

# FAST FACTS

## BULLETIN

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### Goods and Service Tax ( GST)

#### What is GST

- GST is a tax on goods and services with comprehensive and continuous chain of set-off benefits from the producer's point and service provider's point upto the retailer's level.
- It is a tax only on value addition at each stage.

#### What will be the benefits of GST

- Benefit to trade and industry by way of more comprehensive set-off of input tax.
- Subsuming of several Central and State level taxes.
- Benefit to end customer in terms of lower prices as the tax burden will reduce.
- Benefit to Govt as wider coverage, improved tax compliance will generate higher tax revenues.
- Uniformity in tax rates and procedures across India will reduce compliance cost.
- Uniform threshold limit across India.

#### Major Taxes That Would Be Subsumed

Central
Central excise
Additional excise
Service tax
Additional Customs duty
Special additional duty on Customs
Surcharges
Cesses

State
VAT/Sales tax
Entertainment tax, except those levied by municipal bodies
Luxury tax
Taxes on lottery, betting & gambling
State cesses & surcharges on goods
Entry tax that is not in lieu of octroi

#### GST Illustration: No Tax On Tax

Stage of supply chain	Value of input	Value addition	Value of goods & services at next stage	Rate of GST (%)	GST on output	Input tax credit	Net GST
Manufacturer	100	10	130	10	13	10	13-10=3
Wholesaler	130	20	150	10	15	13	15-13=2
Retailer	150	10	160	10	16	15	16-15=1

#### When will it be implemented

- At the time of presentation of the Union Budget, the Finance Minister had made a categorical statement in Parliament that GST will be implemented on 01.04.2010.
- The 'First Discussion Paper on GST in India' was released by the Empowered Committee, led by Asim Dasgupta, on 10.11.2009.
- As of now there is no clarity about the date of implantation of GST.

GST to benefit tax-payer, consumer and Govt.

Implementaion date not clear yet

Dual GST

**Salient features of Proposed GST Modal**

- There will be two components of GST, one levied by Central Govt ( CGST) and other levied by state governments ( SGST).
- CGST and SGST will be applicable on all transactions of goods and services except
  - Exempted goods and services
  - Goods outside the purview of GST
  - Transactions below prescribed threshold limit
- Set off for input taxes paid against CGST will be allowed only against CGST. Same principle will be applicable to SGST. Hence cross utilization of input credit between CGST and SGST will generally be not allowed.
- Uniform procedures for collection of CGST and SGST.
- Each taxpayer would be allotted a PAN-linked taxpayer identification number.
- While the location of the supplier and the recipient within the country is immaterial for the purpose of CGST, SGST would be chargeable only when the supplier and the recipient are both located within the State.

Particulars	Present scenario			Post GST scenario	
	Excise	Ser. Tax	VAT	CGST	SGST
Manufacturer	Yes	No	No	Yes	Yes
Trader	No	No	Yes	Yes	Yes
Services	No	Yes	No	Yes	Yes

**What will be the rate of GST**

- As of now there is no rate specified. However it is proposed to have
  - A standard rate
  - A Lower rate for necessary items
  - Special rate for precious metal

**Threshold Limited**

Particulars	CGST	SGST
Goods	1.50 crores	10 lakhs
Services	Not yet decided	10 lakhs

Threshold for services yet to be fixed

**Inter-state transactions**

- For the taxation of inter-state supplies of goods, an innovative model of Integrated GST (IGST) has been recommended.
- IGST will apply on all inter-state supplies and will be collected by the Centre alone.
- IGST will, in turn, be the aggregate of CGST and SGST.
- The inter-state seller is able to utilise IGST, CGST and SGST input tax credits to discharge the output IGST, as above.

**Set off Input Tax**

Credit of	Whether can be utilised for payment of		
	CGST	SGST	IGST
CGST	Yes	No	Yes
SGST	No	Yes	Yes
IGST	Yes	Yes	Yes

Inter-state transactions

**Major constitutional changes**

- Before GST can be implemented major constitutional changes will have to be carried out by the parliament.
- The Central Government will have to get powers to tax sale of goods.
- The State Governments will have to get powers to tax services.
- These changes will be followed by adoption of separate state and Central GST laws. ■

## Law Updates

### Income Tax

#### Section 194J : Applicability to Third Party Administrators (TPAs)

Circular No. 8/2009, dated 24-11-2009

- CBDT has received many representations regarding applicability of provisions under Section 194J of Income Tax Act'61 on payments made by Third Party Administrators (TPAs) to hospitals on behalf of insurance companies for settling medical/insurance claims etc with the hospitals.
- CBDT has examined the provisions of section 194J as well as Explanation (a) to 194J wherein "professional services " means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession etc..'.  
• The services rendered by hospitals to various patients are primarily medical services and, therefore, provisions of 194J are applicable on payments made by TPAs to hospitals" etc.
- Further for invoking provisions of 194J, there is no stipulation that the professional services have to be necessarily rendered to the person who makes payment to hospital. Therefore TPAs who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc under various schemes including Cashless schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc.
- In view of above, all such past transactions between TPAs and hospitals fall within provisions of Section 194J and consequence of failure to deduct tax or after deducting tax failure to pay on all such transactions would make the deductor (TPAs) deemed to be an assessee in default in respect of such tax and also liable for charging of interest under Section 201 (1A) and penalty under Section 271C.
- Considering the facts and circumstances of the class of cases of TPAs and insurance companies, the Board has decided that no proceedings u/s 201 may be initiated after the expiry of six years from the end of financial year in which such payment have been made without deducting tax at source etc by the TPAs.
- The Board is also of the view that tax demand arising out of Section 201(1) in situations arising above, may not be enforced if the deductor(TPA) satisfies the officer in charge of TDS that the relevant taxes have been paid by the deductee assessee (hospitals etc.) . A certificate from the auditor of the deductee assessee stating that the tax and interest due from deductee assessee has been paid for the assessment year concerned would be sufficient compliance for the above purpose. However, this will not alter the liability to charge interest under Section 201 (1 A) of the Income Tax Act till payment of taxes by the deductee assessee or liability for penalty under Section 271C of the Income Tax Act as the case may be.

#### Comments

The Karnataka High Court, in a recent judgement in the case Medi Assist TPA V/S DCIT , had observed that the TPAs were obligated to deduct TDS as they were paying hospitals. The circular goes on to reinforce the point and gives directions for handling past cases of non-deduction.

#### Procedure for Dispute Resolution Panel

Press Release No.402/92/2006-MC (28 of 2009)

- The Central Board of Direct Taxes have notified the rules to regulate the procedure of the Dispute Resolution Panel (DRP) constituted under section 144C of the Income Tax Act, 1961 inserted by the Finance Act 2009.
- The rules come into effect from 20th November 2009.
- Under the said rules, DRPs will be constituted at eight cities in India, namely Delhi, Mumbai, Ahmedabad, Kolkata, Chennai, Hyderabad, Bengaluru and Pune.
- Any foreign company, or any domestic company with transfer pricing issues, in whose case the income-tax assessing officer proposes to make any variation in the income or loss returned, may apply within a month of receiving the draft assessment order before the DRP for appropriate remedy by way of direction to the assessing officer.
- The direction will be binding on the assessing officer but the taxpayer will be at liberty to appeal against the assessment order incorporating directions of DRP before the Income Tax Appellate Tribunal (ITAT).

TPAs to deduct tax at source

New panel to resolve transfer pricing issues

PAN Application  
requires addl  
proof

- The Dispute Resolution Panel will be a collegium comprising of three Commissioners of Income Tax.
- The mechanism is investor-friendly and is also expected to reduce taxpayer grievance and litigation.

#### Comments

Finance minister had promised setting up of this panel in the Budget 2009 speech. The idea is to quicken the pace of resolving tax disputes as foreign investment is extremely sensitive to prolonged uncertainty in tax matters.

#### PAN Application by Individual / HUF

[www.tin-nsdl.com](http://www.tin-nsdl.com)

- In PAN Application Form 49A, application can provide resident and/ or office address.
- The "address for communication" column provides for an option to select either resident or office.
- W.e.f. November 1, 2009 If office address is selected as communication address by Individual and HUF applicants then Proof of Address for office address is also required

#### Company Law

#### Draft report of Naresh Chandra Task Force

[www.mca.gov.in](http://www.mca.gov.in)

- The MCA web site has release the above task force report and has called for comments by public. The report is about corporate governance code and CONCEPT PAPER ON SECRETARIAL AUDIT. The corporate governance code is quite exhaustive and covers the following
- About Directors/ Board
  - Appointment of independent directors
  - Duties, liability and remuneration of independent directors
  - Remuneration Committee of the Board
  - Audit Committee of the Board
  - Separation of the offices of the Chairman and the Chief Executive Officer (CEO)
  - Attending Board and Committee Meetings through Tele-conferencing and video conferencing
  - Executive Sessions of the Independent Directors
  - The role of the board and shareholders in related party transactions
- About Auditors
  - Auditor – Company Relationship
  - Independence of Auditors
  - Certificate of Independence
  - Audit Partner Rotation
  - Auditor Liability
  - Appointment of Auditors
  - Qualifications Introduced by Statutory Auditors or Internal Auditors in their Audit Reports, Tax Audit Report or CARO Reports.
- Other aspects
  - Whistle Blowing Policy
  - Risk Management Framework
  - The Legal and Regulatory Standards
  - The Capability of Regulatory Agencies - Ensuring Quality in Audit Process
  - Effective and Credible Enforcement
  - Confiscation of Shares
  - Personal Liability
  - Institutional Investors
  - The Press

#### Comments

This report is given by the task force set up by the CII at the behest of the government in the aftermath of the Satyam scandal. According to a new report, since the Satyam episode in January, over 400 independent directors from various companies have resigned. The key suggestions made by the task force are being forwarded to the parliamentary standing committee that is examining the new Companies Bill.

Report on role of  
Independent  
directors

## TDS on transport contractors

No TDS if valid PAN submitted

New format for reporting yet to be prescribed

Finance Act 2009 has made an important change in respect of applicability of TDS on transport contractors.

Section 194C has been replaced and the following two sub sections provide for non deduction of TDS on transport contractors

(6) No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number, to the person paying or crediting such sum.

(7) The person responsible for paying or crediting any sum to the person referred to in sub-section (6) shall furnish, to the prescribed income-tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed.

"goods carriage" means any motor vehicle constructed or adopted for use solely for the carriage of goods, or any motor vehicle not so constructed or adopted when used for the carriage of goods;

### Rate of TDS

Deductee	Status	TDS rate upto 30th Sept 2009	TDS rate from 1st Oct 2009	
			VALID PAN	PAN NOT AVBL
Individual / HUF	Contractor	2%	NIL	1%
Individual / HUF	Sub-Contractor	1%	NIL	1%
Others	Contractor	2%	NIL	2%
Others	Sub-Contractor	1%	NIL	2%

### Conditions for NIL deduction

- Amount paid / credited on or after 01-10-2009
- To a contractor during the course of business of plying, hiring or leasing goods carriage
- If the contractor furnishes valid PAN

### Prescribed return

- It is necessary to track all such transactions as these will have to be reported to the income tax department.
- The form and manner of reporting of such transactions is yet to be prescribed by CBDT.

### Whether to include such transactions in eTDS statement

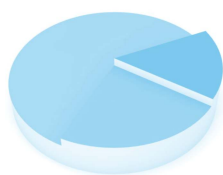
- A question arises if it is necessary to show such transactions in eTDS statement.
- One way would be show these transactions in eTDS statement with normal rate and TDS amount as Zero.
- Another way is not to show such transactions in eTDS statement, as a separate form will have to be filed in any case. ■

### Corruption Perception Index 2009

Rank 2009	Rank 2008	Country/Territory	CPI 2009 Score
1	1	New Zealand	9.4
2	1	Denmark	9.3
3	4	Singapore	9.2
3	1	Sweden	9.2
5	5	Switzerland	9.0
8	9	Australia	8.7
17	16	United Kingdom	7.7
19	18	United States	7.5
79	72	China	3.6
84	85	India	3.4
139	134	Pakistan	2.4

Source : Transparency International

Lower Score = More Corrupt



Statistics

No ST on Haj  
tour

Exemption : Haj Tour

Circular No. 117/10/2009 ST dated 30.10.2009

- The amount charged to the pilgrims in India undertaking Haj and Umrah pilgrimage, is for services provided by the Government of Saudi Arabia and the tour takes place outside India.
- As per Rule 3 (1) (ii) of the Export of Services Rules, 2005, (Circular No. 111/05/2009 ST dated 24.02.2009), the service in respect of tour operator is export if such service is performed outside India.
- It is also provided that where such taxable service is partly performed outside India, it shall be treated as performed outside India.
- Therefore, it is clarified in the circular that service tax is not chargeable on the services provided in respect of tour undertaken for carrying out Haj and Umrah Pilgrimage in Saudi Arabia by Indian pilgrims considering these as export of service.

Exemption :  
Parts of cycle or  
sewing machine

Exemption from Business Auxiliary Services for the taxable service during the course of manufacture of parts of cycles or sewing machines

Notification No. 42/2009 Service Tax Dated 12-12-2009

- Exemption from Business Auxiliary Services for the taxable service during the course of manufacture of parts of cycles or sewing machines.
- Exemption is provided to a service provider whose aggregate value of taxable service in relation to one or more of the specified process provided does not exceed Rs. 1.50 crore during the preceding financial year;
- For the above purpose specified process means electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black.

New web site to  
benefit tax  
payers

Automation of Central Excise & Service Tax

<http://www.aces.gov.in>.

The new web site has been recently launched to provide tax payers an electronic interface with the department and aims at reducing paper work, visits to the departmental offices and improving transparency, accountability and efficiency in indirect tax administration in India.

e-filing@ACES

- ? All returns such as ER-1, ER-2 etc. in Central Excise and ST-3 in Service Tax can be prepared and filed online through ACES.
- ? Offline return preparation utilities are also available at ACES website for download which can be used of preparing and uploading the returns. ■



### Terminology

Climate change is a change in the statistical distribution of weather over periods of time. Climate change can be due to variations in solar radiation, mountain building, continental drift and changes in greenhouse gas concentrations. In the modern context climate change refers to global warming.

Lately in News for:

Copenhagen climate change summit on December 9<sup>th</sup> where countries will pledge emission reduction.

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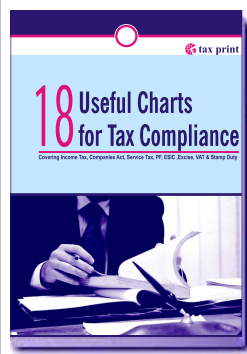
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- TDS Rate Chart
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- Interest Accrual: NSC
- Interest payable under Income Tax Act
- TCS Rate Chart
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