



GST Amendment Bill

The Rajya Sabha on 03rd August, 2016 passed the (Goods and Services Tax) GST Bill, which is one of the most crucial indirect tax reforms in the history of India.

Goods and Services Tax (in short 'GST') is by far one of the most awaited tax reforms in the country. With the emerging consensus amongst the political parties and the push voiced by the industry, there is a lot of expectation that the Constitutional Amendment Bill will be passed in this Monsoon Session. If this happens, the Government is likely to push the implementation of GST with effect from 1st April 2017.

Though GST is a tax reform, it is going to impact every sphere of business activity, be it procurement, supply chain; IT, logistics etc. as a number of business decisions taken based on the current tax structure may no longer be relevant in the new GST regime.

What we have in the public domain now is the draft GST law and the four business processes on Registration, Returns, Payments and Refunds which gives a fair idea on the basic construct of the GST structure. What are awaited are the GST Rules, Negative List and clarity on the rates.

Here are the ten essential points on this much awaited mega reform:

1 GST would be levied on 'supply' of goods and services and hence the present prevalent concepts of levy of excise on manufacture, VAT/CST on sales, entry tax on entry of goods in local area would no longer be relevant. The ambit of 'supply' is quite wide and covers supply of goods and services without consideration from one taxable person to another.

2 There would be dual GST i.e. both the Centre and the States would concurrently levy GST across the entire goods and services supply chain on a common base. Centre would levy Central GST (CGST) and States would levy State GST (SGST) on every supply of goods and services within a State. Integrated GST (IGST) would be levied on all inter-state supplies by the Centre and then transferred to the Destination State. Unlike in the present scenario, IGST would have to be paid on all inter-state supplies, be it in the nature of a sale or stock transfer.

3 Present Central Taxes like Central Excise, Service Tax, CVD, SAD, CST and State Taxes like VAT, CST, Entry Tax, and Luxury Tax would get subsumed under GST. Customs is outside GST and hence Basic Customs Duty would continue on imports.

7 Registration threshold has been presently kept at Rs. 10 Lakhs (Rs. 5 lakhs in case of North East States and Sikkim) in the draft model law. Existing registered assesseees would be migrated into GST, first provisionally and then finally subject to furnishing of requisite information. Assesseees have the option to take business segment-wise registration.

8 Option of composition levy is also prescribed, if aggregate turnover of a tax payer is < Rs. 50 lakhs. Persons adopting composition levy would be neither entitled neither to charge GST from its customers nor to avail credit of input tax. However, composition levy is not allowable to assesseees who affects inter-State supplies.

4 GST is a destination based consumption tax, which essentially implies that the revenue will accrue to the State where the consumer resides. This is unlike the present origin based levy where the revenue accrues to the origin state from where the movement originates.

5 Seamless flow of credit would be there under GST whereby CGST would be allowed to be set-off against CGST and IGST, SGST against SGST and IGST and IGST against IGST, CGST and SGST in that order. However, CGST credit will not be allowed to be set-off against SGST and vice versa. Thus, under GST, the present cost of 2% CST on inter-state sale will not be there as IGST would be totally fungible in the Destination State. However, credit fungibility is state-centric as credit accumulated in one State cannot be used against tax pay-outs in another State.

6 Liability for payment of GST would arise at the time of supply of goods and service. In terms of model law, receipt of advance payments for supply of goods and/or services would be considered as 'time of supply' and tax liability would arise on such advance receipt. However, receipt of goods and services is one of the pre-conditions for allowing input tax credit under GST and hence, even if GST is paid on advance payments, credit for the same would be available only on receipt of goods and services.

9 Under GST, every assessee would have to upload invoice level outward supply details for B2B transactions. Details of inward supplies and tax credit would be auto-populated based on sales details uploaded by the vendor. Hence, a robust IT infrastructure at the end of both supplier and recipient is critical for hassle free tax credits and avoid denial of credits due to mismatch issues.

10 Provisions relating to payment of tax under reverse charge, tax deductions at source are expected to continue under GST regime for specified persons/transactions. Thus, additional compliances would continue on the part of

EDITORS NOTE

We are happy to share with you our fourth issue of the SV insight containing useful, valuable information and action points for the month.

We do hope that you find the contents useful and informative. Thanks for some suggestions and feedback.

We welcome suggestions from you for improving the nature of content in order to make it more relevant and useful.

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TAX DUE DATES FOR SEPTEMBER 2016

No	Particulars	Due Date
1	Service Tax Payment	05-Sep-2016 / 06-Sep-2016
2	Central Excise Payment	05-Sep-2016 / 06-Sep-2016
3	TDS / TCS Payment/Remittance	07-Sep-2016
4	Central Excise Monthly Return	10-Sep-2016
5	STPI Monthly Returns	10-Sep-2016
6	CST Payment	20-Sep-2016
7	VAT Monthly Payment (Form 100)	20-Sep-2016
8	PT Payment - Employees	20-Sep-2016
9	ESIC Payment	21-Sep-2016
10	PF Return	25-Sep-2016
11	Advance Tax Payment (Corporate & Non-Corp assessee)	15-Sep-16
12	Filing of Income Tax: Corporates and those covered under Tax Audits	30-Sep-16

TAX PREPARATION SERVICE



"I Converted my garage to a home office. For tax purpose, my garden mulcher is now a paper shredder, my snow shovel is a mouse pad and my lawn tractor is a company car."



Employers should obtain evidence as given below from the employees for considering the following deductions:

Furnishing of evidence of claims by employee for deduction of tax under section 192. 26C.

- (1) The Employee shall furnish to the Employer, the evidence or the particulars of the claims referred to in sub-rule (2) below, in Form No.12BB for the purpose of estimating his income or computing the tax deduction at source.
- (2) The Employee shall furnish the evidence or the particulars specified in column (3), of the Table below, of the claim specified in the corresponding entry in column (2) of the said Table:—

Sl. No	Nature of claims	Evidence or particulars
(1)	(2)	(3)
1.	House Rent Allowance.	Name, address and permanent account number of the landlord/landlords where the aggregate rent paid during the previous year exceeds rupees one lakh.
2.	Leave travel concession or assistance.	Evidence of expenditure.
3.	Deduction of interest under the head "Income from house property".	Name, address and permanent account number of the lender.
4.	Deduction under Chapter VI-A.	Evidence of investment or expenditure.]

Therefore all employers who are deducting TDS are advised to obtain the evidence as above for considering the above deductions.

Key Challenges Facing CSR Activities in India

CSR is not a new concept in India; but is plagued with a number of issues and challenges as detailed below:

Lack of Community Participation in CSR Activities

- There exists little or no knowledge about CSR within the local communities as no serious efforts have been made to spread awareness and instill confidence in the local communities about CSR.
- Lack of communication between the company and the community at the grassroots level about CSR initiatives
- Consequent lack of interest of the local community in participation and contribution to CSR activities of companies.

Need to Build Local Capacities

- There is a need for capacity building of the local non-governmental organizations as there is serious dearth of trained and efficient organizations that can effectively contribute to ongoing CSR activities initiated by companies.
- This seriously compromises the scaling up of CSR initiatives and therefore limits the scope of such activities.

Issues of Transparency

- Lack of transparency is one of the key issues plaguing CSR in India today.
- There is an expression by the companies that there exists lack of transparency on the part of the local implementing agencies as they do

not make adequate efforts to disclose information on their programs, audit reports, impact assessment and utilization of funds.

- This reported lack of transparency negatively impacts the process of trust building between companies and local communities, which is essential to the success of any CSR initiative at the local level.

Non-availability of Well Organized Non-governmental Organizations

- There is non-availability of well organized non-governmental organizations in remote and rural areas that can assess and identify real needs of the community and work along with companies to ensure successful implementation of CSR activities.
- This also builds the case for investing in local communities by way of building their capacities to undertake development projects at local level.

Visibility Factor

- The role of media in highlighting good cases of successful CSR initiatives is welcome as it spreads good stories and sensitizes the local population about various ongoing CSR initiatives of companies.
- This apparent influence of gaining visibility and branding exercise often leads many non-governmental organizations to involve themselves in event-based programs and in the process, they often miss out on meaningful grassroots intervention.

Narrow Perception Towards CSR Initiatives

- Non-governmental organizations and Government agencies usually possess a narrow outlook towards the CSR initiatives of companies, often defining CSR initiatives more as donor-driven than local in approach.
- As a result, they find it hard to decide whether they should participate in such activities at all in the medium and long term.

Non-availability of Clear CSR Guidelines

- There are no clear cut statutory guidelines or policy directives to give a definitive direction to CSR initiatives of companies.
- The scale of CSR initiatives of companies should depend upon their business size and profile. In other words, the bigger the company, the larger should be their CSR program.

Lack of Consensus on Implementing CSR Issues

- There is a lack of consensus amongst local agencies regarding CSR projects. This lack of consensus often results in duplication of activities by corporate houses in areas of their intervention.
- This results in a competitive spirit between local implementing agencies rather than building collaborative approaches on issues.
- This factor limits company's abilities to undertake impact assessment of their initiatives from time to time.



Clarifications on the Income declaration scheme, 2016

1. Whether the valuation report of assets declared under the Scheme shall be called for by the department for any enquiry at any time?

The valuation report from a registered valuer shall not be questioned by the department. However, the valuer is expected to furnish a true and correct valuation report in accordance with the accepted principles of valuation. In case of any misrepresentation, appropriate action as per law shall be taken against the registered valuer.

Though the fair market value as on 1st June, 2016 is taxed under IDS, and such amount will be treated as cost of acquisition at the time of future sale of concerned asset, whether such treatment shall affect the character of the asset as long term or short term?

The issue was earlier considered and it was clarified vide Circular No. 17 dated 20.05.2016 that in such cases period of holding shall be deemed to begin from 01.06.2016 as the asset has been revalued on such date. However, considering the representation received from various stakeholders and the fact that this may lead to complications in calculation of capital gain at the time of sale of asset which was partly funded from undisclosed income now declared under the Scheme, the matter has been reconsidered. Accordingly, in supersession to the earlier clarification as referred above, it is clarified that the period of holding of asset declared under the Scheme shall be based on the actual date of acquisition of such asset. However, the indexation benefit in respect of the amount declared under the Scheme shall be available from 01.06.2016 only.

The said situation is illustrated as below:-

Suppose Mr. 'A' purchased a house on 01.10.2011 for Rs. 10 lakh and declares fair market value of the same as on 01.06.2016 under the Scheme at Rs. 20 lakh. If the said house is sold on 01.10.2017 for Rs. 30 lakh, the holding period for the house for purposes of computation of capital gain shall be six years i.e. from 01.10.2011 to 01.10.2017. As the holding period exceeds three years, the gains arising from such transfer shall be treated as long term capital gain. Further, the indexation benefit in this case shall be available on Rs. 20 lakh from 01.06.2016 to 01.10.2017.

2. What will be the value of immovable property to be declared under the Scheme in a case where the cost of immovable property is only partly evidenced by a registered deed and partly otherwise?

In such a case, the option of calculating the fair market value of the immovable property based on applying the cost inflation index to stamp duty value shall be available only in respect of that part of the property the cost of which is evidenced by a registered deed. With regard to the remaining part the fair market value of the property shall be determined based on the provisions of rule 3(1)(d) of the Rules without taking into effect the proviso to the said rule.

The said situation is illustrated as below:-

Suppose, Mr. 'X' purchased a piece of land in year 2004-05 for Rs. 10 lakh, however the stamp duty value was Rs. 15 lakh. Thereafter, in the period 2005-06 to 2007-08, Mr. 'X' constructed a two storeyed house on the said land. The amount to be declared in respect of the said property shall be (A + B)

Where A = Value of land (if the assessee opts for valuation on the basis of indexation) shall be Rs. 15 lakh x cost inflation index of 2016-17 cost inflation index of 2004-05

B = Fair market value of the house (excluding value of the land) as on 01.06.2016 as determined by the registered value or the cost of construction whichever is higher.

CRITERIA FOR MANUAL SELECTION OF CASES FOR SCRUTINY ASSESSMENT DURING THE FINANCIAL YEAR 2016-2017. BY CBDT

➔ Cases involving addition on a substantial and recurring question of law or fact in earlier assessment year(s), in excess of Rs 25 lakhs in metro charges at Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Mumbai and Pune, while for other charges, quantum of such addition should exceed Rs 10 lakhs (for transfer pricing cases, quantum of such addition should exceed Rs 10 crores)

➔ All assessments pertaining to Survey under section 133A of the Act excluding those cases where books of account, documents etc. were not impounded and returned income (excluding any disclosure made during the Survey) is not less than returned income of preceding assessment year. However, where assessee retracts the disclosure made during the Survey, such cases will not be covered by this exclusion.

➔ Assessments in search and seizure

cases to be made under section(s) 158B, 158BC, 158BD, 153A & 153C read with section 143(3) of the Act and also for the returns filed for the assessment year relevant to the previous year in which authorization for search and seizure was executed under section 132 or 132A of the Act.

➔ Return filed in response to notice under section 148 of the Act.

➔ Cases where registration under section 12AA of the IT Act has not been granted or has been cancelled by the CIT/DIT concerned, yet the assessee has been found to be claiming tax-exemption under section 11 of the Act. However, where such orders of the CIT/DIT have been reversed/set-aside in appellate proceedings, those cases will not be selected under this clause.

(The above selection criteria is in addition to cases selected under Computer Aided Scrutiny Selection for scrutiny assessment.)

➔ Business Income- Benefit or perquisite Under Se.28 (iv) Waiver of Loan (for any purposes) CIT V/s. Ramaniyam Homes (P) Ltd (2016) 137 DTR (Madras HC) 319 Loan taken by assessee for any purpose, the amount of Loan is always treated as liability and it gets reflected in the balance sheet as such- waiver of a portion of loan tantamount to value of a benefit and therefore is received by the assessee during the course of its business is eligible to tax under Se.28 (iv)

➔ Payments subject to deduction of tax at source. In case of Charitable Trust:- Shree Education Society V/s Ass. CIT (2016) 49 ITR (Tribunal) 148 Hyderabad. Payments subject to deduction of tax at source. Provisions of section 40 (a) not applicable in cases of Charitable trust or institution where Income and Expenditure computed in terms of Section 11 IT Act 1961.



INCOME TAX - CIRCULAR NO.12/2016
Dated 30th May, 2016

Quick reference:

Admissibility of claim of deduction of Bad Debt under section 36(1) (vii) read with section 36(2) of the Income-Tax Act, 1961- reg.

The Hon'ble Supreme Court in the case of TRF Ltd. In CA Nos. 5292 to 5294 of 2003 vide judgment dated 9.2.2010, has stated that the position of law is well settled. "After 1.4.1989, for allowing deduction for the amount of any bad debt or part thereof under section 36(1)(vii) of the Act, it is not necessary for assessee to establish that the debt, in fact has become irrecoverable; it is enough if bad debt is written off as irrecoverable in the books of accounts of assessee."

In view of the above, claim for any debt or part thereof in any previous year, shall be admissible under section 36(1)(vii) of the Act, if it is written off as irrecoverable in the books of accounts of the assessee for that previous year and it fulfills the conditions stipulated in sub section (2) of sub-section 36(2) of the Act.

Accordingly, no appeals may henceforth be filed on this ground and appeals already filed, if any, on this issue before various Courts/Tribunals may be withdrawn/not pressed upon.

Companies Act	Clarification regarding applicability of provisions of Chapter III of the Companies Act, 2013 - Issuance of rupee bonds to overseas investors by Indian companies – Circular issued on Aug 3, 2016
FEMA	Cabinet increases the limit for foreign investment in Stock Exchanges from 5% to 15% - Press Note dated Jul 27, 2016
Income-tax	A person would attain a particular age on the day preceding the anniversary of his birthday. Attainment of age of eligibility for being considered Senior/Very Senior Citizen would be decided on the basis of the above criteria. – based on the CBDT
Income-tax	Senior citizens having business income exempt from advance tax payment – Notification dated Aug 9, 2016
Motor Vehicle Act	Historical Step towards making roads safe and save lakhs of innocent lives - Cabinet approves Motor Vehicle (Amendment) Bill 2016
Service Tax	Excess payment can be adjusted in Subsequent months not restricted to succeeding month only – CESTAT judgement
Trust	Amendment to Indian Trust Act on Jul 26, 2016: Where the trust-property consists of money and cannot be applied immediately or at an early date to the purposes of the trust, the trustee shall, subject to any direction contained in the instrument of trust, invest the money in any of the securities or class of securities expressly authorised by the instrument of trust or as specified by the Central Government, by notification in the Official Gazette

Due Dates to act – September 2016

➔ **7th** - Due date for deposit of Tax deducted / collected for the month of August, 2016.

➔ **7th** - Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of August, 2016

➔ **15th** - Second instalment for payment of advance income-tax for the assessment year 2017-18

➔ **22nd** - Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of August, 2016

➔ **30th** - Audit report under section 44AB for the assessment year 2016-17 in the case of

a corporate-assessee or non-corporate assessee (who is required to submit his/its return of income on September 30, 2016).

➔ **30th** - Annual return of income for the assessment year 2016-17 if the assessee is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) working partner (of a firm whose accounts are required to be audited).

➔ **30th** - Due date for deposit of tax deducted at source under Section 194-IA for the month of August, 2016

➔ **30th** - Application in Form 9A for exercising

the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on September 30, 2016)

➔ **30th** - Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or 11(2) (if the assessee is required to submit return of income on September 30, 2016)

➔ **30th** - Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB)

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