

Bimal Jain

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

Dear Professional Colleague,

Key Highlights of Draft Model GST Law

Recently, on June 14, 2016, the 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.

It is imperative that Trade and Industry should understand key provisions in the Draft Model GST law including the intention of the legislation along with the probable impact on their business operations. We are summarising herewith an overview and key highlights of Draft Model GST Law for easy digest:

Overview of the Draft Model GST Law:

The Draft Model 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 (IGST) Act, 2016 [**"Draft IGST Act"**], which will govern levy of GST on inter-State supplies by the Central Government, is also issued.

The Draft Model GST Law provides an insight on the governing provisions regarding levy and collection of GST. The Draft Model GST Law also 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 IGST Act consists of 33 clauses divided into 11 Chapters.

Key Highlights of the Draft Model GST Law are as follows:

Levy of, and Exemption from, GST:

- **Levy and collection of Central GST ("CGST")/State GST ("SGST")and Integrated GST ("IGST")**

- ✓ On Intra-State supplies of goods and/ or services: CGST & SGST shall be levied by the Central and State Government respectively, at the rate to be prescribed;
- ✓ On Inter-State supplies of goods and/ or services: IGST shall be levied by the Central Government at the rate to be prescribed.

- **Reverse charge basis**

Notification may be issued for providing specific categories of supply of goods and/or services, on which, GST is payable by the person receiving such goods and/ or services, on reverse charge basis.

- **Composition levy**

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

Bimal Jain

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

A registered taxable person, whose aggregate turnover in a financial year does not exceed Rs. 50 lakhs, shall be provided an option to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not less than 1% of the turnover during the year, subject to following conditions:

- ✓ The benefit of composition scheme shall not be granted to a taxable person who effects any Inter-State supplies of goods and/or services
- ✓ The taxable person opting for composition levy shall not collect any tax from the recipient to whom goods and/ or services are supplied;
- ✓ No credit of input tax shall be allowed.

- Taxable person - Threshold limit to pay tax

A **person** is liable to pay tax if his aggregate turnover in a financial year exceeds **Rs. 10 lakhs**. However, a person conducting business in any of the **North Eastern States** including Sikkim, is required to pay tax if his aggregate turnover exceeds **Rs. 5 lakhs**.

The Central Government, a State Government or any Local Authority shall be regarded as a taxable person in respect of activities or transactions in which they are engaged as public authorities other than the activities or transactions as specified in Schedule IV to this Act, like activities of issuance of passport, visa, birth certificate etc.

- Persons not to be considered as taxable person

- a) Any person who provides services as an employee to his employer in the course of, or in relation to his employment, or by any other legal ties creating the relationship of employer and employee as regards working conditions, remunerations and employer's liability;
- (b) Any person engaged in the business of exclusively supplying goods and/or services that are not liable to tax under this Act;
- (c) Any person, liable to pay tax under reverse charge basis, receiving services of value not exceeding the amount as may be prescribed in a year for personal use, other than for use in the course or furtherance of his business.

Registration:

- Threshold limit

A **supplier** is required to get registered under the GST if his aggregate turnover in a Financial Year exceeds **Rs. 9 lakhs** and **Rs. 4 Lakhs** where business is conducted in any of the **North Eastern States including Sikkim**.

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

Bimal Jain

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

No threshold exemption for persons making Inter-State supply and those who are required to pay GST under reverse charge mechanism.

- Place of registration

A supplier has to take registration in the State from where taxable goods and/or services are supplied.

Taxable Event:

The taxable event under the GST regime shall be supply of goods and/ or services. Thus, 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.

Meaning and scope of 'supply': 'Supply' includes

- All forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
- Importation of service, whether or not for a consideration and whether or not in the course or furtherance of business.
- A supply specified in Schedule I, made or agreed to be made without a consideration. Schedule I covers matter to be treated as supply like permanent transfer/disposal of business assets, supply of goods and/ or services by a taxable person to another taxable or non-taxable person in the course or furtherance of business etc.

Point of taxation:

- Time of supply of goods

CGST/SGST shall be payable at the earliest of the following:

- (i) Date on which the goods are removed for supply to the recipient (in case of movable goods); or
- (ii) Date on which the goods are made available to the recipient (in case of immovable goods); or
- (iii) Date of issuing invoice by supplier; or
- (iv) Date of receipt of payment by supplier, or
- (v) Date on which recipient shows the receipt of the goods in his books of account.

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

Bimal Jain

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

- Time of supply of services

The time of supply of services shall be as under:

- (i) The date of issue of invoice or the date of receipt of payment, whichever is earlier, if the invoice is issued within the prescribed period; or
- (ii) The date of completion of the provision of service or the date of receipt of payment, whichever is earlier, if the invoice is not issued within the prescribed period; or
- (iii) The date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of (i) or (ii) do not apply.

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 plays an important role to build up a mechanism to determine taxable jurisdictions for the smooth implementation of GST. It becomes more important in case of Inter-State transactions and e-commerce transactions. Thus, the relevant provisions have been prescribed for determining the place of supply of goods and/ or services under Chapter IV of the Draft IGST Act.

Determination of the Value of supply of goods and services:

In this regard, Draft GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016, has been prescribed, which shall apply to the supply of goods and/ or services under the IGST/CGST/SGST Act. Methods prescribed for determination of value of supply are as follows:

- a) Transaction Value Method: The value of goods and/ or services shall be the transaction value i.e.the value determined in monetary terms.
- b) Comparison Method: Where value of supply cannot be determined under the Transaction Value Method, the value shall be determined on the basis of transaction value of goods and/ or services of like kind and quality supplied at or about the same time to customers.
- c) Computed Value Method: Where value cannot be determined under the Comparison method, it shall be based on a computed value which shall include cost of production, manufacture or processing of the goods or, the cost of the provision of services, the charges, if any, for design & brand and amount towards profit & general expenses equal to that usually reflected in supply of goods and/ or services of the same class or kind as the goods and/ or services being valued which are made by other suppliers.

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

Bimal Jain

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

- d) Residual Method: Where the value cannot be determined under the Computed Value method, the value shall be determined using reasonable means consistent with the principles and general provisions of the Valuation Rules.

Valuation in certain cases: Provisions prescribed in relation to the valuation in the case of Pure Agent (such as exclusion of the expenditure or costs incurred by the service provider as a pure agent of the recipient of service subject to the fulfilment of the conditions);

Money Changer (such as for a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency, etc.) are also prescribed under the Draft Valuation Rules.

Payment of tax, interest, penalty and other amounts:

Every deposit towards tax, interest, penalty, fee or any other amount by a taxable person shall be made by internet banking or by using credit/debit cards or National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) or by any other mode.

The amount shall be credited to the electronic cash ledger of such person to be maintained in the manner as may be prescribed.

Returns:

Every registered taxable person shall be required to furnish the following returns:

- Monthly Return: Every registered taxable person shall have to file a monthly return, electronically, of inward and outward supplies of goods and/or services, input tax credit availed, tax payable, tax paid and other particulars as may be prescribed within 20 days after the end of such month.
- Return for Composition Scheme: A registered taxable person paying tax under composition scheme shall have to furnish a return for each quarter or part thereof, electronically, within 18 days after the end of such quarter.
- TDS Return: Every registered taxable person who is required to deduct tax at source shall furnish a return, electronically, within 10 days after the end of month in which deduction is made.
- Return for Input Service Distributor: Every Input Service Distributor shall file return for every calendar month or part thereof, electronically, within 13 days after the end of such month.

Bimal Jain

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

- **First Return:** Every registered taxable person shall have to furnish the first return from the date on which he became liable to registration till the end of the month in which the registration has been granted.
- **Annual return:** Every registered taxable person except certain specified person shall have to furnish an annual return for every financial year electronically on or before the 31st day of December following the end of such financial year.
- **Final return:** Every registered taxable person who applies for cancellation of registration shall have to furnish a final return within three months of the date of cancellation or date of cancellation order, whichever is later, in a prescribed form.

Utilization of input tax credit:

Credit available of	To be utilised against only
CGST	1 st preference: CGST 2 nd preference: IGST
SGST	1 st preference: SGST 2 nd preference: IGST
IGST	1 st preference: IGST 2 nd preference: CGST 3 rd preference: SGST

It is to be noted that input tax credit on account of CGST shall not be available for payment of SGST and vice versa.

Refund:

Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application in that regard to the proper officer of IGST/CGST/SGST before the expiry of two years from the relevant date in such form and in such manner as may be prescribed.

However, the limitation of two years shall not apply where such tax or interest or the amount referred to above has been paid under protest.

A taxable person may also claim refund of any unutilized input tax credit at the end of any tax period subject to the conditions specified.

E-commerce- Tax at source to be deducted on online sales of goods and/or services

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

Bimal Jain

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

Every E-commerce operator who is directly or indirectly, owns, operates or manages an electronic platform that is engaged in facilitating the supply of any goods and/or services or in providing any information or any other services incidental to or in connection therewith (like Amazon, Flipkart etc.), but shall not include persons engaged in supply of such goods and/or services on their own behalf, shall, at the time of credit of any amount to the account of the supplier of goods and/or services or at the time of payment of any amount in cash or by any other mode, whichever is earlier, collect an amount, out of the amount payable or paid to the supplier, representing consideration towards the supply of goods and/or services made through it, calculated at such rate as may be notified.

Tax deduction at source:

The Central or a State Government may mandate certain Departments, Local Authority, Governmental agencies, etc., to deduct tax at the rate of 1% on the notified goods and/or services, where the total value of such supply, under a contract, exceeds Rs. 10 lakhs.

GST compliance rating score:

Every taxable person shall be assigned a GST compliance rating score based on his record of compliance with the provisions of the GST Act. The GST compliance rating score shall be updated at periodic intervals and intimated to the taxable person and also placed in the public domain, which in return, shall enhance the reputation of the taxable person.

Issuance of Notification from retrospective effect:

The Central/ State Government may, on the recommendation of the Council, make rules, including rules conferring the power to issue notifications with retrospective effect under those rules, to carry into effect the purposes of this Act.

Transitional Provisions:

The transitional provisions have also been provided in respect of various matters which, *inter alia*, includes:

- Migration of existing taxpayers to GST
- Treatment of carried forward Cenvat credit and unavailed Cenvat credit
- Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract
- Pending refund claims to be disposed of under earlier law
- Treatment of long term construction/ works contracts, etc.

Bimal Jain

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

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.

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

http://finmin.nic.in/reports/ModelGSTLaw_draft.pdf

We request our readers to give their valuable feedback/ suggestions on the above Draft Model GST Law, for onward representation before the Government Authorities. You may give your feedback/suggestions at: info@a2ztaxcorp.com.

Video Presentations on GST

To enrich your knowledge regarding the present status and updates on GST, please watch following videos/ presentation recorded/ made by Mr. Bimal Jain covering Overview of Existing Indirect Taxes, Structure of GST, How GST will help Trade & Commerce, RNR and many other important issues and way forward for GST:

GST – Need and Necessity: https://www.youtube.com/watch?v=apM_HDGynoc

Overview of Dual GST Model: <https://www.youtube.com/watch?v=ASuOr5sud94>

GST - Overview, RNR, Open Issues by CA Bimal Jain - <https://youtu.be/pKI7iQyZ9TI>

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" (1st Edition)

A2Z TAXCORP LLP

Tax and Law Practitioners

Delhi:

Flat No. 34B, Ground Floor,

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

Bimal Jain

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

Pocket – 1, MayurVihar Phase-1

Delhi – 110091 (India)

Tel: +91 11 22757595/ 42427056

Allahabad:

B2-3/4-31 Sarojani Apartments

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

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

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

We can now also be contacted at below mentioned address:

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

Disclaimer: The contents of this document are solely for informational purpose. It does not constitute professional advice or recommendation of firm. Neither the authors nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this document nor for any actions taken in reliance thereon.

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

Bimal Jain

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

Readers are advised to consult the professional for understanding applicability of this newsletter in the respective scenarios. While due care has been taken in preparing this document, the existence of mistakes and omissions herein is not ruled out. No part of this document should be distributed or copied (except for personal, non-commercial use) without our written permission.