

10 things to watch out for in GST Bill

The Constitution does not provide for a parallel levy of indirect taxes by the Centre and states, a pre-requisite for the roll-out of goods and services tax (GST) in the country. The government introduced in Parliament last week the 122nd Constitution amendment Bill to address this. Some key highlights of the Bill are:

1. Enables introduction of GST The Bill replaces the lapsed 115th Constitution amendment Bill, introduced by the United Progressive Alliance (UPA) government in March 2011. This enables the Centre and state governments, including Union territories, to introduce the law for levying GST on supply of goods and services. Under the GST regime, there will be one Central GST law and one state GST law each for the states.

2. 'GST' defined The term ' GST' is defined in Article 366 (12A) to mean " any tax on supply of goods or services or both except taxes on supply of the alcoholic liquor for human consumption".

Thus, all supply of goods or services will attract Central GST (CGST) and state GST (SGST), unless kept out of purview of GST. In effect, works contracts will also attract GST. As GST will be applicable on ' supply', the erstwhile taxable events such as ' manufacture', 'sale', ' provision of services', etc., will lose their relevance. As the term ' supply' is not defined or elaborated or qualified such as, supply for a consideration etc, it needs to be seen whether even free supply will attract GST.

3. ' Service' defined The 115th Constitution amendment Bill did not provide for a definition of the term ' service'. The latest Bill specifically provides that " services mean anything other than goods". This broad definition of the term will altogether remove the disputes on the aspect whether something is goods or services (unless the government proposes different rates for GST on goods or services or both).

4. Integrated GST At present, inter- state supply of goods attract Central Sales Tax. The Bill provides that an inter- state supply of goods or service will attract IGST (i. e. CGST plus SGST). IGST will be levied and collected by the Centre, and the proceeds will be shared among the Centre and the states.

5. Inter- state sale of goods to attract additional tax The Bill provides that an additional tax up to 1 per cent will be levied by the Centre on interstate supply of goods (and not on services). This additional tax, applicable for a period of two years, will be assigned to states from where the supply of goods originates.

The GST Council could further extend the period beyond two years. However, the Bill is silent on whether credit of this additional levy will be available, or will it be a cost in the supply chain. In case of latter, it could have a tax cascading effect on the supply chain.

6. Import of goods or services At present, import of goods attracts basic customs duty (BCD), additional customs duty (ACD), and special additional customs duty (SAD), while import of a service attracts cess in few. The Bill provides that the or both, in the course of inter- state trade or commerce and thus it will attract IGST (CGST plus SGST). Thus, import of goods will attract BCD and IGST, while import of services will attract IGST.

7. Alcohol for human consumption It appears that alcohol for human consumption will be kept outside the GST regime.

Exclusion of the alcohol sector could mean that companies manufacturing alcohol may not be in a position to avail credit of GST paid by them on their procurements.

8. Petroleum products and tobacco Petroleum products and tobacco will continue to attract excise duty. However, the Bill specifically provides that petroleum products might not attract GST. However, at a later stage the GST Council might decide to levy GST on petroleum products.

9. Role of GST Council The Bill is silent on some key aspects of GST such as : would look like? would be subsumed in GST? are subject to, or exempt from GST? including the floor rates? limit of GST? The 115th Constitution amendment Bill provided for a Dispute Settlement Authority to settle disputes between states or between states and the Centre with regard to GST. However, under the latest Bill, the GST Council has been given the authority to determine the modalities to resolve disputes arising out of its recommendations.

The GST Council will consist of the Union finance minister, minister of state and state finance ministers.

10. Compensation to states The Bill did not provide for compensation to states. This Bill specifically provides that Parliament by law, on recommendation of GST Council, provide for compensation to states for loss of revenue arising out of implementation of GST up to five years.

By providing for compensation in the Constitution itself, the Centre seems to have addressed the concerns raised by the states regarding fear of loss of revenue.

The way forward After passage through both Houses of Parliament, to become a law, the Bill will have to be approved by more than half of the states.

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