

Key GST Amendments

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Amendment to supply definition

Impact on deemed supply transactions

7. (1) For the purposes of this Act, the expression “supply” includes–
- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
 - (b) import of services for a consideration whether or not in the course or furtherance of business; **and**
 - (c) the activities specified in Schedule I made or agreed to be made without a consideration.; **and**
 - ~~(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.~~
- (1A) Where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II**

Issue for discussion

- Amendment is effective from 1 July 2017
- Impact on deemed supplies

High sea sale, Out and out sale transactions

New entries in Schedule III – Activities treated as neither a supply of goods nor services

7. *Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.*
8. (a) *Supply of warehoused goods to any person before clearance for home consumption;*
(b) *Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.*

Non- reversal of ITC for Schedule III entries

17 (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building

Explanation— *For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.*

Issue for discussion

- Confirmation of positions adopted by industry
- No reversal of ITC is required to be made
- Being a prospective amendment, this could lead to potential disputes with respect to their taxation for past period

Sequence of utilization of credit

IGST credit balance to be used first

49A. Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.

Issue for discussion

Amendment primarily to reduce fund settlement related to IGST

	IGST	CGST	SGST
Tax liability	-	50	50
ITC balance	50	25	25

Prior to amendment

Particulars	CGST	SGST
Liability	50	50
Less: CGST/ SGST credit	25	25
Less: IGST credit	25	25
Payable in cash	0	0

Post amendment

Particulars	CGST	SGST
Liability	50	50
Less: IGST credit	50	-
Less: CGST/ SGST credit	-	25
Payable in cash	0	25

Working capital impact

Transition of cess

Cess not to be transitioned

140(1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit **of eligible duties** carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed

Issue for discussion

- Amendment is effective from 1 July 2017
- Interest implications on prospective reversal of cess credit
- Fate of refund claims

POS for transportation of goods

Impact on export shipment

12 (8) The place of supply of services by way of transportation of goods, including by mail or courier to,—

- (a) a registered person, shall be the location of such person;
- (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation:.

Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

Issue for discussion

- When both supplier and recipient are in India, the transaction will be treated as inter-state supply (even though place of supply is outside India).
- An exemption should be given along with corresponding provision for allowing ITC in respect of such supplies.

Other Changes

Recovery mechanism

Recovery of tax may be made from distinct persons present in different States / UTs in order to ensure speedy recovery from other establishments of the registered person.

Material increase in uncertainty on account of expansion of ambit of recovery

Pre-deposit: Upper cap

Before Appellate Authority – INR 50 crore under IGST (INR 25 crore each under CGST and SGST)

Before Appellate Tribunal – INR 100 crore under IGST (INR 50 crore each under CGST and SGST)

Maximum pre deposit under erstwhile law used to be INR 10 crores



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