

GST AN INDISPENSIBLE LAW



Levy of tax under CGST

Levy of tax under IGST

Levy of tax under UTGST

NECESSITY OF PROVISION TO LEVY OF TAX

WHY PROVISION OF LEVY OF TAX NECESSARY?

Article 265 of Constitution provides:

“No tax shall be levied or collected except by authority of law.”

TAXES NOT TO BE IMPOSED SAVE BY AUTHORITY OF LAW

* An express provision to levy and to collect the tax must be provided in any law.

*No tax can be imposed or collected except by mandate of law.

MEANING OF LEVY OF TAX

Levy of tax means to impose tax.

'Imposition of tax' means creating liability to pay tax by a specific charging provision in the statute.

Govind Saran Ganga Saran v. CST [1985] 60 STC 1; [1985] 155 ITR 144, Hon'ble Supreme Court laid down the components that enter into concept of imposition of tax:

First character of the imposition is taxable event attracting the levy;

Second is clear indication of the person on whom the levy is imposed and who is obliged to pay;

Third is the rate at which the tax is imposed; and

Fourth is the measure or value to which rate will be applied for computing the tax liability.

LEVY VS. COLLECTION

Hon'ble Supreme Court in *Somaiya Organics v. state of U.P.* [2001 (123) STC 623]:

“The words used in article 265 are "levy" and "collect". While "levy" would mean the assessment or charging or imposing of tax, "collect" in article 265 would mean the physical realisation of the tax which is levied or imposed.

*Collection of tax is normally a stage subsequent to the levy thereof.
The enforcement of levy could only mean realisation of the tax imposed or demanded.”

*Levy refers to imposing tax on occurrence of taxable event while collection refers to machinery provisions to realize the taxes imposed.

LEVY OF GST TAX BY CENTRAL GOVERNMENT AND STATE GOVERNMENTS/UNION TERRITORIES

GST MODEL IN INDIA

GOODS AND SERVICES TAX MODEL APPROVED IN INDIA IS DUAL GOODS AND SERVICES TAX. DUAL GOODS AND SERVICES TAX PERMITS BOTH THE CENTRAL GOVERNMENT AND THE STATE GOVERNMENT(S) INCLUDING UNION TERRITORIES TO CONCURRENTLY LEVY AND COLLECT TAX.

CENTRAL GOVERNMENT LEVIES:

(I) ON ALL INTRASTATE SUPPLIES OF GOODS OR SERVICES OR BOTH - CENTRAL GOODS AND SERVICES TAX I.E. **CENTRAL TAX**

(II) ON INTERSTATE SUPPLIES OF GOODS OR SERVICES OR BOTH- INTEGRATED GOODS AND SERVICES TAX I.E. **INTEGRATED TAX**

STATE GOVERNMENT(S)/UNION TERRITORIES LEVY

STATE GOVERNMENT :

ON INTRASTATE SUPPLIES OF GOODS OR SERVICES OR BOTH- STATE GOODS AND SERVICES TAX (SGST) I.E. **STATE TAX**

UNION TERRITORIES :

ON INTRASTATE SUPPLIES OF GOODS OR SERVICES OR BOTH - UNION TERRITORY GOODS AND SERVICES TAX I.E. **UNION TERRITORY TAX**

GST LAWS TO LEVY OF GST TAXES

PARLIAMENT PASSED FOUR BILLS ON 29.3.2017

(i) The Central GST Bill, 2017 (ii) The Integrated GST Bill, 2017;
(iii) The Union Territory GST Bill, 2017; (iv) The GST
(Compensation to States) Bill, 2017

**EIGHT STATES THAT HAVE SO FAR PASSED STATE GST
BILLS:** Telangana, Bihar, Rajasthan, Chhattisgarh,
Uttarakhand, Madhya Pradesh, Haryana, Uttar Pradesh

GST BILL	TAX LEVIED
The Central GST Bill, 2017	The Central goods and services tax (central tax)
The Integrated GST Bill, 2017	Integrated goods and services tax (integrated tax)
The Union Territory GST Bill, 2017	Union territory tax (UT tax)
States to pass their separate State GST LAWS	State GST under state GST bills

LEVY UNDER CGST BILL 2017

9(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty percent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both

LEVY UNDER CGST BILL 2017

(4) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

LEVY UNDER IGST BILL 2017

5. (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both; except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the council and collected in such manner as may be prescribed and shall be paid by the Taxable person:

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

(2) The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be Levied with effect from such date as may be notified by the Government on the Recommendations of the Council.

LEVY UNDER IGST BILL 2017

(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(4) The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

LEVY UNDER IGST BILL 2017

(5) The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the Provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

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Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

LEVY UNDER UTGST BILL 2017

7. (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the Union territory tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding twenty per cent., as may be notified by the Central Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(2) The Union territory tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Central Government on the recommendations of the Council. .

(3) The Central Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on Which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

LEVY UNDER UTGST BILL 2017

(4) The Union territory tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(5) The Central Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

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Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

CHARGING SECTIONS UNDER GST LAWS

LEVY CGST	LEVY IGST	LEVY UTGST
<p>9(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the <u>Central goods and services tax</u> on all <u>intra State supplies</u> of goods or services or both, <u>except on the supply of alcoholic liquor for human consumption</u>, on <u>the value determined under section 15</u> and at <u>such rates, not exceeding twenty percent.</u>, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</p>	<p>5. (1) Subject to the provisions of sub-section (2), there shall be levied a tax Called the <u>integrated goods and services tax</u> on <u>all inter-State supplies</u> of goods or services or both; <u>except on the supply of alcoholic liquor for human consumption</u>, on the <u>value determined under section 15 of the Central Goods and Services Tax Act</u> and at <u>such rates, not exceeding forty per cent.</u>, as may be notified by the Government on the recommendations of the council and collected in such manner as may be prescribed and shall be paid by the Taxable person: **</p>	<p>7. (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the Union territory tax on all <u>intra-State supplies</u> of goods or services or both, <u>except on the supply of alcoholic liquor for human consumption</u>, on the <u>value determined under section 15 of the Central Goods and Services Tax Act</u> and at <u>such rates, not exceeding twenty per cent.</u>, as may be notified by the Central Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</p>

IGST: **Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

CHARGING SECTIONS UNDER GST LAWS

LEVY CGST	LEVY IGST	LEVY UTGST
<p>(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.</p>	<p>(2) The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.</p>	<p>(2) The Union territory tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Central Government on the recommendations of the Council.</p>
<p>(3) The Government may, on the recommendations of the Council, by notification, <u>specify categories of supply of goods or services or both, the tax on which shall be paid reverse charge basis by the recipient of such goods or services or both</u> and all the provisions of this Act shall apply to such recipient as if he is the person liable</p>	<p>(3) The Government may, on the recommendations of the Council, by notification, <u>specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both</u> and all the provisions of this Act shall apply to such recipient as if</p>	<p>(3) The Central Government may, on the recommendations of the Council, by notification, <u>specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both</u> and all the provisions of this Act shall apply to such</p>

CHARGING SECTIONS UNDER GST LAWS

LEVY CGST	LEVY IGST	LEVY UTGST
<p>(4) The central tax in respect of the <u>supply of taxable goods or services or both</u> by a supplier, <u>who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient</u> and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</p>	<p>(4) The integrated tax in respect of the <u>supply of taxable goods or services or both</u> by a supplier, <u>who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient</u> and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</p>	<p>(4) The Union territory tax in respect of the <u>supply of taxable goods or services or both</u> by a supplier, <u>who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient</u> and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</p>
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CHARGING SECTIONS UNDER GST LAWS

LEVY CGST

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LEVY IGST

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Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

LEVY UTGST

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

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SCOPE OF CHARGING SECTION[REF. TO SEC.9

In context of the CGST, IGST and UTGST Bills 2017

- (i) Tax(es) to be levied;
- (ii) Taxable event [when liability to pay tax arises?];
- (iii) Subject matter of tax [what is liable to tax?];
- (iv) Taxable unit [Who is liable to tax?];
- (v) Tax to be levied on value determined u/s15
- (vi) Rates of tax;
- (vii) Modes of payment of tax; and
- (viii) Manner of collection of tax(es)

TAXES TO BE LEVIED

LEVY UNDER CGST ACT, 2017-(Section 9)

Tax levied- 'the central goods and services tax' on all *intra-state supply* of goods or services or both.

EXCLUSION FORM LEVY: [Sec.9(1) of CGST Act, 2017]

Supply of alcoholic liquor for human consumption

DEFERRED LEVY [Sec. 9(2) of CGST Act, 2017]

Petroleum products viz. Crude oil, high speed oil, motor spirit, natural gas, aviation turbine fuel from such date as may be notified.

SPECIAL LEVY

- 1. Reverse charge [sec. 9(3)]**
- 2. Supply of taxable goods or services or both by a supplier who is not registered to a registered person. [9(4)]- *similar to purchase tax***
- 3. Tax on notified intra state supply of services by e-commerce operator if such services are supplied through it [sec. 9(5)]**
- 4. Composition levy (sec. 10)**

TAXABLE EVENT [WHEN LIABILITY TO PAY TAX ARISES]

TAXABLE EVENT

THE EVENT ON HAPPENING OF WHICH TAX LIABILITY IS ATTRACTED OR THE CHARGE GETS FIXED.

GENERAL TAXABLE EVENT : SUPPLY OF GOODS OR SERVICES OR BOTH.

TAXABLE EVENT DOES NOT CRYSTALLIZE LIABILITY TO PAY TAX

Liability to pay tax arises at time of supply as determined under section 12 to 14 of CGST Bill, 2017.

Time of supply of CGST Bill also applies to UTGST as per section 21 of UTGST Bill and to IGST as per section 20 of IGST Bill.

JURISDICTION WISE TAXABLE EVENT

GOVERNMENT	POWERS TO TAX SUPPLIES
CENTRAL GOVERNMENT Under CGST Bill Under IGST Bill	ALL INTRA STATE SUPPLIES OF GOODS OR SERVICES OR BOTH ALL INTER STATE SUPPLIES OF GOODS OR SERVICES OR BOTH
STATE GOVERNMENT Under SGST Bill	ALL INTRA STATE SUPPLIES OF GOODS OR SERVICES OR BOTH
UNION TERRITORY Under UTGST Bill	ALL INTRA STATE SUPPLIES OF GOODS OR SERVICES OR BOTH

SUBJECT MATTER OF TAX [WHAT IS LIABLE TO TAX]

Goods or Services or Both

Goods [sec. 2 (52)]

‘Goods’ means every kind of movable property other than money but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply;

Services [Sec.2(102)]

Services means anything other than goods, money and securities but includes services relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

Both goods and services:

Composite supply;

Mixed supply;

Works contract

TAX TO BE LEVIED ON VALUE OF GOODS AND/OR SERVICES

Section 9(1) specifically provides that the tax shall be levied on value of goods and/or services determined under section 15 of the CGST Act, 2016.

VALUE OF GOODS

Normally transaction value is the value.

Value to be determined as per Determination of Value Rules

RATES OF TAX

The government on recommendation of the GST Council shall notify the rates of tax.

Rate of tax shall not exceed 20%. [9(1) of CGST & UTGST Bill]

Rate of tax shall not exceed 40%. [5(1) of IGST Bill]

COMPOSITION LEVY

Aggregate turnover in preceding FY does not exceed Rs. 50 lakh.

Manufacturer	- 1% of turnover in State/UT
*Turnover of supplies referred in Clause (b) of Para 6 of Sch-II	- 2.5% of turnover instate/UT
Any other supply	- 0.5% of turnover instate/UT

* Supply by way of as part of any service of any goods being food or any other article for human consumption or any drinks (other than alcoholic liquor for human consumption)

MODES OF PAYMENT OF TAX

As per section 16, 49 i.e. net tax method
or tax credit method

Reverse charge Method u/s 9(3)

Composition levy u/s 10

MANNER OF COLLECTION OF TAX

- 1. DIRECT PAYMENT**
- 2. TAX DEDUCTION AT SOURCE**
- 3. TAX COLLECTION AT SOURCE**
- 4. FINES & PENALTIES**
- 5. COMPOSITION OF OFFENCE**
- 6. ALSO INCLUDE MODES OF RECOVERY**

POWER TO GRANT EXEMPTION FROM TAX

On recommendation of GST council

-By the Central Govt.

-State Government

-Exceptional situations

-Public interest

-Total exemption

-Partial exemption

-Conditional exemption

GST-an indispensable law

Thank You

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Chartered accountants

gstindiasolution.com

An initiative of professionals who understand GST

011-41004685, 9717031061

info@gstindiasolution.com

indiangstlaw@gmail.com