

GOODS & SERVICE TAX UPDATE

MAJOR CHANGES IN PROPOSED GST BILL IN LOK SABHA

1. Non-Applicability of GST Law in the State of Jammu and Kashmir:

Earlier the GST Law was proposed to be applicable to J&K as well. However, in the Bill, the applicability of GST Law is extended to whole of India except the state of J&K.

2. Change in the Scope of Taxable Event i.e. Supply:

Earlier the supply of goods or services between related persons, when made in the course or furtherance of business was treated as Supply even when there is no consideration. Employer and Employee were covered in the definition of related person. Thus any supply of Goods or services by employer to his employees even if that supply is free of cost would have been covered under the scope of GST. Now the bill provides that such gifts not exceeding Rs. 50,000 by an employer to an employee shall not be treated as supply for the purpose of GST.

3. Removal of uncertainty relating to chargeability of GST on Supply of Immovable Property:

Earlier the "Goods" were defined as every kind of movable property other than money and securities but includes actionable claim. Further the "Services" were defined as anything other than goods. Thus there was an apprehension that Government may levy GST on supply of Immovable Property such as Land or building apart from levy of Stamp duty on such transactions. Now in the bill introduced in the parliament, the government has removed that uncertainty by providing in Schedule III that, "Sale of land and, sale of building except the sale of under construction building will neither be treated as a supply of goods nor a supply of services. Thus GST can't be levied in those supplies.

4. Non Chargeability of GST on Actionable Claims:

As "Actionable claim" were included in the definition of "Goods", there may be chargeability of GST on supply of Actionable Claim under earlier law. In the Schedule III of newly introduced bill, Actionable Claim, other than lottery, betting and gambling will neither be treated as a supply of goods nor a supply of services. Thus GST can't be levied in that case.

5. Fixing the Upper cap of GST rate at 20% in case of CGST Law, and 40% in case of IGST Law:

Earlier the upper cap fixed was 14% and 25% respectively in both the laws. With a view to keep some flexibility to increase the rates in future, the upper cap has been fixed at 20% and 40% respectively under CGST and IGST Law. However the applicable slab rate will be same as approved by council i.e. 5%, 12%, 18% and 28%.

A N GAWADE & CO.

CHARTERED ACCOUNTANTS

6. Payment of GST by recipient under Reverse Charge in case of supply of taxable goods or services or both by a unregistered supplier to a registered person.

In line with the purchase tax on purchase of goods from an unregistered dealer prevailing in many of the states, the GST Bill has introduced the same. Liability to pay GST in such cases will be on the recipient of such goods or services.

7. Reduction in Composition rates, a welcome move for MSME sector:

Earlier it was proposed to levy 1% composition rate for trader and 2.5% for manufacturer. Further composition scheme was not allowed for a supplier of services. Now in the bill, some reduction in composition rates has been made which is a welcome move for the MSME sector. 1% of composition rate will be applicable in case of a manufacturer instead of earlier 2.5%. Further 0.50% of composition rate will be applicable in case of a trader instead of earlier 1%. Further the composition scheme will now be allowed to Restaurant Sector with a composition rate of 2.5%.

8. Requirement to seek permission from proper officer for composition scheme is dispensed with:

Now a registered person, whose aggregate turnover in the preceding financial year did not exceed, may OPT to pay under composition scheme.

9. Change in the provision for determining the liability to pay tax in case of Services (Time of Supply of Services):

Earlier, the time of supply of services was the earlier of date of issue of Invoice, or the last date on which the invoice should have been issued or date of receipt of payment by the supplier. Now in the bill, as introduced in the parliament, the provisions of service tax for determining liability to pay service tax has been incorporated in the GST bill. Thus the time of supply of services shall be earlier of the following dates:

- a) If the invoice is issued within the period prescribed, the date of issue of invoices or the date of receipt of payment, whichever is earlier;
- b) If the invoice is not issued within the period prescribed, the date of provision of services, or the date of receipt of payment, whichever is earlier;
- c) The date on which the recipient shows the receipt of services in his books of accounts, in a case where aforesaid clause (a) or (b) does not apply.

10. Change in Actual Payment Condition for Non-reversal of Credits:

Earlier where a recipient fails to pay to the supplier of services, the amount towards the value of supply along with taxes thereon within a period of 3 months from the date of issue of invoices by the supplier, an amount equal to ITC availed were required to be paid along with interest thereon. Thus the aforesaid provision was restricted only in case of Services. Further there was no provision made in the law for re-allowing the credit reversed earlier due to application of aforesaid provisions. Now in the bill, the aforesaid provision is also extended to supply of Goods. Further the time period for payment is extended to 180 days from earlier 3 months. Further provision has also been made for re-availing the credit reversed earlier at the time of actual payment.

A N GAWADE & CO.

CHARTERED ACCOUNTANTS

11. Credit of Rent-a-cab, life insurance, and health insurance allowed, if used for making an outward taxable supply of same category.

Earlier the credit of rent-a-cab, life insurance, and health insurance were fully denied except where the government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force. The aforesaid provision of denial of credit would have multifold consequences. For example, a life insurance company, in case re-insurance of life insurance, will not be eligible to take credit of GST paid on re-insurance amount. With a view to avoid the genuine hardships, the credit of aforesaid services will be allowed if used for making an outward taxable supply of same category or as a part of taxable composite or mixed supply.