

# Bimal Jain

FCA, FCS, LLB, B.Com (Hons)

**Dear Professional Colleague,**

## **Draft Model GST Law on public domain**

The much talked about “Goods and Services tax (“**GST**”) regime - *Single biggest tax reform since Independence*” has been creating a buzz amongst all stake holders, eagerly waiting for the monsoon session of the Parliament to commence with the hope that the much awaited Constitutional (122<sup>nd</sup> Amendment) Bill, 2014 on GST (“**122<sup>nd</sup> CAB**” or “**GST Bill**”) will be passed, which will pave the way for GST in the Country.

GST is a destination based consumption tax levied at multiple stages of production and distribution of goods and services, with taxes on inputs credited against taxes on output. GST is going to be big game changer and will be one of the most significant tax reforms in the fiscal history of India to consolidate present multiple layers of Indirect taxation. The implementation of GST will have a far-reaching impact on almost all the realms of business operations in our country. It will impact tax structure, tax incidence, tax computation, supply chain optimization, credit utilization, compliance system etc., leading to a complete overhaul of the current indirect tax system.

In order to engage with the stakeholders and invite comments from the public at large, Ministry of Finance, on October 6, 2015 and October 20, 2015, placed the following Draft Business Processes of GST on public domain for feedback of the public:

- Report of the Joint Committee on Business Processes for GST on Refund Process;
- Report of the Joint Committee on Business Processes for GST on Registration;
- Report of the Joint Committee on Business Processes for GST Payment Process
- Report of the Joint Committee on Business Processes for GST on GST Return

Now, on June 14, 2016, the Central Government has put the Draft Model GST Law on public domain after getting in-principle nod from the Empowered Committee of State Finance Ministers, in a way, signalling that the GST might mark its advent from April 1, 2017.

**“Virtually all states have supported the idea of GST except Tamil Nadu which has “some reservations”,** Finance Minister Arun Jaitley said after the meeting of Empowered Committee on the long awaited indirect tax reform.

The Draft GST Law is a model which the Central Government and each of the State Governments would use to draft their respective Central and State GST Acts. Further, a Draft of the Integrated GST Act, 2016, which will govern levy of GST on inter-State supplies by the Central Government, is also issued.

Mobile: +91 98106 04563; E-mail: bimaljain@hotmail.com

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The Draft Model GST Law provides an insight on the governing provisions regarding levy and collection of GST. The Draft Model GST Law states that the Act shall be referred as the Central/ State Goods and Services Tax Act, 2016. The Draft Model GST Law consists of 162 clauses divided into 25 Chapters along with 4 schedules and Rules as to Valuation under GST. Further, the Draft Integrated GST Act, 2016 consists of 33 clauses divided into 11 Chapters.

The Draft Model GST Law prescribes a threshold of Rs. 9 Lakhs aggregate turnover in a Financial Year for a supplier to get registered under the GST and Rs. 4 Lakhs for businesses in North Eastern States including Sikkim.

Broadly, the Draft Model GST Law covers the following aspects:

- Definition of key terms such as 'goods', 'services', 'aggregate turnover', 'business' etc.
- Meaning and scope of supply. Meaning of the term 'supply' plays a crucial role since under GST, tax would be levied on supply of goods & services and the present concepts of manufacture/ rendering of services/ sale would lose its relevance;
- Place of supply of goods and/or services: Since, the proposed GST framework will work on the principle of destination based consumption tax, place of supply rules play an important role to build up a mechanism to determine tax jurisdictions for the smooth implementation of GST. It becomes more important in case of e-commerce transactions;
- Time and value of supply: Under the proposed GST regime, all the major taxes levied under the Indirect taxation i.e. Central Excise, Service tax, VAT/CST etc., are proposed to be brought under the ambit of GST. Hence, the prevailing concepts of manufacturing of Goods/ provision of Services/ sale of Goods will no longer be relevant and common base has to be arrived at for levy and collection of GST in all cases;
- Scheme of input tax credit including manner of taking Input tax credit, credit in case of input sent for job works, manner of distribution of credit by Input service distributor etc.;
- Transfer of input tax credit
- Payment of tax, interest, penalty and other amounts;
- Tax invoice, credit and debit notes
- Returns and related compliances
- Demands/ recovery;

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- Refund;
- Transitional provisions

The availability of Draft Model GST Law enables the Trade and Industry to plan the transition from the existing Indirect tax regime to the GST regime. It is important that a thorough analysis of the Draft GST Law is undertaken so as to provide necessary suggestions/ feedback to the Government. It is expected that the Government will soon come out with a mechanism to invite suggestions/ feedbacks of the Trade and Industry.

***“We request all stakeholders to give their suggestions/ comments to secretariat of Empowered Committee of FMs and or to finance ministry,”***

***Revenue Secretary Shri Hasmukh Adhia tweeted***

**To access the Draft Model GST Law, please click on the link below:**

[http://finmin.nic.in/reports/ModelGSTLaw\\_draft.pdf](http://finmin.nic.in/reports/ModelGSTLaw_draft.pdf)

*Hope the information will assist you in your Professional endeavours. In case of any query/ information, please do not hesitate to write back to us.*

Thanks & Best Regards,

**Bimal Jain**

FCA, FCS, LLB, B.Com (Hons)

**Author of a book on Goods and Services Tax, titled, "GOODS AND SERVICES TAX – INTRODUCTION AND WAY FORWARD" (1<sup>st</sup> Edition)**

**A2Z TAXCORP LLP**

**Tax and Law Practitioners**

**Delhi:**

Flat No. 34B, Ground Floor,

Pocket – 1, Mayur Vihar Phase-1

Delhi – 110091 (India)

Tel: +91 11 22757595/ 42427056

**Allahabad:**

B2-3/4-31 Sarojani Apartments

Mobile: +91 98106 04563; E-mail: bimaljain@hotmail.com

# Bimal Jain

FCA, FCS, LLB, B.Com (Hons)

Sarojani Naidu Marg

Allahabad - 211001

## Chandigarh:

H. No. 908, Sector 12-A,

Panchkula, Haryana - 134115

Email: bimaljain@hotmail.com

Web: www.a2ztaxcorp.com

LinkedIn: <https://in.linkedin.com/pub/bimal-jain/14/601/4b4>

Face book: [facebook.com/bimal.jain.90](https://facebook.com/bimal.jain.90)

Twitter: <https://twitter.com/JainTax>

YouTube: <https://www.youtube.com/channel/UCp0tT5ShjB4KHJRSIPc3t5w>

**We can now also be contacted at below mentioned address:**

<b>Bengaluru Office:</b>	<b>Kolkata Office</b>	<b>Dhanbad Office:</b>
Adarsh Residency, Block F, 4th Floor, (F404) 47th Cross, Jaynagar 8 <sup>th</sup> Block, Bengaluru, Karnataka-560070 Email: <a href="mailto:bengaluru@a2ztaxcorp.com">bengaluru@a2ztaxcorp.com</a>	10 Bow Street, 2 <sup>nd</sup> Floor, Near Central Metro Station, Besides Calcutta Motor Dealers Association, Kolkata, West Bengal- 700012 Email: <a href="mailto:kolkata@a2ztaxcorp.com">kolkata@a2ztaxcorp.com</a>	2 <sup>nd</sup> Floor, Shree Laxmi Complex, Dhanbad, Jharkhand- 826001 Email: <a href="mailto:dhanbad@a2ztaxcorp.com">dhanbad@a2ztaxcorp.com</a>

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Mobile: +91 98106 04563; E-mail: bimaljain@hotmail.com

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