

SHREE GURUKRIPA'S INSTITUTE OF MANAGEMENT

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Revised Model GST Law issued on on 25-11-2016 - A Summary of Amendments

Definitions

... Section 2

Non Taxable Supply	"Non Taxable supply" removed from the definition of "Aggregate turnover". "Inter State Supplies" have been included in the definition.
Business	"Business" Shall now include "Adventure, Wager". Also include any activity relating to the above. Also include any activity in the nature of the above. Definition of "business" now includes "services provided by a race club by way of totalisator or a licence to book maker in such club"
Business Verticals	"Business Verticals" defined in Sec. 2(18). Earlier reference of AS 17 removed. " Business vertical " means a distinguishable component of an enterprise that is engaged in supplying an individual product or service or a group of related products or services and that is subject to risks and returns that are different from those of other business verticals;
Capital Goods	"Capital Goods" has been revised and the earlier definition which was same as in Excise laws has been omitted. The new definition synchronizes the concept of capital goods with that of capital asset in accounts i.e. capitalized assets.
Composite Supply	The term "composite supply" has been revised to provide that composite supply would only be those bundled supplies of multiple goods/ services which are bundled in the normal course of business. Factors that should be considered in determining whether products or services are related include: (a) the nature of the products or services; (b) the nature of the production processes; (c) the type or class of customers for the products or services; (d) the methods used to distribute the products or provide the services; and (e) if applicable, the nature of the regulatory environment, for example, banking, insurance, or public utilities
Goods	The definition of "Goods" modified to include "Actionable Claims" and exclude "Securities"
Consideration	"Consideration" shall now exclude in any monetary value or payments made or made to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, any subsidy given by the Central Government or a State Government
Exempt Supply	"Exempt Supply" means supply of any goods and/or services which are not taxable under this Act and includes such supply of goods and/or services which attract nil rate of tax or which may be exempt from tax under section 11
Input and Input Services	"Input" and "input services" have been modified to exclude the condition of use of such input and input services for "making an output supply". Hence the only condition which is now prescribed is that such inputs or input services should be used in the course or furtherance of business. Hence the scope of definition of "Input" and "Input Services" have now widened.

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Service	Term "Service" modified to exclude Money and Securities but includes "Transactions in money". Note: Securities have also been excluded from the definition of "Goods"
Works Contract	Works Contract will not include activities undertaken in relation to moveable properties. Thus, works contract when used shall be only in relation to immovable property.

Scope of Supply

... Section 3

Neither supply of goods nor services	Activities or transactions specified in schedule III; or Activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities as specified in Schedule IV, shall be treated neither as a supply of goods nor a supply of services. Note: The above provisions have been inserted with a non-abstantive clause hence shall override the general definition of supply,
Composite & Mixed Supply	Definition of "Composite Supply" and "Mixed Supply" inserted in section 2 with corresponding scheme of taxation in Section 3. Provisions for Determining whether a supply is a composite or a mixed supply also inserted.

GST Officers

... Section 4 and 5

GST Officers - Inclusions and Exclusions	Classes of officers under the Central Goods and Services Tax Act shall now exclude "First Appellate Authority" Classes of officers under the State Goods and Services Tax Act shall now include Principle/Chief Commissioner of SGST
Jurisdiction	The Commissioner shall have jurisdiction over the whole of the State, the Special Commissioner and an Additional Commissioner shall have jurisdiction over the whole of the State or where the State Government so directs, over any local area thereof, and all other officers shall, subject to such conditions as may be specified, have jurisdiction over the whole of the State or over such local areas as the State Government may specify.

Levy & Exemption

... Section 8 and 11

GST Rate	Rate of 14% notified as upper limit for CGST/ SGST and for IGST 28%
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Levy of Tax on e-commerce operators	Provisions inserted as follows –
	1. Sec. 8 (4) inserted to provide that tax shall be paid by e-commerce operator – (4) The Central or a State Government may, on the recommendation of the Council, by notification, specify categories of services the tax on which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the person liable for paying the tax in relation to the supply of such services: 2. Further, provisions introduced to provide in his case when such person is located outside taxable territory and having representatives in India the later shall be the person liable to pay GST
Taxable Person	Every supplier shall be liable to be registered and pay tax under this Act in every State from where he makes taxable supply of goods and/or services if his aggregate turnover in a financial year exceeds Rs. 20 Lakhs.
Remission of Tax	Provision - "Remission of tax on supplies found deficient in quantity" removed

Composition Scheme

... **Section 9**

Composition Rate	<ul style="list-style-type: none"> Persons having Turnover in Previous Financial Year ≤ Rs.50 Lakhs can avail Composition Scheme 					
	<table border="1"> <thead> <tr> <th>Category of Persons</th> <th>Compounding Rate</th> </tr> </thead> <tbody> <tr> <td>For Manufacturers</td> <td align="center">≥ 2.5%</td> </tr> <tr> <td>For Traders</td> <td align="center">≥ 1%</td> </tr> </tbody> </table> <p>Persons Ineligible to avail Composition Scheme:</p> <ol style="list-style-type: none"> Person who is engaged in Providing Services Person having Inter State Outward Supplies (earlier it was "Inter State Purchase / Sales") Person who is a manufacturer of such goods as may be notified on recommendation of Council Person who makes supply through e-commerce operator 	Category of Persons	Compounding Rate	For Manufacturers	≥ 2.5%	For Traders
Category of Persons	Compounding Rate					
For Manufacturers	≥ 2.5%					
For Traders	≥ 1%					
Composition Non eligibility	The permission granted for Composition shall stand withdrawn from the day on which his aggregate turnover during a financial year exceeds Rs. 50 Lakh .					

Taxable Person

... **Section 10**

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Taxable Person	Old Provisions relating to the Definition of Taxable Person has been revised comprehensively. Taxable Person means a person who is registered or liable to be registered under Schedule V.
Registration	Every supplier shall be liable to be registered under this Act in the State from where he makes a taxable supply of goods and/or services if his aggregate turnover in a financial year exceeds Rs. 20 lakhs / 10 Lakhs (Special Category – N E States) ...Schedule V Note: The Earlier distinction between the threshold limit for registration and Taxability has been removed
Distinct Persons	An establishment of a person who has obtained or is required to obtain registration in a State, and any of his other establishments in another State shall be treated as establishments of distinct persons for the purposes of this Act.
Taxable Person - Exclusions	The Earlier provisions regarding non-taxable persons like agriculture, employee etc. now mostly shifted to schedule III. Agriculturalist now not required to be registered under Schedule V.

Time of Supply of Goods / Services		... Section 12 to 14
Removal of Goods	of	The distinction between "Goods removed" and "Goods not required to be removed" seems to have been done away with and corresponding explanations deleted.
Change in Taxation Event	in	The event of " Recipient showing receipt in books of Accounts " has been removed for determining Time of supply for Goods.
Reverse Charge		In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely – (a) the date of the receipt of goods, or (b) the date on which the payment is made, or (c) the date immediately following thirty days from the date of issue of invoice by the supplier:
Supply Voucher	of	In case of supply of vouchers, by whatever name called, by a supplier, the time of supply shall be – (a) the date of issue of voucher, if the supply is identifiable at that point; or (b) the date of redemption of voucher, in all other cases;
Reverse Charge		In case not possible to determine the time of supply under earlier provisions shall – (a) in case where a periodical return has to be filed, be the date on which such return is to be filed, or (b) in any other case, be the date on which the CGST/SGST is paid
Change in rate of Tax		Provisions relating to determination of Time of Supply in case of " Change in rate of Tax " made equally applicable to Goods also.

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Valuation of Goods / Services		... Section 15
Exclusion from Value	Any taxes, duties, cesses, fees and charges levied under any statute, other than the {SGST Act/the CGST Act} and the <i>Goods and Services Tax (Compensation to the States for Loss of Revenue) Act, 2016</i> , if charged separately by the supplier to the recipient; (earlier only CGST / SGST excluded)	
Inclusions in Value	Provisions regarding inclusion if items like interest, amount incurred by Receiver etc. have been inserted to broaden the scope for Valuation.	
Removal from Inclusions = Exclusions	However provisions relating to supply of goods by buyer, royalties and license fee, reimbursable expenditure have been removed from inclusions. We may need to wait and watch if any changes in valuation rules are there pursuant to these, as the consequences are far reaching.	
Govt Subsidies	Whereas Govt Subsidies" seem to have been excluded from Value as they have been excluded from the definition of "Consideration"	

Input Tax Credit		... Section 16
Documents	Input Tax Credit to be taken only in respect of Inputs / prescribed documents.	
Pro-rata ITC	Pro-rata allowability of ITC in case of Taxable person having both taxable supply (<i>including zero-rated supply</i>) as well as exempt supply. Note: Exempt supplies have been defined to include supplies on which recipient is liable to pay tax under reverse charge.	
Eligible ITC	The amount of credit in the above case shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.	
ITC in Special Cases	<ol style="list-style-type: none"> 1. Provisions relating to Availability of credit of stock in special circumstances like Person obtaining registration, Supply becoming taxable for the first time, merger / demerger / change in constitution etc. have been inserted 2. Special provisions for credit of input tax in respect of pipelines and telecommunication tower fixed to earth by foundation or structural support including foundation and structural support to allow credit over 3 years. 	
Negative list of goods / services for ITC	Negative list of goods / services ineligible for ITC has been modified substantially. Notably changes have been made in respect of ITC for goods / services used for construction as follows – <ol style="list-style-type: none"> (a) works contract services when supplied for construction of immovable property, other than plant and machinery, except where it is an input service for further supply of works contract service; (b) goods or services received by a taxable person for construction of an immovable property on his own account, other than plant and machinery, even when used in course / furtherance of business; Note: This is substantially different as compared to earlier provisions.	
Job-work	Provisions relating to Input Tax Credit of Goods sent / received directly by Job worker have been revised to provide time limit for 1 year for Inputs, 3 years for	

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	Capital Goods for receiving back the said Input / Capital Goods by the Principal Note: Time limit for receipt shall not be applicable to moulds and dies, jigs and fixtures, or tools sent out to a job-worker for job-work.
Recovery of Input Tax Credit	New Provisions relating to Recovery of Input Tax Credit and Interest inserted. Where credit has been taken wrongly, the same shall be recovered from the registered taxable person in accordance with the provisions of this Act.
Input Service Distributor	Pro-rata distribution of Credit by ISD between units provided similar to Rule 7 of existing Cenvat Credit Rules, 2004.

Invoice / Debit Notes / Credit Notes **... Section 28 – 31**

- Substantial Changes made w.r.t. Provisions relating to Invoice, Debit Notes and Credit Notes –

Particulars	Old Model Law	New Model Law
Provisions relating to Tax Invoices	Sec. 23	Sec. 28
Provisions relating to Credit and Debit Notes	Sec. 24	Sec. 31

Returns of Outward / Inward Supplies etc... **... Sec 32 –43**

Non Residents - Special Provisions	Provisions relating to Furnishing details of Outward / Inward Supplies similar to old law but shall now exclude a non-resident taxable person who is now not required to furnish such details. However, every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and in such manner as may be prescribed, a return, electronically, within 20 days after the end of a calendar month or within seven days after the last day of the validity period of registration, whichever is earlier u/s 34(5).
Extension of Time limit - returns	The Commissioner may, for valid and sufficient reasons, by notification, for such class of taxable persons as may be specified therein, extend the time limit for furnishing such details.
Confirmation of Details by Outward Supplier	Details of Inward Supplies as made u/s 33 communicated to Outward supplier the need to be confirmed by Outward supplier by 17 th of the succeeding month. Ex: If X has made outward supplies to Y, X needs to confirm details of inward supplies filed by Y (in his return of Inward Supplies u/s 33) by 17 th of succeeding Month.
Invalid Return	The provision to treat a return furnished by a registered taxable person without payment of tax due as an invalid return for allowing Input Tax Credit removed.
First Returns	The Concept of First Return as distinct from normal returns have been removed to treat both on the same footing

Refunds **... Sec 48 to 52**

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Changes in Refund Limits and Time Limit	Particulars	Earlier Limit	Revised Limit
	Refund order by Proper Officer to be made in	90 days	60days
	Interest on delayed refunds payable after	3 months	60 days
	Limit of Provisional Refund	80%	90%
Time Limit - Not Applicability	The provision relating to non applicability of Time Limitation of 2 years in case where such tax or interest has been paid under protest has been removed.		
Special Provisions for UNO / MNFI	A specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons as notified under section 49, entitled to a refund of IGST/CGST/SGST paid by it/him on inward supplies of goods and/or services, may make an application for such refund to the proper officer, in the form and manner prescribed, before the expiry of 6 months from the last day of the month in which such supply was received.		
Zero Rated Supplies	Refund also allowed in case of Zero Rated Supplies. Zero Rated Supplies shall have the meaning assigned to it under IGST Act. Note: Under IGST Act Zero Rated Supplies defined as follows – (1) “zero rated supply” means any of the following taxable supply of goods and/or services, namely - (a) export of goods and/or services; or (b) supply of goods and/or services to a SEZ developer or an SEZ unit.		
Withholding of Refund	Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceeding on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.		

TDS, Job Work etc.		...Sec 55,56 etc.
Non Receipt of Inputs	Inputs / CG sent to Job-worker not received within 1 year / 3 year shall be deemed to be supply by Principal and hence liable to GST on the day the goods were so sent / received by Job worker	
Waste and scrap	Waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax if such job worker is registered, or by the principal, if the job worker is not registered.	

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Change in TDS Provisions	Limit of the total value of supply under a contract for applicability of the TDS provisions has been decreased from Rs. 10 Lac to Rs. 5 Lac.
Rate of TDS	Rate of TDS – 1% under CGST / SGST and under IGST Act 2% respectively. (Same rates for TCS in case of e_commerce operators)

Assessment, Audit etc...	
Sec 60	Where a registered taxable person fails to furnish the return required even after service of notice officer may proceed to assess tax. [Note: Previously the proper officer may, after allowing 15 days from the date of service of the notice, proceed to assess the tax liability]
Sec.63(6)	On conclusion of audit, the proper officer shall, within 30 days , inform the taxable person, whose records are audited, of the findings, the taxable person's rights and obligations and the reasons for the findings. Note: Earlier on conclusion of audit, the proper officer shall without delay inform the taxable person, whose records are audited, of the findings, the taxable person's rights and obligations and the reasons for the findings.
Sec. 65	Power given to CAG to call for information for Audit.
Sec.66(2)	The proper officer shall issue the notice under sub-section (1) at least 3 months / 6 months prior to the Time limit specified for issuance of order (3 years / 5 years respectively)
Sec 67(9) Expln	– The expression "Suppression" has been defined to mean non-declaration of facts or information which a taxable person is statutorily required to declare in the return, statement, report or any other document furnished under the Act or the rules made there under, or failure to furnish any information on being asked for, in writing, by the Proper Officer. Note: This is a welcome move to put to rest long pending litigation regarding the definition of "Suppression" as there is a wide gap in the understanding of this word by the Department and Assesseees. It is also important to note that this definition of suppression is in line with many apex court judgements in this regard.
Sec 70	A Taxable Person who has paid IGST on a transaction considered by him to be an inter-state supply, but which is subsequently held to be an intra-state supply, shall not be required to pay any interest on the amount of CGST/SGST payable. Note: This is a welcome move to since the Assessee should not be put to unnecessary burden of interest in this case.
Sec.85	Any registered taxable person who supplies any goods or services on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of Rs.10,000/- or 10% of the tax due from such person, whichever is higher.
Sec. 92(4)	The offences specified [in Sec.92 (1) (a),(b),(c),(d), (e)] relating to taxable goods and/or services where the amount of tax evaded or the amount of input tax credit wrongly availed or the amount of refund wrongly taken exceeds Rs. 100 Lakhs shall be cognizable and non-bailable. (Earlier Rs. 250 Lakhs)
Sec 97	In disqualifications for compounding u/s 97 the following have been added – (a) A person

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	who has been convicted for an offence under this Act by a court; (b) A person who has been accused of committing an offence specified in clauses (h),(k) or (l) Sec192 (1)
Sec. 98(4)	Time Limit for making Appeals to First Appellate Authority is 3 months from the date of communication of order. Condonation by a further 1 month allowed.
Sec.98(6):	Pre-deposit in the above case shall be – (a) In full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, AND (b) A sum equal to 10% of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed. Note: However, higher predeposit may be ordered in case (with a maximum limit of 25% of the remaining amount, in a case considered by Commissioner to be a "serious case".
Time Limit - Appeals	Time Limit is 3 months for Assessee. Time Limit is 6 months for Departmental Appeal.
Appellate Tribunal	The Appellate Tribunal constituted u/s 100 of the CGST Act, 2016 shall be the Appellate Tribunal for the purposes of SGST Act also. (A Welcome Move!!)
Advance Ruling	In case of Advance Ruling, the Appellate Authority may allow condonation for a further period not exceeding 30 days.
Sec.137	The Central/State Government may, on recommendation of the Council, by notification and subject to such conditions and safeguards as may be specified therein, in respect of certain classes of taxable persons to be notified in this behalf, specify special procedures with regard to registration, filing of return, payment of tax and administration of such taxable persons by the CGST or SGST officers and the said taxable persons may opt to follow the procedures so prescribed. Note: This may be the provisions brought in to facilitate e_commerce giants / Banks / Insurance Companies to opt for a Centralised registration approach.
Sec. 155	The Commissioner may make regulations consistent with this Act and rules, generally to carry out the purposes of Act (Earlier both Board & Commissioner were given powers)

Transitional Provisions

Sec. 178	Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract – All the provisions are same as old but the word "taxable person" has been replaced by the word "Registered taxable person"
WIP not returned w/i the due date	For semi-finished goods removed for job work and returned on or after the appointed day & FG removed for carrying out processes and not returned within 6 months from appointed day reversal of ITC to be made (Earlier, GST was payable).
GAAP for Closing Stock	The usage of GAAP for determining the Closing Stock of Inputs contained in WIP / Finished Goods removed from most transitional provisions.
CG disposed w/o Consideration	Capital Goods on which CENVAT credit has not been availed, shall not be chargeable to GST if supplied / disposed without consideration.
Usage of Personal	Temporary application of business assets/ services to private or non-business use

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Purpose	has been removed from being deemed supply.
Sec. 163. Anti-profititeering Measure	The Central Government may by law constitute an Authority, or entrust an existing Authority constituted under any law, to examine whether input tax credits availed by any registered taxable person or the reduction in the price on account of any reduction in the tax rate have actually resulted in a commensurate reduction in the price of the said goods and/or services supplied by him.

Integrated Goods and Service Tax

Imports	Imports deemed to be a supply of goods in the course of inter-State trade or commerce.
Sale in the course of Imports	Supply of goods in the course of import into the territory of India till they cross the customs frontiers of India shall be deemed to be a supply of goods in the course of inter-State trade or commerce.
Levy of IGST on Imports	IGST on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962
Inter State Supply - Export	Supply of goods and/or services, when the supplier is located in India and the place of supply is outside India, shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.
Place of Supply of Imports / Exports	The place of supply of goods imported into India shall be the location of the importer. The place of supply of goods exported from India shall be the location outside India. Separate principles of Place of Supply of Service have been incorporated for import export transactions.
Supply to SEZ - Interstate	Supply of goods and/ or services to or by a SEZ developer or an SEZ unit, shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.
Supply to SEZ - Zero Rated	Supply of Goods or Services to SEZ would be categorized as “Zero Rated Supplies” and facility of refund of credit or output tax paid is extended
Rate and Value for IGST	The value is determined u/s 15 of CGST Act. Rates are specified by the CG in this behalf, but shall not exceeding 28% on recommendation of the Council

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