

OVERVIEW AND BASICS OF GST

1 What is GST?

Under the Article 366(12A) of the Constitution of India, "Goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption. Alcoholic liquor for human consumption is a non-GST item. It is kept out of GST and the taxes which used to be there on it shall continue even after implementation of GST.

GST is a destination based consumption tax. Under destination based taxation, tax accrues to the destination place where consumption of the goods or services takes place. As per this principle irrespective of the fact that tax shall be collected by the supplier, the same is retained by state in which the goods or services are finally consumed. It can be said that it is an extension of Value added tax (VAT).

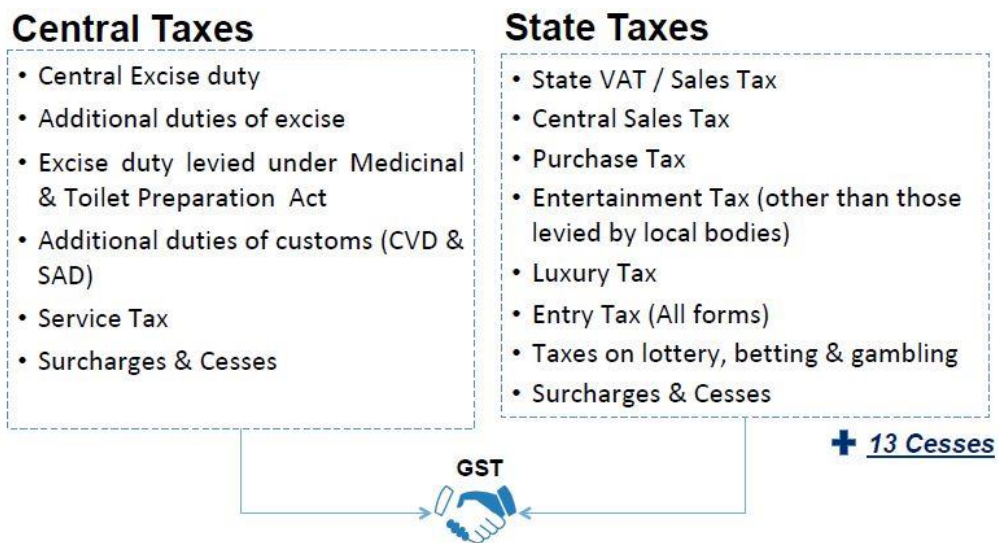
France was the first country to implement GST in 1954, and since then around 160 countries have adopted this tax system. Under GST, taxes are imposed on value addition at each stage of product manufacture and distribution and set-off of taxes paid on purchase by each supplier in the supply chain is allowed except the final consumer. Thus, the ultimate burden of tax is borne by consumers.

Why is GST Important for India?

- GDP Growth will go up after the new law stabilizes (2018-19)
- International Competitiveness will increase
- Increased Foreign Direct Investments due to improve ease of doing business and serious reform measures.
- Common Market- Tax distortions due to differential tax structures and entry tax impositions. Further check post delays would not be there.
- Lower transaction cost (multiples returns on different events at different rates in different States.
- Reduced corruption due to use of information technology, less interaction and less discretion.

- Increased IDT revenue as grey market operators would slowly start joining the mainstream.
- This would also lead to increased Direct Tax Revenue due to higher sales/ services disclosure.

GST has removed multiplicity of taxes. In Pre GST regime multiple taxes were being levied by both central government and state governments. GST has subsumed many of such taxes levied by centre and state. Some of them are:



In the erstwhile regime there existed multiple taxable event for different taxes. For eg- for VAT the taxable event was Sale of Goods, for excise duty it was manufacture and for services it was provision of services. **Under GST Regime, Taxable Event is "SUPPLY".**

1. What is "SUPPLY" under GST?

Supply is defined under **Section 7** of The Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act, 2017).

A) Supply includes:-

- all forms of supply of goods or services or both such as **sale, transfer, barter, exchange, licence, rental, lease** or **disposal** made or agreed to be made for a consideration by a person in the course or furtherance of business;

- import of services for a consideration **whether or not** in the course or furtherance of business;
- the activities specified in **Schedule I**, made or agreed to be made **without a consideration**; and

[Schedule-I contains list of activities such as permanent transfer or disposal of business assets where input tax credit has been availed on such assets, supply of goods or services between related persons or between distinct persons, etc.]

- the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

B) Supply excludes (Following activities or transactions which shall be treated as neither supply of goods nor supply of services):

- activities or transactions specified in Schedule III; or

[Schedule-III contains certain activities like service by an employee or employer in the course of or in relation to his employments, sale of land, etc.]

- such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

2. What is Composite Supply and Mixed Supply under GST?

- a) Composite Supply: As per Section 2(30) Composite supply means a supply made by a taxable person to a recipient consisting of **two or more taxable supplies** of goods or services or both, or any combination thereof, which are **naturally bundled** together and supplied in **conjunction** with each other in the ordinary course of business, one of which is a principal supply.

“principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

A composite supply is to be treated as a supply of principal supply and the tax liability shall be determined accordingly. For Eg- In a Hospital, Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare services. As the health care services (in our case the principal supply) by a clinical establishment is exempt, such services of food supplied to in-patients will also be exempt. [CIR 32/06/2018-GST]

b) Mixed Supply: Mixed Supply 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**.

In case of mixed supply comprising of two or more supplies it shall be treated as supply of that particular supply which **attracts the highest rate of tax**.

Poser: In case a vehicle is sent for servicing. During the servicing, the amount of spare part changed was Rs. 2,00,000 and service amount was Rs. 10,000. Garage owner has charged GST @ 28% on value of parts and GST @ 18% on value of services supplied. Department says that value of spare part is more and therefore it becomes the principal supply and the tax rate should be that of spare parts which is 28% treating this as a composite supply. Discuss the position.

Answer: The contention of the department appears to be misplaced. In case where separate prices are charged for two different and distinct supplies, these supplies are not bundled or composite supply and hence, taxed paid on different supply at applicable rates are correct.

Care should be taken while classifying a supply as composite or mixed supply as there is a thin line of difference between them. Professional advice may be sought before classifying your supply as composite or mixed supply.

3. What is inter-state supply and intra-state supply?

- a) Inter-State Supply: If in a transaction of supply of goods or services or both, **location of supplier** and the **place of supply** are in different States/UT, such supply shall be an inter-state supply.

*[location of supplier of **service** is defined under section 2(71) of the CGST Act, 2017 as*

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier;]

Supply of goods imported into the territory of India, till they cross the customs frontier of India, shall be treated as supply of goods in the course of inter-state trade or commerce.

Supply of services imported into the territory of India shall be treated as supply of goods in the course of inter-state trade or commerce.

Following supply of goods or services shall be treated as inter-state supplies:

- i) Supply of goods or services or both when the supplier is located in India and the place of supply is outside India
- ii) Supply of goods or services or both to or by a SEZ Developer/Unit
- iii) Supply of goods or services or both in the taxable territory, not being an intra-state supply.

Thus, any supply, which is not an intra-state supply, is to be considered as inter-state supply.

Integrated Goods and Services tax shall be levied on all inter-state supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption.

Integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

b) Intra-state supply: If in a transaction of supply of goods or services or both, **location of supplier** and the **place of supply** are in same States/UT, such supply shall be intra-state supply.

The following supply of goods shall not be treated as intra-State supply, namely:-

- (i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;
- (ii) goods imported into the territory of India till they cross the customs frontiers of India; or
- (iii) supplies made to a tourist referred to in section 15.

Intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

Thus, supply of goods or services to or by a SEZ Developer/unit will be considered as inter-state supply even if the unit in DTA and SEZ are in same state or UT.

Central goods and services tax shall be levied on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under Section 15 of the CGST Act and at such rates as may be notified by the government

State goods and services tax shall be levied on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under Section 15 of the SGST Act and at such rates as may be notified by the government

6. How to determine the place of Supply?
(points in ppt)

7. Who is the person liable to pay the tax?

Forward Charge: **Forward charge** or direct **charge** is the mechanism where the supplier of goods/services is liable to pay tax. Usually, the supplier of goods or services is liable to pay tax under forward charge.

Reverse Charge: As per Section 2(98) Reverse Charge means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act. Thus, Reverse Charge will be applicable only on-

i) Supply of Goods or Services of specific categories as notified by Government under Section 9(3) of the CGST Act, 2017 or 5(3) of the IGST Act, 2017. [*Notification No. 13/2017-Central tax(Rate) dated 28-06-2017 as amended from time to time and Notification No. 10/2017-Integrated Tax(Rate) dated 28-06-2017 as amended from time to time*]

ii) Supply of taxable goods or services or both from a supplier who is not registered, to a registered person. [Section 9(4) of the CGST Act, 2017 and Section 5(4) of the IGST Act, 2017]. This is not applicable as of now.

8. What input tax credit under GST?

Input tax credit means credit of input tax paid. Input tax in relation to a registered person, means CGST, SGST, UTGST charged on any supply of goods or services or both made to him and includes:

- i) IGST charged on Import of goods
- ii) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- iii) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
- iv) the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act; or
- v) the tax payable under the provisions of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Services Tax Act,

GST provides near seamless credit. A registered person other than a composite dealer is allowed to off-set his input tax credit against his outward tax liability. Thus, a supplier is only liable to pay tax on the value addition provided by the supplier.

9. What is Inverted Duty Structure in GST?

Inverted duty structure is tax structure where the rate of tax on inward supplies is higher than the tax payable on output supplies. For Eg- Cement is taxable at 28% and works contract service is taxable at 18%.

Inverted Duty Structure leads to accumulation of input tax credit. Under GST Regime, refund on account of inverted duty structure is allowed, except on supplies of goods or services or both as notified by government [*Notification No. 5/2017-Central Tax(Rate) dated 28-06-2017 as amended from time to time and Notification No. 15/2017-Central Tax(Rate) dated 28-06-2017 as amended from time to time*]

However, it should be noted that **refund is allowed only on INPUTS received** for providing outward supplies.

10. What is Gross GST Payable and Net GST Payable?

Gross GST payable means liability of tax on outward supply of goods or services or both.

Net GST payable means the net liability of tax on outward supply of goods or services or both after taking into consideration all the input tax credit that the person is eligible to avail.

For Eg- My outward supplies for the tax period is Rs. 118000 (Rs. 100000+IGST Rs.18000), and my input tax credit for the said tax period is Rs. 12500, then my gross GST payable would be Rs. 18000 but my Net GST payable will be Rs. 5500 (18000-12500).

11. What are due dates of filing frequent returns?

i) For GSTR-3B: The due date of return in FORM GSTR-3B for the months from July, 2018 to March, 2019 is the twentieth day of the month succeeding such month. For eg- The due date for the month of August, 2018 will be 20-09-2018.

ii) Form GSTR-1 for taxpayers having aggregate turnover of upto 1.5 Crores:

Quarter for which details in FORM GSTR-1 is furnished	Time period for furnishing details in FORM GSTR-1
July-September, 2018	31-10-2018
October-December, 2018	31-01-2019
January-March, 2019	30-04-2019

iii) Form GSTR-1 for taxpayers with aggregate turnover more than 1.5 Crores:

Month for which details in FORM GSTR-1 is furnished	Time period for Furnishing details in FORM GSTR-1
August, 2018	11-09-2018
September, 2018	11-10-2018
October, 2018	11-11-2018

November, 2018	11-12-2018
December, 2018	11-1-2019
January, 2019	11-2-2019
February, 2019	11-3-2019
March, 2019	11-4-2019

Also note that the details of goods sent to job-worker or received from a job-worker or sent from one job-worker to another during a quarter has to be furnished in FORM GST ITC-04 for that period on or before the 25th of the month succeeding the said quarter or with such further period as may be extended by the commissioner by a notification in this behalf.

12. What is a Tax Invoice under GST?

Tax invoice is the invoice issued by the supplier of taxable goods or services under Section 31 of the CGST Act, 2017 in accordance with details prescribed under Rule 46 of the CGST Act, 2017. According to Rule 36 of the CGST Rules, 2017 you can avail Input tax Credit on an invoice issued by supplier which is in accordance with Section 31. Candidates are request to take due care that their supplier issues invoice with details as prescribed under Rule 46, otherwise the credit may be disallowed. Thus, the manner of issue of invoice is of significance under GST. Rule 46 prescribes that a tax invoice should contain following particulars:

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (e) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is fifty thousand rupees or more;

- (f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice;
- (g) Harmonised System of Nomenclature code for goods or services;
- (h) description of goods or services;
- (i) quantity in case of goods and unit or Unique Quantity Code thereof;
- (j) total value of supply of goods or services or both;
- (k) taxable value of the supply of goods or services or both taking into account discount or abatement, if any;
- (l) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (m) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (n) place of supply along with the name of the State, in the case of a supply in the course of inter-State trade or commerce;
- (o) address of delivery where the same is different from the place of supply;
- (p) whether the tax is payable on reverse charge basis; and
- (q) signature or digital signature of the supplier or his authorised representative:

In case of supplies covered under Section 9(3) and Section 9(4) where the supplier is not registered, the registered recipient should issue an invoice.

13. Who can issue a credit note/Debit note under GST?

Where a tax invoice has been issued for supply of any goods or services or both and the **taxable value or tax charged** in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are **returned** by the recipient, or where goods or services or both supplied are found to be **deficient**, the **registered person, who has supplied** such goods or services or both, may **issue to the recipient a credit note** containing such particulars as prescribed in Rule 53.

Where a tax invoice has been issued for supply of any goods or services or both and the **taxable value or tax charged** in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the **registered person, who has supplied** such goods or services or both, shall issue to the recipient a debit note containing such particulars as prescribed in Rule 53.

Thus, only a registered supplier who has issued an invoice can issue a credit note/debit note under GST. Each Credit Note/Debit Note is required compulsorily to be linked to an invoice.