

GST CONSTITUTIONAL AMENDMENT BILL

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Brief Introduction to GST

Proposed Structure : Dual GST

Dual GST Model

- **CGST, IGST [in case of inter-State/ import transactions] to be levied by Centre**
- **SGST to be levied by State**

Concurrent Powers

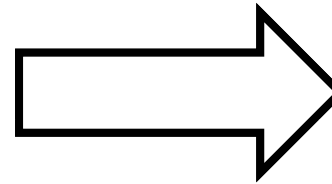
- **Centre and States will concurrently legislate, administer and levy tax on all supplies of goods and services**

Effective Rate

- **Combined rate of CGST and SGST or IGST, as applicable**

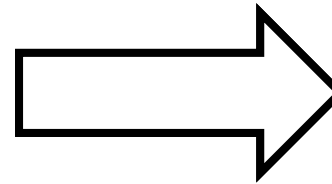
Taxes to be subsumed

Central Excise Duty
Service Tax
CVD
SAD
Central Sales Tax



**CGST/
IGST**

VAT / Sales Tax
Luxury Tax
**Taxes on Lottery, Betting and
Gambling**
State Surcharges and Cesses
Entertainment Tax
Entry Tax under Entry 52 of State list



SGST



Constitutional Framework

Existing Framework

Article 286

- **Prohibits States from taxing sale or purchase of goods -**
 - Outside the State
 - In the course of the import of goods into or export of the goods outside, the territory of India

Article 246

- Provides for Parliament and State Legislature to exclusively and mutually legislate on subjects in Lists I and II of the 7th Schedule, respectively

Entries 84, 92A, 92B, 97 - Union List

- Duties of Excise; Taxes on the sale or purchase of goods in the course of inter-State trade or commerce; Taxes on the consignment of goods where such consignment takes place in the course of inter-State trade or commerce; Residuary Powers to levy taxes on Services

Entries 52, 54 – State List

- Taxes on entry of goods into a local areas for consumption, use or sale;
Taxes on sale or purchase of goods within the State

Key Amendments...

- Article 366(12) [No change]
 - “Goods” includes all materials, commodities and articles
- Article 366(26A)
 - “Services” means anything other than goods
- Article 366(26B)
 - ‘State’ for the purpose of Article 246A, 268, 269, 269A and 279A would also include Union territories with legislature
- Article 366(12A)
 - GST means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption
- The bill proposes to dispense with the concept of Goods of Special Importance
 - Presently, certain restrictions are placed on the powers of States in regard to tax on such goods

...Key Amendments...

Article 246A

- Parliament and State legislatures empowered to legislate on GST (CGST & SGST), respectively
- Centre exclusively empowered to legislate on GST levied on inter-State movement of goods and/ or services (IGST)
- Power to States to levy tax on services for the first time

Article 269A

- Centre to levy GST on Inter-State supplies
- Import of goods or provision of services from outside India will be treated as Inter-State supplies
- 'Place of supply' of goods & services to be determined as per Rules formulated by Centre

Article 246A –

“(1)...

(2) *Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.*”

Article 286 prohibits States from taxing both inter-State supplies and imports, of goods and services

...Key Amendments...

- Clauses 12, 14 and 17 of the Bill
 - Alcoholic liquor for human consumption to be exempt from GST.
 - GST is to be levied on petroleum crude, high speed diesel, motor spirit, natural gas, aviation turbine fuel at a later date.
 - GST to be imposed on tobacco. Centre to impose additional levy on tobacco.
- Article 270(1A) has been inserted to provide for distribution between the Union and the States of CGST collected by the Centre

... Key Amendments ...

Article	Levy, collection and appropriation of tax	Taxes covered	Amendment
268	Levied by Union, collected and appropriated by States	Such stamp duties and duties to excise on medicinal and toilet preparations (MTP products)	Reference to excise duties on MTP products proposed to be removed
269	Levied and collected by Union but assigned to States	Sale or purchase of goods and consignment of goods in inter-state transactions	Exclusion carved out for taxes mentioned in the proposed Article 269A
269A	Apportioned between Union and States	Supply of goods, or services or both, takes place in the course of inter-State trade or commerce	Newly introduced

... Key Amendments

- Formulation of GST Council – Article 279A(1)
 - The President shall form the Goods and Service Tax Council within 60 days from the date of commencement of the Constitution (122nd Amendment) Act, 2014
 - Every decision of the Goods and Service Tax Council will be required to be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting
 - The vote of the Central Government shall have a weightage of one-third of the total votes cast
 - The votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast in that meeting
 - Functions to include: Model GST laws, principles of levy and place of supply, rates including floor rates with bands of GST, apportionment of IGST, etc.
 - Rajya Sabha Select Committee recommends to define “Bands” to include the range of GST rates (over the floor rate) within which CGST and SGST may be levied on specific goods or services or class of good or services

Compromise Measures ...

Clause 18 of the Bill provides for Additional GST @ 1% for 2 years

- **To be levied by Centre on Inter-State supply of goods**
- **Will be remitted to States from where the supply originates – contra destination principle**
- **Will be a cost as it is not a part of the credit chain – contra principle of complete fungibility of credit**
- **Levy only on supply of goods meaning that –**
 - Differentiation between goods and services will continue to exist
 - Duality issues (e.g. IPR, software) and issues with determining goods and service components (e.g. works contract, catering contract) will continue to exist
- **Will stock transfer also suffer this levy?**

Select Committee recommended to add an explanation to the clause to define “supply” to mean all forms of supply made for a consideration”

... Compromise Measures

- Clause 19 of the Bill
 - Parliament 'may' up to 5 years provide compensation to states on recommendation of GST Council for loss of revenue on account of introduction of GST
 - Rajya Sabha Select Committee deliberated to –
 - Replace 'may' with 'shall'
 - Replace 'up to 5 years' with 'for a period of 5 years'



Recent Developments & Way
Forward

Passage of the Bill in the Lok Sabha

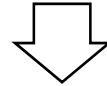
- The Lok Sabha has passed the GST Constitution Amendment Bill by 2/3 majority on 6th May, 2015
- Compensation to States
 - The Finance Minister (FM) informed the State Government would be compensated in three ways for loss of revenue
 - Additional revenue in the form of SGST on services
 - 1% additional tax for first two years
 - Underwriting of loss by the Central Government for the first 5 years
- No Cascading Effect of Additional 1% tax levied in the course of Interstate sale
- GST rate to be lower than the speculated rate of 27%

Objections of the State

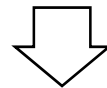
- States not in favour of Petroleum, Petroleum Products and Alcohol to be within the ambit of GST
- Subsuming 'Entry Tax including Octroi' in GST is opposed
- The States demanded more fiscal autonomy by way of power to vary the SGST rates
- GST being a destination based tax, supplier (origin) States apprehended loss of revenue to the consuming States
- Differences on constitution of dispute settlement authority & powers of the GST Council

Way Forward

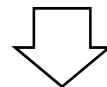
Consideration of the Bill in the Rajya Sabha



Passage by more than 50% of the total members of the House
and at least by 2/3rd of the members present and voting



Ratification by not less than 1/2 of the State legislatures



Presidential Assent

THANK YOU

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