

RJA

Rajput Jain & Associates

Chartered Accountants

Nature of 'Supply'

About Us

- Rajput Jain & Associates is a Chartered Accountants firm, with its headquarter situated at New Delhi (the capital of India). The firm has been set up by a group of young, enthusiastic, highly skilled and motivated professionals who have taken experience from top consulting firms and are extensively experienced in their chosen fields has providing a wide array of Accounting, Auditing, Taxation, Assurance and Business advisory services to various clients and their stakeholders. focus at providing tailor made solutions to challenging problems of our clients, and perform with high quality and timely service.
- Rajput jain & Associates, a professional firm, offers its clients a full range of services, To serve better and to bring bucket of services under one roof, the firm has merged with it various Chartered Accountancy firms pioneer in diversified fields
- Our main office is located at Delhi. Incidentally, Delhi is the Capital of India. Our other offices are in Mankapur & Moradabad (U.P.). We have associates all over India in big cities. All our offices are well equipped with latest technological support with updated reference materials. We have a large team of professionals other than our Core Team members to meet the requirements of our prospective clients including the existing ones. However, considering our commitment towards high quality services to our clients, our team keeps on growing with more and more associates having strong professional background with good exposure in the related areas of responsibility. Further to meet the growing demands of the fiercely competitive market we are constantly looking forward for team of associates comprising of highly skilled professionals to cater the needs ever increasing clientele.

India - Structure Thereof

Three pillars of Indian Economy

Legislature

What constitutes
Legislature ?

Government

How is Government
different from
Legislature ?

Judiciary

Can Judiciary go
beyond Legislature ?

Structure of Indian Constitution

1

Unitary

State governed by one single unit in which the central government is supreme and executive division work out only powers that the central government chooses to delegate

2

Federal

Constitutional division of power between one general government and a series of sub national governments individually have their own independent authority over their own territories

India – is a union of:

States

There are how many States in India ?

Special States

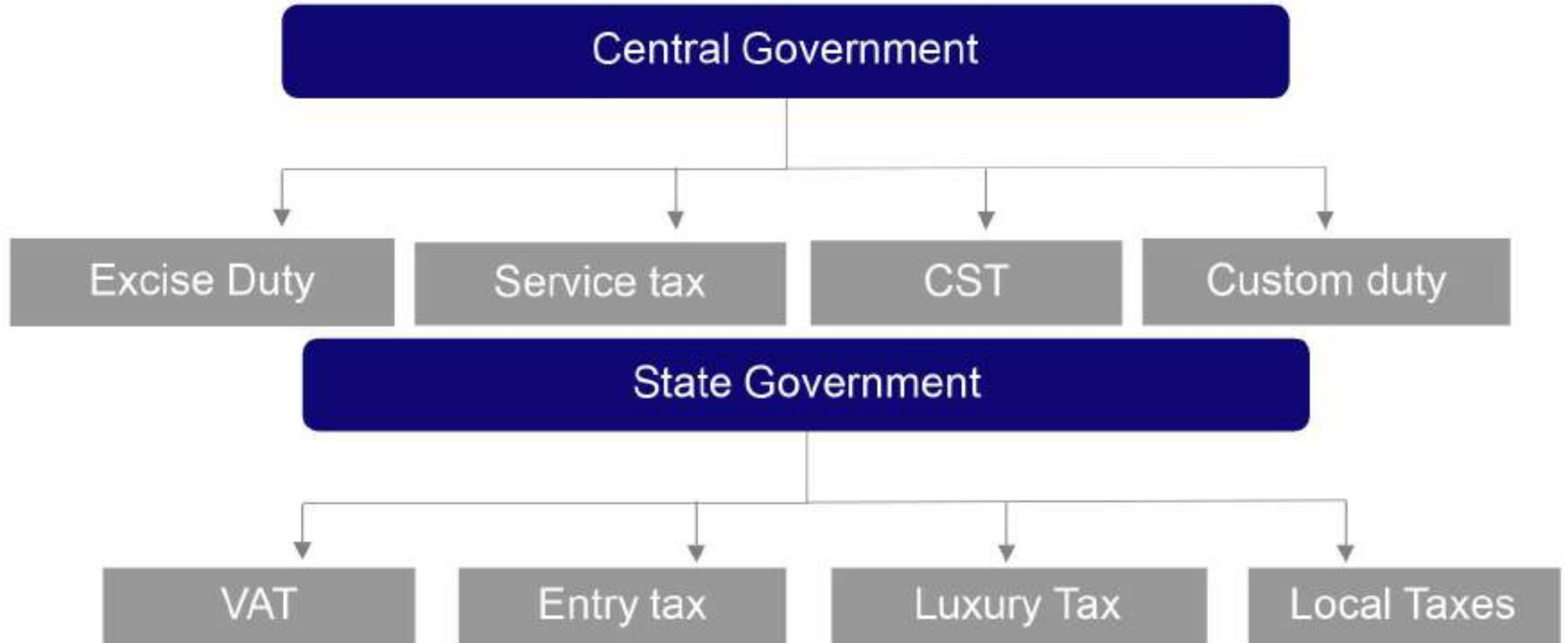
What are Special States ?

Union Territory

There are how many Union Territories in India?

Is there anything more to the Union of India ??

Taxes Hitherto



What should be the Model GST Law

One GST levied and collected by Centre and money distributed to the States

Most simplistic approach. Not workable in federal countries.

GST levied and collected by each State, leading to 29 different GST.

State war on import and inter-state transactions. Centre will not have any source of revenue.

Centre levies GST on import/ export and inter-state transactions. State levy GST on intra-state transactions

Workable model. But, since GST is subsuming almost all central tax levies. Centre will not have any source of revenue.

Model GST Law

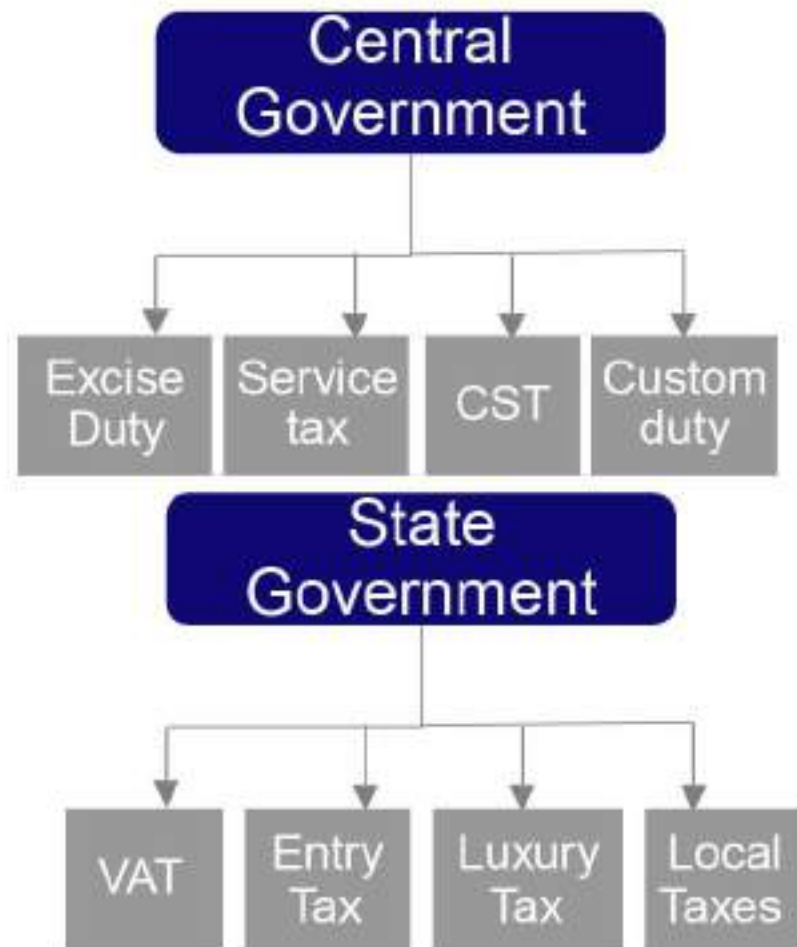
- ▶ Article 246A(1) - Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.
- ▶ Article 246A(2) - Parliament has exclusive 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 269A – Parliament formulate principles for inter-state supply including supply in the course of import and export

Model GST Law

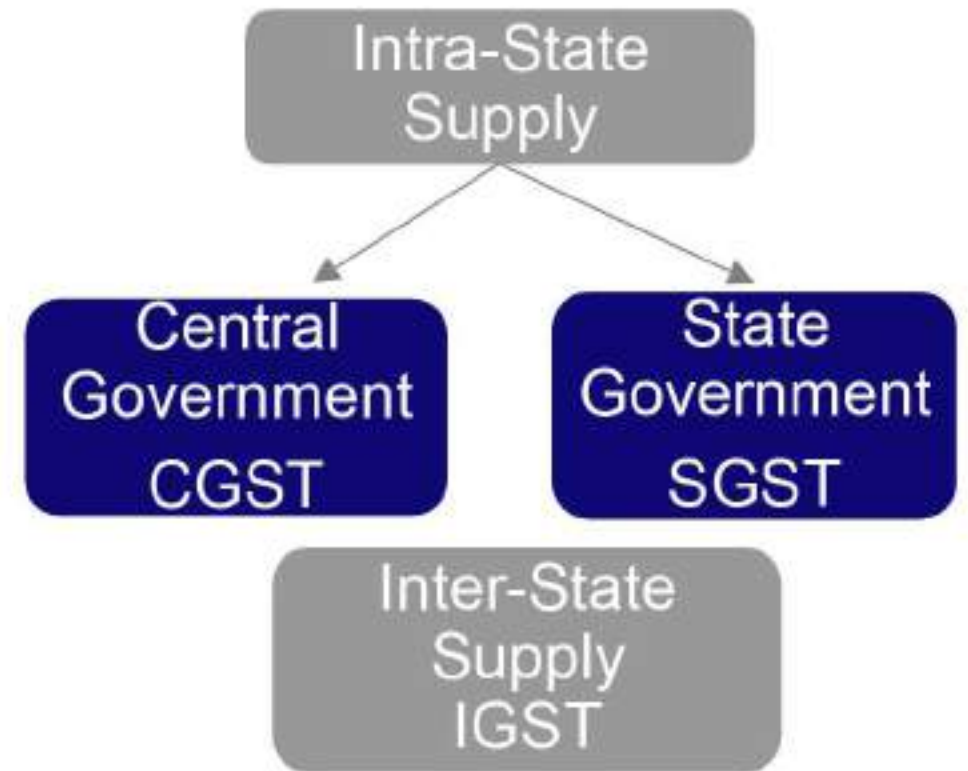
Tax on within State/ UT supply by both Centre & States	Centre State
Tax on inter-state supply by Centre	Centre
Tax on imports	Centre

Article 269A – Parliament formulate principles for inter-state supply including supply in the course of import and export

Taxes to be levied under GST



Now Under GST regime:



IGST is initially deposited with Centre. Centre distributes between Centre and State on defined basis.

Distribution of Tax Revenue



Distribution of IGST:

- IGST paid to the central government in respect of all the supplies shall be apportioned between central government and state government on the following basis:

Share of Central Government:

- Amount of tax calculated at the rate equivalent to the central tax on similar intra state supply shall be apportioned to the central government

Share of State Government/ Union Territory:

- Balance amount shall be apportioned to the state where such supply takes place or central government where such supply takes place in a union territory

Integrated GST Act



What all provisions will IGST Act consist of?

IGST Act, 2017

- ▶ **First section of every taxing statute consists of Short Title, Extent and Commencement**
- ▶ IGST Act is titled 'Integrated Goods and Services Tax Act, 2017'
- ▶ IGST Act extends to the whole of India ~~except J&K~~
- ▶ It shall come into force as the Central Government may notify

IGST Act, 2017

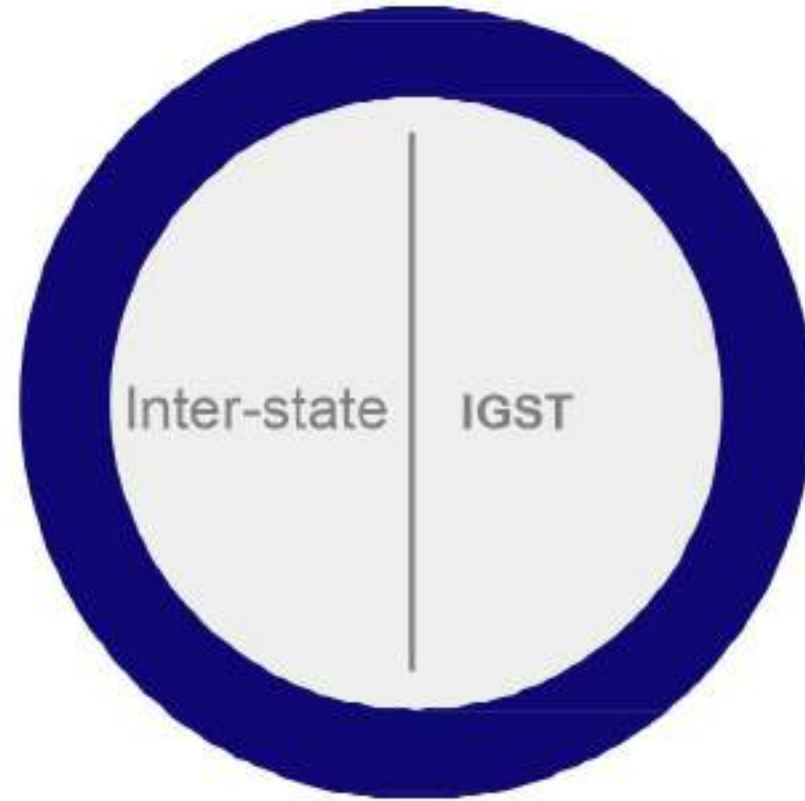
▶ **Section 5 – Charging Section**

- ▶ There shall be levied a tax called IGST on all inter-state supplies on the value determined under Section 15 of CGST Act, 2017 at rate not exceeding 40 percent paid by the taxable person and collected in such manner as may be prescribed

- ▶ IGST on goods imported into India shall be levied and collected in accordance with the provisions of Section 3 of Custom Tariff Act, 1975 (CTA) on value determined under CTA and at point when duties of customs are levied under Customs Act, 1962

Nature of supply

Nature of Supply - Types



Intra-State Supply – Goods & Services

- ▶ Where the location of supplier and place of supply:-

Within same State

State include Union Territory with legislature

1

Within same Union Territory

Union Territory includes Adaman, Lakshadweep, Dadra & Nagar Haveli, Daman & Diu, Chandigarh

2

Inter-State Supply – Goods & Services

Where the location of supplier and place of supply:-





**What is the treatment on goods sold
within UT, between two UT and
between UT and State?**


Import of Service

Inter-State Supply – Import of Services

- Supply of services imported into the territory of India

- 'Import of services' means supply of any service, where-
 - i. The supplier of service is located outside India;
 - ii. The recipient of service is located in India; and
 - iii. The place of supply of service is in India

- India means the territory of India as referred to in Article 1 of the Constitution of India including territorial waters, seabed and airspace above territorial waters



**Whether import of service not for
business will be liable to GST?**

Inter-State Supply – Import of Services

- Import of service for a consideration, whether or not in the course of furtherance of business, is supply.
- In other words, services imported by individuals for non business purpose will also be exigible to GST.
- Whether such services will be brought under reverse charge? If yes, then whether all individuals importing service will have to take registration and pay GST under reverse charge?
- Does not seem to be the case. This deeming supply is brought to tax online information and database access or retrieval service availed by individuals for non-business use.

Online Information & Database Access or Retrieval

'Online information and database access retrieval services' is defined to mean services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—

(i) advertising on the internet;

(i) providing cloud services;

(iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;

Online Information & Database Access or Retrieval

- (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- (v) online supplies of digital content (movies, television shows, music and the like);
- (vi) digital data storage; and
- (vii) online gaming

Online Information & Database Access or Retrieval

- Place of supply is location of recipient. Location of recipient in taxable territory (TT) if any of the below two are satisfied:
 - (i) Address on internet of TT;
 - (i) Payment card issued in TT;
 - (i) Billing address in TT;
 - (i) Bank used for payment in TT;
 - (i) SIM card from TT;
 - (i) Fixed Line in TT

Online Information and Database Access or Retrieval

- For online information and database access retrieval service, the **place of supply** has been made to be location of recipient.
- The online service provider located in non-taxable territory shall take registration under GST. The supplier can take single registration under **simplified registration scheme**.
- Any person located in taxable territory **representing such supplier** for any purpose in taxable territory shall get registered and pay GST on behalf of supplier.
- Provided where supplier does not have physical presence or does not have representative in taxable territory, he may **appoint person in taxable territory** for discharging GST.

Import of goods

Import of Goods

- Import of goods with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India
- Proviso to Section 5(1) of the IGST Act – Integrated tax on goods imported into India shall be levied and collected in accordance with provisions of Section 3 of the Customs Tariff Act, 1975 on the value determined and at the point of tax under Customs Act, 1962.
- Section 3(7) and 3(9) inserted in Customs Tariff Act, 1975 to levy IGST and Compensation Cess, respectively, on import of goods.

Import of Goods

- Value for the purpose of IGST shall be customs value, including any sum chargeable under any law as duty of customs, but excluding IGST and Compensation Cess
- Value for the purpose of Compensation Cess shall be customs value, including any sum chargeable under any law as duty of customs, but excluding IGST and Compensation Cess

Import of Goods

- Finance (No.2) Act, 2004 levies Education Cess on all duties of customs.
- Finance Act, 2007 levies Secondary Higher Education Cess on all duties of customs.
- IGST and Compensation Cess since being leviable under Customs Tariff Act, are duties of customs, and hence subject to Education Cess and Secondary Higher Education Cess.
- This made calculation of customs duties cumbersome and complex. Further it lead to tax on tax situation.
- Therefore, exemption provided under customs on levy of Education Cess and Secondary Higher Education Cess on IGST and Compensation Cess.

Mechanism of charging taxes in case of imports

Particulars	Previous Regime
Taxes applicable	BCD : 10% CVD : 12% EC : 2% HEC : 1% SAD : 4%

Particulars	Present regime
Assessable Value	100
BCD	10
AV+BCD	110
CVD [12% x (A.V + BCD)]	13.2
Cess on (BCD + CVD)	0.7
Amount leviable to SAD	123.90
SAD	4.95
Total Purchase price	128.85

Different cases of Imports under GST

CASE 1: Where product attracts IGST but not CVD

Taxes applicable	BCD	: 10%
	IGST	: 12%
	Education cess (EC)	: 2%
	Higher Education cess (HEC)	: 1%

Particulars	GST regime
Assessable Value (A.V)	100
BCD (a)	10
AV+BCD	110
EC [2% of (a)] (b)	0.2
HEC [1% of (a)] (c)	0.1
Amount leviable to IGST	110.30
IGST [A.V + (a) + (b) + (c)] x 12%	13.236
Total Purchase price	123.536

Different cases of Imports under GST

CASE 2: Where product does not attract CVD but attract IGST as well as Compensation Cess

Taxes applicable	BCD	: 10%
	IGST	: 12%
	Education cess (EC)	: 2%
	Higher Education cess (HEC)	: 1%
	Compensation cess	: 10%

Different cases of Imports under GST

Particulars	GST regime
Assessable Value (A.V)	100
BCD (a)	10
AV+BCD	110
EC [2% of (a)] (b)	0.2
HEC [1% of (a)] (c)	0.1
Amount leviable to IGST	110.30
IGST [A.V + (a) + (b) + (c)] x 12%	13.236
Compensation cess [A.V.+(a)+(b)+(c)]x 10%	11.03
Total Purchase price	134.566

Different cases of Imports under GST

CASE 3: Where product attract both CVD & IGST:

Taxes applicable	BCD : 10% CVD : 12% IGST : 28% Education cess (EC) : 2% Higher Education cess (HEC) : 1%
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Different cases of Imports under GST

Particulars	GST regime
Assessable Value (A.V)	100
BCD (a)	10
AV+BCD	110
CVD [(AV+BCD) x 12%] (b)	13.2
EC [2% of (BCD+CVD)] (c)	0.464
HEC [1% of (BCD+CVD)] (d)	0.232
Amount leviable to IGST	123.896
IGST [A.V + (a) + (b) + (c) + (d)] x 28%	34.69
Total Purchase price	158.586

Different cases of Imports under GST

CASE 4: Where product attract CVD, IGST & Compensation cess:

Taxes applicable	BCD	: 10%
	CVD	: 12%
	IGST	: 28%
	Education cess (EC)	: 2%
	Higher Education cess (HEC)	: 1%
	Compensation cess	: 10%

Different cases of Imports under GST

Particulars	GST regime
Assessable Value (A.V)	100
BCD (a)	10
AV+BCD	110
CVD [(AV+BCD) x 12%] (b)	13.2
EC [2% of (BCD+CVD)] (c)	0.464
HEC [1% of (BCD+CVD)] (d)	0.232
Amount leviable to IGST	123.896
IGST [A.V + (a) + (b) + (c) + (d)] x 28%	34.69
Compensation cess [A.V + (a) + (b) + (c) + (d)] x 10%	12.389
Total Purchase price	170.975

**Import of goods vs.
services**

Import of goods vs. services

Goods	Services
Imports means bringing goods into India from a place outside India.	Import of services means the supply of any service, where— (i)the supplier of service is located outside India; (ii)the recipient of service is located in India; and (iii)the place of supply of service is in India;
The place of supply of goods shall be the location of importer	The place of supply of services shall be the location of recipient of service

Import of goods vs. services

Goods	Services
Import of goods is liable to tax, irrespective of whether imported for business purposes or without consideration	Import of services is not liable to tax, if import made for: i. other than business use; or ii. without consideration from related party
Tax is payable under the Customs Tariff Act, 1975 on reverse charge basis	Tax is payable under the IGST Act, 2017 on reverse charge basis
Tax is payable at the time of clearance of goods for home consumption	Tax is payable by the 20 th of the following month

High Sea Sales

High Sea Sales

- ▶ Supply of goods imported into the territory of India, till they cross the customs frontiers of India
- ▶ 'Import of goods' means bringing goods into India from a place outside India.
- ▶ India means the territory of India as referred to in Article 1 of the Constitution of India, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone, and the air space above its territory and territorial waters.



**What will be the treatment of
High Sea sales?**

Earlier Regime

- Article 286(1) of the Constitution of India – No law of a State shall impose on sale or purchase of goods which takes place –
 - I. Outside the State
 - II. In the course of import/export of goods

- Section 5(2) CST Act - A sale or purchase of goods shall be deemed to take place in the course of the import only if the sale or purchase either occasions such import or is affected by a transfer of documents of title to the goods before the goods have crossed the customs frontiers of India.

High Sea Sales - FAQ

- ▶ **Twitter FAQs** - Query 97 - Whether IGST would be levied twice on high seas sales? First on high seas sales and second on custom clearance. IGST paid on 1 available as ITC?
- ▶ Clarification: IGST shall be levied only once on import.
- ▶ **Circular No. 33/2017-Cus dated 01st August 2017**
- ▶ IGST on high sea sale(s) transactions of imported goods, whether one or multiple, shall be levied and collected only at the time of importation i.e. when the import declarations are filed before the Customs authorities for the customs clearance purposes for the first time.

Whether credit will have to be reversed for the proportion of common inputs/input services attributable to High Sea sale?

Bond-to-Bond Sales

Bond to Bond Sales

- ▶ **Circular No. 473/10/2017-LC dated 24th November 2017** - Importer is at liberty to transfer the ownership of such goods to another person while the goods remain deposited in the warehouse.
- ▶ Value of imported goods for the purpose of Customs Act is value at the time of filing into-bond bill of entry. Any expenses or value addition is not includible at the time of ex-bond bill of entry.
- ▶ Transaction of sale of warehoused goods between importer and any other person may be at a price higher than assessable value for customs.
- ▶ Such transaction qualify as inter-state supply and is liable to GST.

Bond to Bond sales

Goods imported by "A" on 2nd July 2017. Importer wants to deposit the goods in a bonded warehouse to defer duty.

Importer files an "into bond bill of entry" and the goods are deposited in a Bonded Warehouse. BCD and IGST (Section 3(7) of Customs Tariff Act 1975) are deferred.

Illustration of duty deferment:

A: Value of goods = Rs. 100

B: say BCD is 10% = Rs. 10 (10% of Rs. 100)

C: say IGST is 12% = Rs. 13.2 (12% of Rs. 110)

D: Duty Deferred (B+C) = 23.20

Bond-to-Bond sales

"A" sells the goods to "B" on 21st July 2017 for Rs. 300 and charges IGST of Rs. 36 @12% (IGST)

Payment of the above IGST of Rs. 36 and filing of return for the same should be done by 20th August 2017.

"B" files an Ex-bond

Bill of entry on 25th of September 2017 and pays Rs. 23.20 (the deferred duty). (In addition to duty of Rs. 36 paid earlier as indicated in Box-C).

Export of Goods vs. Service

Export of Services

- ▶ “Export of services” means the supply of any service when,—
 - I. the supplier of service is located in India;
 - II. the recipient of service is located outside India;
 - III. the place of supply of service is outside India;
 - IV. the payment for such service has been received by the supplier of service in convertible foreign exchange; and
 - V. the supplier of service and the recipient of service are not merely establishments of a distinct person

- ▶ Export of services is zero rated

Export of Services

- Zero-rated supply- means any of the following supplies of goods or services or both, namely:-
 - a) Export of goods or services or both; or
 - b) Supply of goods or services or both to a SEZ developer or SEZ unit.

- Credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

- A registered person making zero-rated supply shall be eligible to claim refund under either of the following options, namely-
 - a) Supply goods/ services under Bond or LUT without IGST and claim refund of unutilized ITC;
 - b) Supply goods/ services with IGST and claim refund of IGST paid

Bond/ Letter of Undertaking (LUT)

- Rule 96A – Every registered person availing the option of export without payment of tax shall furnish prior to export a Bond or LUT.
- Bond/ LUT to undertake that goods will be exported within 3 months 15 days from invoice date and foreign currency for services is received within 1 year 15 days of the invoice date.
- LUT can be filed by all exporters except those who are prosecuted for specific amount.
- Valid for one year.
- To be submitted on company letter head.

Export of Goods

- ▶ Export of goods with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India
- ▶ Export of goods is a zero rated supply

Export of goods and services

Goods	Services
<p>Export means taking goods out of India to a place outside India. The same has been borrowed from Customs Act</p>	<p>“Export of services” means the supply of any service when,—</p> <ul style="list-style-type: none">(i) the supplier of service is located in India;(ii) the recipient of service is located outside India;(iii) the place of supply of service is outside India;(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and(v) the supplier of service and the recipient of service are not merely establishments of a distinct person

Export of goods and services

Goods	Services
Shipping bill/ export general manifest (EGM) are mandatory for claiming refund.	BRC/FIRC details are mandatory for claiming refund.
Place of supply of goods shall be located outside India	Place of supply shall be the location of recipient of service
Repatriation of convertible foreign exchange is not mandatory	Repatriation of convertible foreign exchange is mandatory

Foreign currency not received

- CGST Rules provide for export of services without payment of tax in case foreign convertible exchange is received within 1 year 15 days of export invoice.
- After expiry of period, the exporter to pay tax on the services exported.
- In the service tax regime, in case convertible foreign exchange not received within specified time, service becomes exempt service and proportionate credit to be reversed.
- Also, in earlier regime, additional time of 1 year was provided after the time provided by RBI for receipt of foreign currency

Supply to Nepal/ Bhutan

- Supply of services to Nepal/ Bhutan does not fetch convertible foreign currency
- Consequently, supply of services to Nepal/ Bhutan do not qualify as export of services.
- Clarification issued by GST Authorities that supply of service to Nepal / Bhutan shall be exempt from the levy of GST
- Corresponding amendments also made in CGST Rules to provide for ITC on inputs/ input services used in supplying services to Nepal/ Bhutan

Supply between Distinct Person

Explanation 1 to Section 8 treats establishment of same person as distinct persons, in following cases:

- Establishments are situated in different countries
- Establishments are situated in different states/ Union territories
- Establishments being different business vertical in the same State

Explanation 2 to Section 8 treats the following as 'establishment' for the purposes of Explanation 1:

- Branch
- Agency
- Representational office

Supply between Own establishments

Section 20 of the IGST Act borrows certain provisions of CGST Act. Amongst various provisions borrowed, is the provision of registration.

Registration Section 25 of the CGST Act deems two establishments in different States/ Union Territory as distinct person.

Import of service between related person, even without consideration, is supply. (Schedule-I)

Services provided to foreign establishment, without receipt of foreign convertible exchange, would not qualify as export of service.

Supplies to Foreign Tourist

Inter-state Supply - Foreign Tourist

- Supply made to foreign tourist shall be inter-state supply.
- Supply to foreign tourist has been specifically excluded from intra-state supply
- IGST paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded.
- Tourist means a person not normally resident in India, who enters for a stay of not more than six months for legitimate non-immigrant purposes

Supplies to & from SEZ

Inter-State Supply – SEZ

Supply of
goods or
services to a
SEZ

Unit or
Developer of
SEZ

1

Supply of
goods or
services by a
SEZ

Unit or
Developer of
SEZ

2



**Why supplies to SEZ and by SEZ
kept as inter-state supply?**

SEZ Controversy – Proviso to Section 5(1)

- Proviso to Section 5(1) of IGST Act provides that IGST on goods imported into India shall be levied and collected in accordance with Customs Tariff Act, 1975 and collected at point when duties of customs are collected under Customs Act, 1962.
- Import is defined under the IGST Act to mean bringing goods into India from a place outside India. 'India' is defined under CGST Act to mean the territory of India as referred to in Article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters.....
- Custom Tariff Act, 1975 has been amended to insert Section 3(7). Said section levies IGST on any goods imported in India.



**Who will pay IGST on supplies
from SEZ to DTA?**

Clarification by Twitter

➤35. How would the sale and purchase of goods to and from SEZ will be treated? Will it be export / input?

➤37. When goods are being imported from SEZ who will pay IGST?

➤Supply to SEZs is zero rated supplies and supplies by SEZs are treated as imports.

➤Such supply is treated as import and present procedure of payment of duty continues with the variation that IGST is levied in place of CVD.

Zero Rating

- Supplies made to SEZ Unit / SEZ Developer shall Zero rated (exempt)
- A person making zero rated supply shall be eligible to claim refund under either of the following options:
 - He may supply goods or services or both under bond or LUT, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilized input tax credit
 - He may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax on goods or services supplied

Refund in case of supply without tax

- ▶ Application for refund of unutilized credit shall be filed **by supplier** in Form **GST RFD-01**. The application shall be accompanied by any of the following:
- ▶ A statement containing the number and date of invoices
- ▶ Evidence of endorsement by specified officer of the zone that goods/ services have been utilized for authorized operations of SEZ

Open Issues

- Supply of goods/ services to SEZ, covered under domestic reverse charge ?
- Who will be liable to get endorsement from specified officer of the Zone, supplier or SEZ ?
- Whether supplier making supply on payment of tax can charge IGST on SEZ Unit/ SEZ Developer ?

Supply to SEZ – Current vs GST Regime

Particulars	Current Regime	GST Regime	Proposed Change
BCD +CVD + SAD	Upfront exemption available on against bond	Exemption available	No change
BCD+IGST			
CST/ VAT	Upfront exemption against Form I/ Upfront exemption	Zero rated	No change
IGST			

Supply to SEZ – Current vs GST Regime

Particulars	Current Regime	GST Regime	Proposed Change
Excise Duty IGST	Upfront exemption against bond	NA	No change
Service Tax IGST	Upfront exemption / Exemption by way of refund	Zero rated	No Change

Merchant Exporter

Merchant exporter - conditions and procedures

Definition of Merchant Exporter:

As per Foreign Trade policy (2015-20), Para 9.33 “**Merchant Exporter**” means a person engaged in trading activity and exporting or intending to export goods.

Para 9.32 of FTP, “**Manufacturer Exporter**” means a person who exports goods manufactured by him or intends to export such goods.

Merchant exporter - conditions and procedures

Concessional tax rate @ 0.1 % for procurement of goods for exports

- Exporter registered under GST may procure goods from registered supplier @ 0.1% for exports. (Notification No. 41/2017 – Integrated Tax (R) and Notification No. 40/2017 – Central Tax (R) dated 23 October 2017)

Key conditions for availing benefit

- Goods should be exported within 90 days from date of tax invoice generated by registered supplier to the registered exporter
- Registered exporter shall indicate GSTIN of registered supplier along with corresponding tax invoice number in shipping bill or bill of export, as the case may be

Merchant exporter - conditions and procedures

- Registered exporter should be registered with an Export Promotion Council or a Commodity Board recognized by the Department of Commerce
- Copy of Purchase Order generated on registered supplier for procuring goods at concessional rate shall be provided to jurisdictional tax officer of the registered supplier
- Upon export of goods, the registered exporter shall provide copy of Shipping bill or Bill of export containing details of GSTIN and tax invoice of the registered supplier along with proof of export general manifest or export report having been filed to the registered supplier as well as jurisdictional tax officer of such supplier.

Deemed Exports

Deemed Exports

- Section 147 of the CGST Act, 2017 empowers Central Government to notify certain supplies of goods as deemed exports, where the goods do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.
- CG has notified goods supplied to EOU units as deemed exports. Rule 89 of the CGST Rules, 2017 has been amended vide Notification No. 47/2017-Central Tax dated 18.10.2017 to allow either the recipient or supplier to claim refund of tax paid.
- A Circular No. 14/14/2017-GST dated 06.11.2017 has been issued prescribing the procedure to avail exemption on procurement of goods by EOU/ STP /EHTP/ BTP units from DTA supplier.

Deemed Exports

- ▶ The recipient EOU / EHTP / STP / BTP unit shall give prior intimation in "Form-A" (mentioned in the attached circular) bearing a running serial number containing the goods to be procured, as pre-approved by the Development Commissioner and the details of the supplier before such deemed export supplies are made. The said intimation shall be given to –
 - the registered supplier;
 - the jurisdictional GST officer in charge of such registered supplier; and
 - its jurisdictional GST officer.

Deemed Exports

- On receipt of such supplies, the EOU / EHTP / STP / BTP unit shall endorse the tax invoice and send a copy of the endorsed tax invoice to –
 - the registered supplier;
 - the jurisdictional GST officer in charge of such registered supplier; and
 - its jurisdictional GST officer

- The endorsed tax invoice will be considered as proof of deemed export supplies by the registered person to EOU / EHTP / STP / BTP unit.

Inter-state - Residuary

Inter-State Supply – Residuary

- ▶ Supply of goods or services or both,-

Supplier located in India and Place of Supply outside India

Export of service without foreign currency

1

In the taxable territory, not covered elsewhere as intra state supply

2

Whether GST leviable on supply of goods:

POS outside India

Location of supplier in India

Merchant Trading

Whether GST leviable on supply of goods:

- POS outside India
- Location of supplier in India

Merchant Trading



1. Foreign Seller (FS) sells the goods to Indian Buyer (IB)
2. Indian Buyer (IB) sells the goods to Foreign Buyer (FB)

Applicable Provisions

➤ Section 1 of IGST Act:

“Section 1. (1) This Act may be called the Integrated Goods and Services Tax Act, 2017.
(2) It shall extend to the whole of India except the State of Jammu and Kashmir.
.....”

➤ Section 7(5)(a) of the IGST Act:

“Section 7(5)(a) Supply of goods or services or both, when the supplier is located in India and the place of supply is outside India, shall be treated to be supply of goods or services or both in the course of inter-state trade or commerce.

Merchant Trading - AAR

Synthite Industries Ltd.: AAR, Kerala Dated 26.03.2018

- ▶ The applicant is neither liable to GST on the sale of goods procured from a non-taxable territory and directly supplied to a person in the non-taxable territory nor on the sale of goods stored in a non-taxable territory, as the goods are not imported into India at any point.

Whether GST leviable on supply of service:

POS outside India

Location of supplier in India

Consideration not in Foreign exchange

Whether GST leviable on supply of service:

POS outside India

Location of supplier in India

Consideration in Foreign exchange

Supplier and receiver are units of one legal entity

Whether GST leviable supply of services:

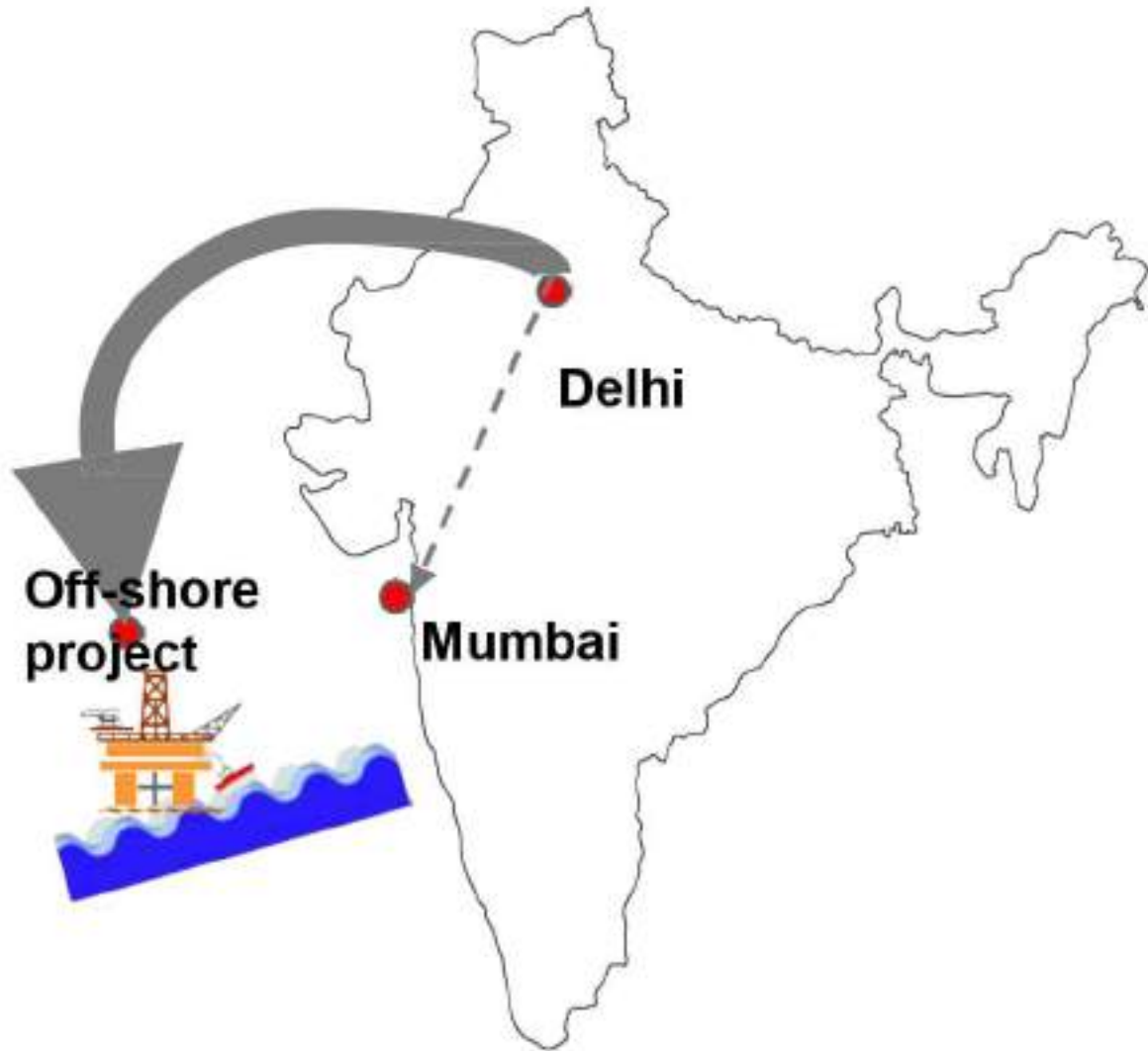
POS is in India

Location of supplier and recipient both outside India

Supply to & from Territorial waters

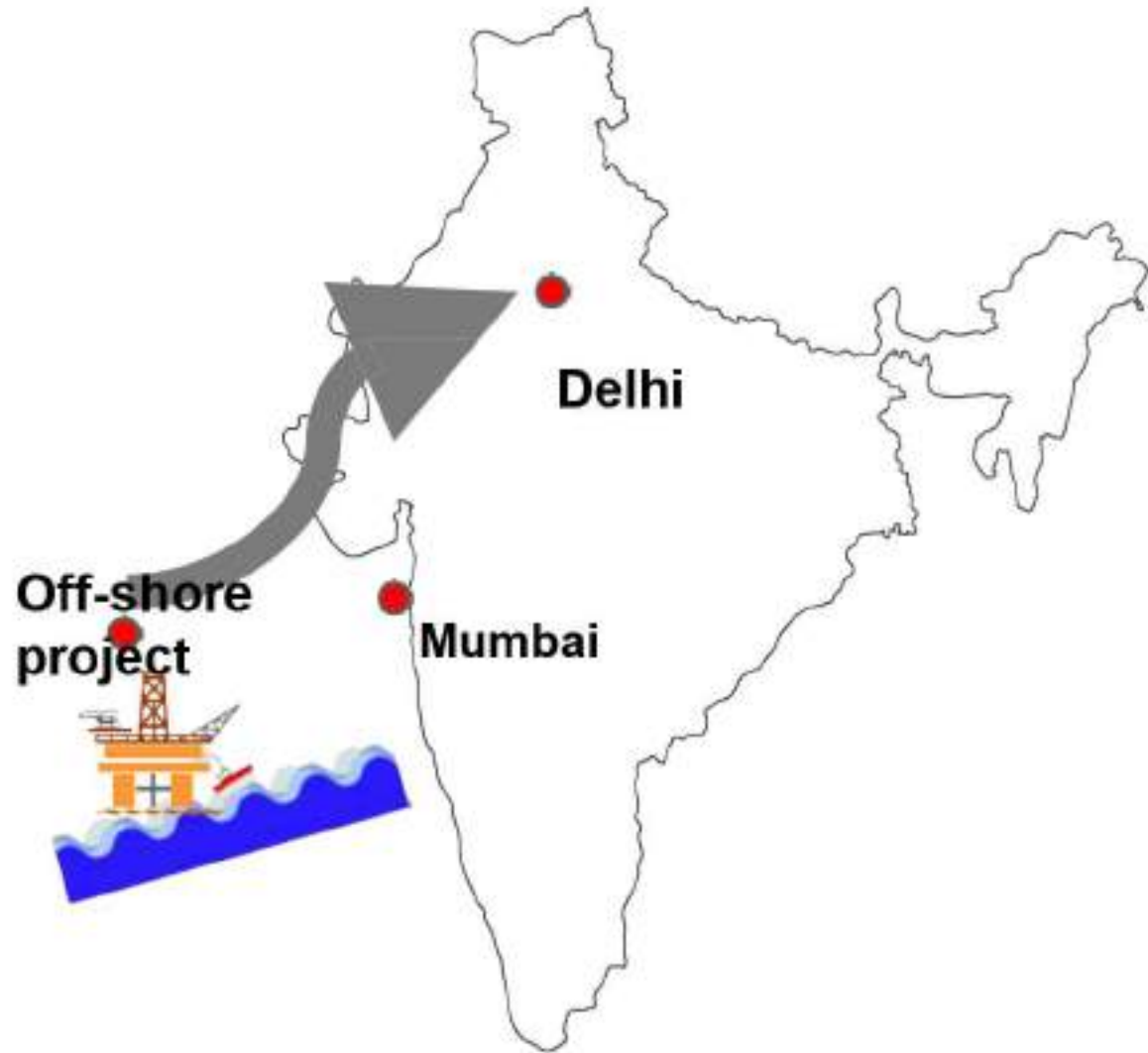
**What will be levy of GST on supply
by domestic unit to a offshore
project?**

Supply in Territorial waters



- Section 9 prescribes the location of supplier and place of supply in case the same is in territorial waters, to be in coastal State or Union territory where the nearest point of the appropriate baseline is located.
- For eg: in the illustration place of supply of goods would be Maharashtra for goods supplied to the off-shore project nearest to baseline of Maharashtra

Supply in Territorial waters



- Section 9 prescribes the location of supplier and place of supply in case the same is in territorial waters, to be in coastal State or Union territory where the nearest point of the appropriate baseline is located.
- For eg: in the illustration location of supplier of goods would be Maharashtra for goods supplied by offshore project nearest to baseline of Maharashtra

GST Compensation Cess- Overview

Origin vs. Destination based tax

1

**Earlier Regime –
Central Sales Tax
(CST) was collected
and retained by the
State from where the
movement of the
goods originate**

2

**GST Regime –
IGST is
transferred to
the State of
consumption of
goods/ services**

Compensation Cess

1

Reason

Introduced in order to compensate the states for loss of revenue arising on account of implementation of GST

2

Extent

Extends to the whole of India

3

Time Period

Compensation is for 5 years from transition date

4

Growth Rate

14% growth rate on base year 2015-16 revenue

5

Revenue

This shall include subsumed taxes. Taxes not subsumed shall not be included

6

Disbursement

Compensation would be disbursed every two months. Final figures will be trued up

Compensation Cess

1

Levy

Leviable on intra-state and inter-state supply

2

Ad Valorem/ Quantity

Levied on the basis of value and quantity. Not on the tax amount

3

Composition Dealer

Composition dealer not liable to pay cess

4

Imported goods

Cess leviable on imported goods also. Payable at the time of import.

5

Credit

Credit of Cess is available. It can be used only against Cess.

6

Goods or Services

Leviable on supply of goods/ services

Distribution of Compensation Cess



Distribution of Compensation Cess

- ▶ After every two months, provisional calculation shall be done to compute projected revenue (basis the base revenue). The difference between the projected revenue and actual revenue shall be released to the state after every two months.
- ▶ At the end of year, actual revenue shall be calculated by adding the figures audited by CAG. The difference between projected revenue released and the actual revenue released shall be adjusted.
- ▶ In the last year, the amount remaining in GST compensation fund after paying compensation to states shall be apportioned between Consolidated fund and state tax account/ Union territory tax account in equal amount.

Illustrative Rates



A blue trapezoidal frame with a thick border. The top edge is slanted upwards from left to right. The bottom edge is horizontal. On the left side, there are three small blue squares stacked vertically. The text is centered within the frame.

What is the time limit for levy of compensation cess?

Taxation Amendment Act

Purpose & Object

- To amend Customs Act, Customs Tariff Act, Central Excise Act, Central Sales Tax Act, Finance Act 2001 & Finance Act 2005
- Usually the above statutes are amended by way of Finance Act passed in budget session. Since amendment to align old laws with GST was to be introduced in interim, Taxation Amendment Act passed.
- Amend Customs Act to provide powers to provide information by specified person. Notification No. 114/2017-Cus(NT) to provide information by banking company about foreign exchange transactions.

Major changes

01

IGST in place of CVD & SAD

CVD levied u/s 3(1) and SAD u/s 3(5) has been replaced with IGST under newly inserted Section 3(7). Compensation Cess has been introduced under Section 3(9).

02

Central Excise restricted to petroleum, cigarettes and tobacco

Central Excise Tariff Act, 1985 is repealed. Fourth Schedule has been inserted in Central Excise Act, 1944 to levy tax on petroleum and tobacco.

03

Central Sales Tax restricted petrol and liquor

Definition of goods under Central Sales Tax Act, 1956 has been redefined to only mean petrol and liquor

Cess abolished

1 | **EC on services**
Abolished w.e.f.
01.06.2015

4 | **SHE Cess on excisable goods**
Exempted w.e.f.
01.03.2015

7 | **Swachh Bharat Cess**
Abolished w.e.f.
01.07.2017

2 | **SHE Cess on services**
Abolished w.e.f.
01.06.2015

5 | **R&D Cess**
Abolished
01.04.2017

8 | **Krishi Kalyan Cess**
Abolished w.e.f.
01.07.2017

3 | **EC on excisable goods**
Exempted w.e.f.
01.03.2015

6 | **Clean Energy Cess**
Abolished w.e.f.
01.07.2017

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