

What is GST?

As the proposed date April 2010 is approaching fast and if the news reports are to be believed, we may have GST around October 2010. Hence, its just matter of few months before GST becomes a reality.

The following paras demystify GST in Question & Answer format.

1. What is GST?

GST is abbreviation for Goods and Service Tax. GST would be levied on all the transactions of goods and



services made for a consideration. This new levy would replace almost all of the indirect taxes. In particular, it would replace the following indirect taxes:

At Central level

- Central Excise Duty
- Service Tax
- Additional Excise Duties
- CVD (levied on imports in lieu of Excise duty)
- SAD (levied on imports in lieu of VAT)
- Excise Duty levied on Medicinal and Toiletries preparations,
- Surcharges and cesses
- Central Sales Tax

At State level

- VAT/Sales tax
- Entertainment tax (unless it is levied by the local bodies)
- Luxury Tax
- Taxes on lottery, betting and gambling
- Entry tax not in lieu of Octroi
- Cesses and Surcharges

2. What are the international practices on GST?

Internationally, GST was first introduced in France and now more than 150 countries have introduced GST. Most of the countries, depending on their own socio-economic formation, have introduced National level GST or Dual GST.

3. How GST would be levied in India?

India is implementing 'dual GST'. In 'dual GST' regime, all the transactions of goods and services made for a consideration would attract two levies i.e. CGST (Central GST) and SGST (State GST).

4. Why GST is being introduced?

A product or service passes through many stages till it reaches the final consumer. Governments at Central and State level have, as and when the need arose, introduced many indirect taxes on various taxable events in this value chain (such as Excise duty on manufacture, VAT on sale etc). As these taxes are levied on different taxable events they have their limitations. To illustrate further, let's take an example of Excise Duty. Excise duty is levied on 'manufacture' and it fails to tax the value addition at distribution level. Additionally, at present, 'goods' suffer two levies (Excise and VAT) whereas 'taxable services' suffer only one levy i.e. service tax. This leads to distortion: distortion arises because the relative prices of services would be lower as compared to goods. Even, as current tax system treats goods and services differently, in certain cases there is double taxation (software being one of such case where the industry has taken conservative stand and both VAT and Service Tax is being currently levied). Also, there are restrictions on availment of credit such as a service provider cannot avail credit of VAT and a trader cannot avail credit of Service tax.

The above lacunas affect free flow of goods and services. Additionally, it brings uncertainty in the trade which is not good for the economy as a whole. GST is now being projected as a solution to all these problems.

5. Whether GST will cure all the problems prevalent in the current tax structure?

Though not all, but surely, most of the current issues will be resolved such as the classification, valuation, double taxation disputes etc. On a positive note, most of the credit which is not available will be available in GST regime such as the service provider will be eligible to avail credit of VAT, Luxury tax, Entertainment Tax etc. The compliances are also expected to reduce drastically.

6. How GST is different from the current taxes?

GST is different from the current tax structure in many ways. Currently, taxes treat goods and services differently. As mentioned above, 'goods' attract Excise at manufacturing level and VAT at the time of sale. In contrast, services attract only one levy i.e. Services tax on provision of taxable services.

This distinction, in GST regime, would lose its importance as both goods and services would be treated as par for taxing purposes. A transaction in goods and services for a consideration would attract CGST and SGST. Also, the State Government now gets the power to tax services and Central Government gets the power to levy tax at the distribution and retail level.

7. When would GST be introduced?

As the news are unfolding, the proposed date April 2010 for implementing GST seems unlikely. However any date near October 2010 or April 2011 seems likely.

8. What about the legislations and the rules?

GST would be implemented with single CGST statute which would be applicable across India. However, for SGST, each state will have its own statute. At present, the Government is working on the draft legislation and the rules.

9. What would be the rate?

The Government is yet to freeze on the rates. As per the various news reports, the rate would be around 8% for CGST and 8% for SGST. However, the 13th Finance Commission has suggested a rate of 5% CGST and 7% SGST.

There would be a lower rate for goods of special importance and a standard rate for other goods. Also, precious metal would have special rate. However, services will have single rate for CGST and SGST.

10. Whether credit of CGST and SGST can be set off against each other?

No. Input tax credit of CGST would be available for payment of CGST and input tax credit of SGST would be available for payment of SGST. However, cross utilization of tax credit between the Central GST and the State GST would be allowed in the case of inter-State supply of goods and services under the IGST model.

11. What about the input tax credit balance?

From the past experience we had on VAT introduction, it appears that, the input credit balances would be allowed to be carried forward and set off against CGST and SGST.

12. Whether there would be any basic exemption limit?

A dual basic exemption threshold is being proposed for CGST and SGST. For CGST, the basic exemption for goods would remain at Rs. 1.5 crores and for services a similar exemption would be provided later. For SGST, the basic exemption for goods and services would be Rs. 10 lakhs.

13. How Interstate transactions will be taxed?

All the inter-State transactions of goods and services would attract IGST (which would be CGST plus SGST). Also, there would be appropriate provision for consignment or stock transfers.

The inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The Exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The Importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST.

14. Which state will tax transaction in interstate supply of 'services'?

At present, place of supply rule exist in case service export [Export of Services Rules, 2005] and import [Taxation of Services (Provided from outside India & Received in India), Rules, 2006]. To tax interstate supply of services, the Government may introduce place of supply rules on similar lines. The Government should also consider the 'Place of Supply Rules' which are prevalent in European Union (EU has 27 member countries).

15. Whether there would be any special provisions for small tax payers?

Tax payers having turnover less than Rs. 50 lacs can opt for Composition scheme wherein they need to discharge tax at a floor rate of 0.50%.

16. Whether exports and SEZ would benefit?

Exports would be zero rated, as currently they are. In case of SEZ, if the supply of goods or services is for consumption in processing zone then it would be zero rated. Supply of goods and services from SEZ to domestic are would be treated as domestic transaction and taxed.

17. How imports would be taxed?

Currently, import of 'goods' suffers CVD (in lieu of Excise duty) and SAD (in lieu of VAT). On import of taxable services, Service tax is attracted. In GST regime, both CGST and SGST would be levied on import of goods and services. GST paid on goods and services would be eligible for input tax credit.

18. What about special area schemes which are prevalent today?

The exemptions available under Special Industrial Area Schemes would continue up to legitimate expiry time both for the Centre and the States. Later, after the introduction of GST, the tax exemptions, remissions etc. related to industrial incentives would be converted, if at all needed, into cash refund schemes.

19. Whether all the products would be under the GST regime?

No. Items containing Alcohol and petroleum products would be outside the GST regime. Inclusion/exclusion of Purchase Tax, Electricity Duty and taxes on natural gas in GST regime is being discussed and decision on the same is yet to be made.

20. How GST would be administered?

CGST will be administered by 'Central Government' and SGST will administered by the respective State Governments.

21. What is 'Empowered Committee' (EC)?

'Empowered Committee' of 29 State Finance Minister was constituted. This EC is headed by Dr. Asim Dasgupta. EC, on 10.11.2009, issued 'First Discussion Paper on GST'. This paper outlines why GST is being introduced and the basic structure of GST. Interestingly, this Discussion Paper has no statutory force.

22. What is the role of the 13th Finance Commission (TFC) and its report?

The Finance Commission is a Constitutional body set up every five years under Article 280 (1) of the Constitution of India. The 13th Finance Commission is headed by the former finance secretary Vijay Kelkar. In the report, released on 15th November 2009, Task Force has made following important recommendations

- CGST rate of 5% and SGST 7% on all goods and services
- Inclusion of all of the current indirect taxes, such as purchase tax, taxes on natural gas, electricity duty, stamp duty
- Emission fuels, tobacco products and alcohol should be subject to a dual levy of GST and excise with no input credit for excise
- Exemption to:
 - Public services of Union, state and local governments,
 - Service transaction between an employer and employee,
 - Unprocessed food articles sold under the public distribution system,
 - Educational and health services provided by non-government schools, college and agencies

THC's report was submitted to the President of India on 31st December 2009. Thereafter, the President will cause every recommendation made by the TFC with explanatory memorandum on the action taken thereon before each House of Parliament (Article 281 of Constitution). Further, as TFC is a statutory body, the views of the TFC will also need to be considered by the Finance Ministry before it finalises the structure of GST.

23. What is the role of Prime Ministers Economic Advisory Committee (PMEAC)?

The Economic Advisory Council to the Prime Minister was constituted on 29th Dec 2004 with the Chairman of Cabinet rank. Dr. C. Rangarajan is the current Chairman. Apart from advice on policy matters referred to the Council by the PM from time to time and it also monitors economic trends on a regular basis and bring to the PM's attention important developments.

PMEAC has favoured a single slab or common rate for goods and services. This is in contrast with the Empowered Committee's proposal.

24. What should the businesses do?

The business should:



25. What should the consultants do?

The consultants should keep themselves updated on the GST front on day to day basis. On individual level, they can start assessing the impact of GST on their clients businesses and keep them informed about the changes.

The above article has been authored by **CA Pritam Mahure**

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