Anti-Profiteering

As per the GST law, every supplier is required to pass on the benefit to the customer/recipient, which may arise to the supplier's business on account of reduction in effective tax rates applicable on its products/ services and on availability of additional tax credits.

An authority may be constituted by the government to examine whether input tax credits availed by any registered person or the reduction in the tax rate have resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

Accordingly, every dealer is required to re-assess the pricing of its product/ services, considering the above factors and pass on the benefits, if any, in the form of reduced prices to customers.

9. Imperative requisites for smooth GST transition- Key Action Points

Since GST is the biggest & most significant transformation in the Indian tax history, therefore, it becomes more important to prepare for GST well in advance. To ensure seamless transition to GST regime, following points merit consideration:

- Migration to GST:

  Migration to GST has already been initiated by the Government. All existing dealers who are registered under current indirect tax regime are required to obtain provisional GST registration number by creating State-wise GST username and password at GST portal. This is done using login credentials (GST provisional id & password for accessing GST Portal) provided by dealer's respective jurisdictional tax authorities.

  Further the dealer would be required to complete the profile by uploading the requisite documents & information at GST Portal and thereafter the certificate of registration with GSTIN in Form GST REG-06 would be granted within 6 months from the date of implementation of GST.

- Changes in Documents:

  All the Assesses/Dealers are required to amend the format of invoices, debits notes, credit notes, receipt vouchers and other business documents, as per the requirements prescribed under GST law/rules.

- Matching of information filed by vendor and customer

  As discussed above, since the availability of input credits to a recipient Dealer would also depend upon correct filing of returns by Supplier/Vendor, organizations would be required to in-built appropriate measures in their business processes and IT systems to ensure that there is no mismatch of information filed by the vendor with the respective information filed by the customer, and all the requisite compliances are duly met in time by the organizations.

MOHINDER PURI & CO.
CHARTERED ACCOUNTANTS

Would you like to know more?

Please contact :

Shashank Goel
Director- Indirect Tax
Mohinder Puri & Co.
1A-D, Vandhna
11, Tolstoy Marg
New Delhi-110 001
India

Tel: +91 11 47102200
Fax: +91 11 23313908
Email: shashank.goel@mpco.in

Shashank Goel, Director- Indirect Tax

L.L.B., Member of the Bar Council of India

Shashank has over 8 years of experience in the field of Indirect Tax. His areas of functional expertise include Service Tax, Value Added Tax, Goods & Services Tax (GST) etc. He has successfully represented and advised large corporate houses representing diverse industries like hospitality, sports, telecommunication, information technology, manufacturing, trading, education, infrastructure etc.

Previously, he was associated with the Indirect tax practice of Big Four Accounting firm at Managerial level. Shashank brings with himself the experience to identify the Indirect tax risks in the working of the clients and successfully mitigating the same by restructuring the Indirect Tax Implications. He has been extensively involved in managing the PAN India Indirect Tax compliances for his clients.

Shashank is assisting various clients in their GST impact assessments and transitional assistance. He is actively involved in holding training sessions for his clients. He is not only helping clients in being GST ready, but is also assisting them in realizing the full-scale benefits of GST by adopting a business transformation approach, rather than merely considering this as a tax change project.

Shashank is regularly invited at various tax forums and contributes articles to various journals. He is in regular consultation with various Chambers and Business forums.