

# GOODS AND SERVICES TAX: CHANGE IN CONSTITUTIONAL TAXATION REGIME

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## ABSTRACT

The Goods and Services Tax (GST), implemented on July 1, 2017, is regarded as a major taxation reform till date implemented in India since independence in 1947. GST was planned to be implemented in April 2010, but was postponed due to political issues and conflicting interest of stakeholders. The primary objective behind development of GST is to subsume all sorts of indirect taxes in India like Central Excise Tax, VAT/Sales Tax, Service tax, etc. and implement one taxation system in India. The GST based taxation system brings more transparency in taxation system and increases GDP rate from 1% to 2% and reduces tax theft and corruption in country. The paper highlighted the background of the taxation system, the GST concept along with significant working, comparison of Indian GST taxation system rates with other world economies, and also presented in-depth coverage regarding advantages to various sectors of the Indian economy after levying GST and outlined some challenges of GST implementation.

**Key words:** tax, indirect tax, goods and services tax (GST), taxation reforms, Indian taxation system, GST Council

## INTRODUCTION

The 101st Amendment Act of 2016 paved the way for the introduction of a new tax regime (i.e. goods and services tax - GST) in the country. The smooth and efficient administration of this tax requires co-operation and coordination between the center and the states. In order to facilitate this consultation process, the amendment provided for the establishment of a Goods and Services Tax Council or the GST Council. The amendment inserted a new Article 279-A in the Constitution. This Article empowered the President to constitute a GST Council by an order. Accordingly, the President issued the order in 2016 and constituted the Council. The Secretariat of the Council is located at New Delhi. The Union Revenue Secretary acts as the ex-officio Secretary to the Council.

**Taxes Abolished and Items Exempted from GST:** the taxes to be subsumed in GST:

### Central Government Taxes

- i. Central Excise Duty
- ii. Service Tax
- iii. Additional Custom Duty Surcharges and
- iv. all Cess

### State Government Taxes

- i. VAT/Sales Tax
- ii. Entertainment Tax
- iii. Entry tax not in lieu of Octroi
- iv. Other taxes and Duties (Luxury Tax, Taxes on Lottery etc)

Taxes imposed by State Government on Goods and services

- i. Stamp Duty
- ii. Vehicle Tax
- iii. Tax on Goods and Passengers
- iv. Taxes and duties on Electricity

The following is the list of items exempted from Goods and Services Tax (GST):

- (a) all types of public services of the Government (Railways, Postal and Telegraphs, Public Sector Enterprises, Banks and Insurance, Health and Education services),
- (b) any service transactions between employer and employee either as service provider, receiver, or vice-versa,
- (c) education services provided by non-government schools and colleges,
- (d) health services provided by non-government agencies, (e) any unbranded food items.

### VISION AND MISSION OF THE COUNCIL

While discharging its functions, the Council is to be guided by the need for a harmonized structure of GST and the development of a harmonized national market for goods and services. Further, the Council has to determine the procedure in the performance of its functions. The vision and mission of the Council are as follows:

**Vision:** To establish the highest standards of co-operative federation in the functioning of the Council, which is the first constitutional federal body, vested with powers to take all major decisions relating to GST.

**Mission:** Evolving by a process of wider consultation, a GST structure, which is information technology driven and user friendly.

### COMPOSITION OF THE COUNCIL

The Council is a joint forum of the Centre and the states and consists of the following members:

- (a) The Union Finance Minister as the Chairperson
  - (b) The Union Minister of State in-charge of Revenue or Finance
  - (c) The Minister in-charge of Finance or Taxation or any other Minister nominated by each state government
- The members of the Council from the states have to choose one amongst themselves to be the Vice-Chairperson of the Council. They can also decide his term. The Union Cabinet also decided to include the Chairperson of the Central Board of Excise and Customs (CBEC) as a permanent invitee (non-voting) to all proceedings of the Council.

### WORKING OF THE COUNCIL

The decisions of the Council are taken at its meetings. One-half of the total number of members of the Council is the quorum for conducting a meeting. Every decision of the Council is to be taken by a majority of not less than three-fourths of the weighted votes of the members present and voting at the meeting. The decision is taken in accordance with the following principles:

- (i) The vote of the central government shall have a weightage one-third of the total votes cast in that meeting.
- (ii) The votes of all the state governments combined shall have weightage of two-thirds of the total votes cast in that meeting. Any act or proceedings of the Council will not become invalid on the following grounds:
  - (i) any vacancy or defect in the constitution of the Council; or
  - (ii) any defect in the appointment of a person as a member of the Council; or
  - (iii) any procedural irregularity of the Council not affecting the merits of the case.

## **FUNCTIONS OF THE COUNCIL**

The Council is required to make recommendations to the centre and the states on the following matters:

- (a) The taxes, cesses and surcharges levied by the centre, the states and the local bodies that would get merged in GST.
- (b) The goods and services that may be subjected to GST or exempted from GST.
- (c) Model GST Laws, principles of levy, apportionment of GST levied on supplies in the course of inter-state trade or commerce and the principles that govern the place of supply.
- (d) The threshold limit of turnover below which goods and services may be exempted from GST.
- (e) The rates including floor rates with bands of GST.
- (f) Any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster.
- (g) Special provision with respect to the states of Arunachal Pradesh, Assam, Jammu and Kashmir<sup>4</sup>, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.
- (h) Any other matter relating to GST, as the Council may decide.

## **OTHER FUNCTIONS OF THE COUNCIL**

In addition to the above, the Council has the following other functions:

1. The Council shall recommend the date on which the GST may be levied on petroleum crude, high speed diesel, motor spirit (petrol), natural gas and aviation turbine fuel.
2. When there is a dispute with respect to its recommendations or their implementation, the Council shall establish a mechanism to adjudicate upon the dispute:
  - (a) between the centre and one or more states; or
  - (b) between the centre and any state or states on one side and one or more other states on the other side.
  - (c) between two or more states.

3. The Council has to recommend the compensation to the states for loss of revenue arising on account of introduction of GST for a period of five years. Based on this recommendation, the Parliament determines the compensation. Accordingly, the Parliament enacted the law in 2017.

## CONCLUSION

Primarily, the concept of GST was introduced and proposed in India a few years back, but implementation has been done by the current BJP government under the able leadership of Prime Minister Shri Narendra Modi on July 1, 2017. The new government was in strong favor for the implementation of GST in India by seeing many positive implications as discussed above in the paper. All sectors in India - manufacturing, service, telecom, automobile and small SMEs will bear the impact of GST. One of the biggest taxation reform- GST will bind the entire nation under a single taxation system rate. As forecasted by experts, GST will improve tax collections and boost up India's economic development and break all tax barriers between Central and State Governments. No doubt, GST will give India a clear and transparent taxation system, but it is also surrounded by various challenges as discussed in this paper. There is need for more analytical based research for successful implementation.

## REFERENCES

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- ii. Integrated Goods and Services Act, 2017
- iii. Central Goods and Services Tax Rules, 2017

