

Comments of the Department of Revenue (DoR) on the First Discussion Paper on GST

| <u>Sr. No.</u> | <u>Para No. of the Discussion Paper</u> | <u>Issues</u> | <u>Comments of the DoR</u> |
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| 1 | 3.1 | It is important to take note of the significant administrative issues involved in designing an effective GST model in a federal system with the objective of having an overall harmonious structure of rates. Together with this, there is a need for upholding the powers of Central and State Governments in their taxation matters. Further, there is also the need to propose a model that would be easily implementable, while being generally acceptable to stakeholders. | Agreed. |
| 2 | 3.2 | Keeping in view the report of the Joint Working Group on Goods and Services Tax, the views received from the States and Government of India, a dual GST with defined functions and responsibilities of the Centre and the States is recommended. An appropriate mechanism that will be binding on both the Centre and the States should be worked out whereby the harmonious rate structure along with the need for further modification could be upheld, if necessary with a collectively agreed Constitutional Amendment. | Dual GST model with appropriate binding mechanism to harmonise the various important aspects of the GST like rate structure, taxation base, exemption etc. between Centre and States is agreed. |
| 3 | 3.2 (i) | The GST shall have two components: one levied by the Centre (hereinafter referred to as Central GST), and the other levied by the States [hereinafter referred to as State GST]. Rates for Central GST and State GST should be prescribed appropriately, reflecting revenue considerations and acceptability. This dual GST model would be implemented through multiple statutes (one for CGST and a SGST statute for every state). However, the basic features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. should be uniform across these statutes as far as practicable. | Agreed. In addition, IGST on inter-State transactions should be levied by the Centre. SGST on imports should also be levied and collected by the Centre. Centre should pass on SGST collection on imports to concerned States on the destination principle. |

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| 4 | 3.2 (ii) | The Central GST and the State GST should be applicable to all transactions of goods and services made for a consideration except the exempted goods and services, goods are outside the purview of GST and the transactions which are below the prescribed threshold limits. | Agreed. There should be a common base for taxation between Centre and States. |
| 5 | 3.2 (iii) | The Central GST and State GST are to be paid to the accounts of the Centre and the States separately. It would have to be ensured that account-heads for all services and goods would have indication whether it relates to Central GST or State GST (with identification of the State to whom the tax is to be credited). | Agreed. In addition, IGST should be paid to the accounts of the Centre. |
| 6 | 3.2 (iv) | Since the Central GST and State GST are to be treated separately, taxes paid against the Central GST shall be allowed to be taken as input tax credit (ITC) for the Central GST and could be utilized only against the payment of Central GST. The same principle will be applicable for the State GST. A taxpayer or exporter would have to maintain separate details in books of account for utilization or refund of credit. Further, the rules for taking and utilization of Credit for the Central GST and the State GST would be aligned. | Agreed. |
| 7 | 3.2 (v) | Cross utilization of ITC between the Central GST and the State GST should not be allowed except in the case of inter-State supply of goods and services under the IGST model which is explained later. | Agreed. |
| 8 | 3.2 (vi) | Ideally, the problem related to credit accumulation on account of refund of GST should be avoided both by the Centre and the States except in the cases such as of exports, purchase of capital goods, input tax at higher rate than output tax etc. where, again refund/adjustment should be completed in a time bound manner. | Agreed. |
| 9 | 3.2 (vii) | To the extent feasible, uniform procedure for collection of both Central GST and State GST may be prescribed in the respective legislation for Central GST and State GST. | Agreed. |
| 10 | 3.2 (viii) | The administration of the Central GST to the Centre and for State GST to the States would be given. This would imply that the Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers on the basis of thresholds for goods and services prescribed for the States and the Centre. | Agreed. The threshold for goods and services should be common between Centre and State on one hand and between goods and services on the other. |

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| 11 | 3.2 (ix) | <p>The present thresholds prescribed in different State VAT Acts below which VAT is not applicable varies from State to State. A uniform State GST threshold across States is desirable and, therefore, it is recommended that a threshold of gross annual turnover of Rs.10 lakh both for goods and services for all the States and Union Territories may be adopted with adequate compensation for the States (particularly, the States in North-Eastern Region and Special Category States) where lower threshold had prevailed in the VAT regime. Keeping in view the interest of small traders and small scale industries and to avoid dual control, the States also considered that the threshold for Central GST for goods may be kept Rs.1.5 Crore and the threshold for Central GST for services may also be appropriately high. It may be mentioned that even now there is a separate threshold of services (Rs. 10 lakh) and goods (Rs. 1.5 crore) in the Service Tax and CENVAT.</p> | <p>There should be a uniform threshold for goods and services for both SGST and CGST. This annual turnover threshold could be Rs.10 lakh or even more than that. The threshold exemption should not apply to dealers and service providers who undertake inter-State supplies. The problem of dual control is better addressed through a compounding scheme as well as administrative simplification for small dealers through measures such as:</p> <ul style="list-style-type: none"> Registration by single agency for both SGST and CGST without manual interface No physical verification of premises and no pre-deposit of security Simplified return format Longer frequency for return filing Electronic Return filing through certified service centres / CAs etc. Audit in 1-2% cases based on risk parameters Lenient penal provisions <p>There may not be any need to have direct link between compensation package, if decided for, and the threshold for registration for North-Eastern and special category States.</p> |
| 12 | 3.2 (x) | <p>The States are also of the view that Composition / Compounding Scheme for the purpose of GST should have an upper ceiling on gross annual turnover and a floor tax rate with respect to gross annual turnover. In particular there will be a compounding cut-off at Rs.50 lakh of gross annual turnover and a floor rate of 0.5% across the States. The scheme should also allow option for GST registration for dealers with turnover below the compounding cut-off.</p> | <p>Agreed. Centre may also have a Composition Scheme up to gross turnover limit of Rs. 50 lakh, if threshold for registration is kept as Rs.10 lakh. The floor rate of 0.5% will be for SGST alone, in case Centre also brings a Composition Scheme for small assesses. The Centre may consider leaving the administration of Compounding Scheme, both for CGST and</p> |

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| | | | SGST to the States. |
| 13 | 3.2 (xi) | The taxpayer would need to submit periodical returns, in common format as far as possible, to both the Central GST authority and to the concerned State GST authorities. | In addition, taxpayers having inter-State transactions will require submission of returns to related Central IGST authority. |
| 14 | 3.2 (xii) | Each taxpayer would be allotted a PAN-linked taxpayer identification number with a total of 13/15 digits. This would bring the GST PAN-linked system in line with the prevailing PAN-based system for Income tax facilitating data exchange and taxpayer compliance. | There should be a uniform registration system through-out the country and this registration system should enable easy linkage with Income Tax database through use of PAN number. |
| 15 | 3.2 (xiii) | Keeping in mind the need of taxpayers convenience, functions such as assessment, enforcement, scrutiny and audit would be undertaken by the authority which is collecting the tax, with information sharing between the Centre and the States. | Since the tax base is to be identical for the two components, viz., CGST and SGST, it is desirable that any dispute between a taxpayer and either of the tax administrations is settled in a uniform manner. The possibility of setting up a harmonised system for scrutiny, audit and dispute settlement may be developed. |
| 16 | 3.4 | <p>On application of the principle, it is recommended that the following Central Taxes should be, to begin with, subsumed under the Goods and Services Tax:</p> <ul style="list-style-type: none"> (i) Central Excise Duty (ii) Additional Excise Duties (iii) The Excise Duty levied under the Medicinal and Toiletries Preparation Act (iv) Service Tax (v) Additional customs duty, commonly known as countervailing duty (CVD) (vi) Special Additional Duty of Customs - 4% (SAD) (vii) Surcharges, and (viii) Cesses. | Agreed. |

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| | <p>Following State taxes and levies should be, to begin with, subsumed under GST:</p> <ul style="list-style-type: none"> (i) VAT / Sales tax (ii) Entertainment tax (unless it is levied by the local bodies). (iii) Luxury tax (iv) Taxes on lottery, betting and gambling. (v) State Cesses and Surcharges in so far as they relate to supply of goods and services. (vi) Entry tax not in lieu of octroi. | <p>Electricity duty, Octroi, purchase tax and taxes levied by local bodies should also be subsumed under GST.</p> |
| | <p>Purchase tax: Some of the States felt that they are getting substantial revenue from Purchase Tax and, therefore, it should not be subsumed under GST while majority of the States were of the view that no such exemptions should be given. The difficulties of the food grain producing States and certain other states were appreciated as substantial revenue is being earned by them from Purchase Tax and it was, therefore, felt that in case Purchase Tax has to be subsumed then adequate and continuing compensation has to be provided to such States. This issue is being discussed in consultation with the Government of India.</p> | <p>Purchase tax is nothing but sales tax where the responsibility for collection of tax is with the purchaser (and not with the seller as in the case of sales tax). Keeping 'purchase tax' outside will give the loophole to the States to impose 'purchase tax' on any commodity (food-grains, agricultural / forest produce, minerals, industrial inputs etc.) over and above GST. Hence, purchase tax must be subsumed. The compensation package, if agreed, need not have any link to any particular tax being subsumed.</p> |
| | <p>Tax on items containing Alcohol: Alcoholic beverages may be kept out of the purview of GST. Sales Tax/VAT can be continued to be levied on alcoholic beverages as per the existing practice. In case it has been made Vatable by some States, there is no objection to that. Excise Duty, which is presently being levied by the States may not be also affected.</p> | <p>Alcoholic beverages should be brought under the purview of GST in order to remove the cascading effect on GST paid on inputs such as raw material and packaging material. Sales tax / VAT and State excise duty can be charged over and above GST. Similar dispensation should apply to opium, Indian hemp and other narcotic drugs and narcotics but medicines or toilet preparations containing these substances should attract only GST.</p> |
| | <p>Tax on Tobacco products: Tobacco products should be subjected to GST with ITC. Centre may be allowed to levy excise duty on tobacco products over and above GST without ITC.</p> | <p>Agreed.</p> |

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| | | <p>Tax on Petroleum Products: As far as petroleum products are concerned, it was decided that the basket of petroleum products, i.e. crude, motor spirit (including ATF) and HSD should be kept outside GST as is the prevailing practice in India. Sales Tax could continue to be levied by the States on these products with prevailing floor rate. Similarly, Centre could also continue its levies. A final view whether Natural Gas should be kept outside the GST will be taken after further deliberations.</p> | <p>Keeping crude petroleum and natural gas out of the GST net would imply that the credit on capital goods and input services going into exploration and extraction would not be available resulting in cascading. Diesel, ATF and motor spirit are derived from a common input, viz., crude petroleum along with other refined products such as naphtha, lubricating oil base stock, etc. Leaving diesel, ATF and motor spirit out of the purview of GST would make it extremely difficult for refineries to apportion the credit on capital goods, input services and inputs. These products are principal inputs for many services such as aviation, road transport, railways, cab operators etc. As such, these may be levied to GST and in select cases credit of GST paid on these items may be disallowed in order to minimize the possibility of misuse.</p> |
| | | <p>Taxation of Services: As indicated earlier, both the Centre and the States will have concurrent power to levy tax on all goods and services. In the case of States, the principle for taxation of intra-State and inter-State has already been formulated by the Working Group of Principal Secretaries/Secretaries of Finance / Taxation and Commissioners of Trade Taxes with senior representatives of Department of Revenue, Government of India. For inter-State transactions an innovative model of Integrated GST will be adopted by appropriately aligning and integrating CGST and SGST.</p> | <p>The sub-working group of the Empowered Committee in its report has suggested two options each for B to B and B to C transactions. A decision is required to be taken by the Empowered Committee with respect to the option to be adopted. Such a decision may be taken and communicated to DoR.</p> |
| 17 | 3.5 | <p>Inter-State Transactions of goods & services: The Empowered Committee has accepted the recommendations of the Working Group of concerned officials of Central and State Governments for adoption of IGST model for taxation of inter-State transaction of Goods and Services The scope of IGST Model is that Centre would levy IGST which would be CGST plus SGST on all inter-State transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services.</p> | <p>Agreed. It may however be noted that IGST model will work smoothly only when there is a common threshold for goods and services and for Centre and States. Having more than one rate either for CGST or SGST will complicate the working of IGST model.</p> |

The inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The Exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The Importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The relevant information is also submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds.

The major advantages of IGST Model are:

- a) Maintenance of uninterrupted ITC chain on inter-state transactions.
- b) No upfront payment of tax or substantial blockage of funds for the inter-state seller or buyer.
- c) No refund claim in exporting State, as ITC is used up while paying the tax.
- d) Self monitoring model.
- e) Level of computerization is limited to inter-state dealers and Central and State Governments should be able to computerize their processes expeditiously.
- f) As all inter-state dealers will be e-registered and correspondence with them will be by e-mail, the compliance level will improve substantially.
- g) Model can take 'Business to Business' as well as 'Business to Consumer' transactions into account.

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| 18 | 3.6 | <p>GST Rate Structure: The Empowered Committee has decided to adopt a two-rate structure – a lower rate for necessary items and goods of basic importance and a standard rate for goods in general. There will also be a special rate for precious metals and a list of exempted items. For upholding of special needs of each State as well as a balanced approach to federal flexibility, and also for facilitating the introduction of GST, it is being discussed whether the exempted list under VAT regime including Goods of Local Importance may be retained in the exempted list under State GST in the initial years. It is also being discussed whether the Government of India may adopt, to begin with, a similar approach towards exempted list under the CGST.</p> | <p>There should be a single rate of SGST both for goods and services. A two rate structure for goods would pose the following problems:</p> <ul style="list-style-type: none"> a) Likelihood of inversions in duty structure with raw materials and intermediates being at a higher rate and finished goods being at a lower rate, especially as the intention is to apply the lower rate to necessities. b) Inversions would result in input credit accumulation and demand for refunding the same from time to time. c) The general rate (RNR) would have to be higher than under a single rate structure. d) Currently, services are chargeable to tax at a single rate. Adopting a dual rate for goods would generate a similar demand for services too. e) Having different rates for goods and services would imply that the distinction between goods and services should continue. <p>Around 99 items presently exempted under VAT may continue to remain exempted in GST regime. There should be no scope, with individual States, for expansion of this list even for goods of local importance. Efforts will be made by Centre to substantially reduce the number of items presently exempted under CENVAT regime. At the end, there must be a common list of exemptions for CGST and SGST.</p> |
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| | | <p>The States are of the view that for CGST relating to goods, the Government of India may also have a two-rate structure, with conformity in the levels of rate under the SGST. For taxation of services, there may be a single rate for both CGST and SGST.</p> | <p>There should be one CGST rate both for goods as well as services.</p> |
| | | <p>The exact value of the SGST and CGST rates, including the rate for services, will be made known duly in course of appropriate legislative actions.</p> | <p>SGST and CGST rates are required to be put in public domain much before initiation of legislative action.</p> |
| 19 | 3.7 | <p>Zero Rating of Exports: Exports should be zero-rated. Similar benefits may be given to Special Economic Zones (SEZs). However, such benefits should only be allowed to the processing zones of the SEZs. No benefit to the sales from an SEZ to Domestic Tariff Area (DTA) will be allowed.</p> | <p>Agreed.</p> |
| 20 | 3.8 | <p>GST on Imports: The GST is proposed to be levied on imports with necessary Constitutional Amendments. Both CGST and SGST will be levied on import of goods and services into the country. The incidence of tax will follow the destination principle and the SGST amount will accrue to the State where the imported goods and services are consumed. Full and complete set-off will be available on the GST paid on import on goods and services.</p> | <p>Levy of GST on imports may be handled by Centre through a Central legislation either as a customs duty (as is being done now) or along the lines of IGST. SGST collected by Centre may be passed on to concerned State following the destination principle. Taxation of import of services may be on the basis of reverse charge model, as is being done at present.</p> |
| 21 | 3.9 | <p>Special Industrial Area Scheme: After the introduction of GST, the tax exemptions, remissions etc. related to industrial incentives and special industrial area schemes should be converted, if at all needed, into cash refund or subsidy schemes after collection of tax, so that the GST scheme on the basis of a continuous chain of set-offs is not disturbed. Regarding Special Industrial Area Schemes, it is clarified that the benefits of such exemptions, remissions etc. would continue up to legitimate expiry time both for the Centre and the States. Any new exemption, remission etc. or continuation of earlier exemption, remission etc. would not be allowed. In such cases, the Central and the State Governments could provide reimbursement after collecting GST.</p> | <p>Agreed.</p> |
| 22 | 3.10 | <p>IT Infrastructure: After acceptance of IGST Model for Inter-State transactions, the major responsibilities of IT infrastructural</p> | <p>Agreed.</p> |

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| | | requirement will be shared by the Central Government through the use of its own IT infrastructure facility. The issues of tying up the State Infrastructure facilities with the Central facilities as well as further improvement of the States' own IT infrastructure, including TINXSYS, is now to be addressed expeditiously and in a time bound manner. | |
| 23 | 3.11 | Constitutional amendments, legislations and rules for administration of CGST and SGST: It is essential to have Constitutional Amendments for empowering the States for levy of service tax, GST on imports and consequential issues as well as corresponding Central and State legislations with associated rules and procedures. With these specific tasks in view, a Joint Working Group has recently been constituted (September 30, 2009) comprising of the officials of the Central and State Governments to prepare, in a time bound manner a draft legislation for Constitutional Amendment, draft legislation for CGST, a suitable Model Legislation for SGST and rules and procedures for CGST and SGST. Simultaneous steps have also been initiated for drafting of a legislation for IGST and rules and procedures. As a part of this exercise, the Working Group may also address the issues of dispute resolution and advance ruling. | The Joint Working Group (JWG) has held several meetings by now. Department of Revenue is closely working with Ministry of Law, Government of India, for finalisation of draft Constitutional amendment. The issue of empowering States to levy GST on imports has been deliberated by the JWG and the view which has emerged out of discussion is that the Centre shall collect GST on imports and pass on the SGST component of it to concerned State on destination principle. |
| 24 | 3.12 | Harmonious structure of GST and the States' autonomy in federal framework: As a part of the exercise on Constitutional Amendment, there would be, as mentioned earlier, in para 3.2, a special attention to the formulation of a mechanism for upholding the need for a harmonious structure for GST along with the concern for the States' autonomy in a federal structure. | Agreed in principle. |
| 25 | 3.13 | Dispute Resolution & Advance Rulings: As a part of the exercise on drafting of legislation, rules and procedures for the administration of CGST and SGST, specific provisions will also be made to the issues of dispute resolution and advance ruling. | The provisions related to dispute resolution, advance rulings and other business processes need to be harmonised between Centre and States. |
| 26 | 3.14 | Need for compensation during implementation of GST: Despite the sincere attempts being made by the Empowered Committee on the determination of GST rate structure, revenue neutral rates, it is difficult to estimate accurately as to how much the States will gain from service taxes and how much they will lose on account of | Empowered Committee has already referred the issue to the Thirteenth Finance Commission (TFC). TFC is likely to submit its report shortly. A view on the subject will be taken after more clarity on the subject is |

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| | | removal of cascading effect, payment of input tax credit and phasing out of CST. In view of this, it would be essential to provide adequately for compensation for loss that may emerge during the process of implementation of GST for the next five years. This issue may be comprehensively taken care of in the recommendations of the Thirteenth Finance Commission. The payment of this compensation will need to be ensured in terms of special grants to be released to the States duly in every month on the basis of neutrally monitored mechanism. | available. |
| 27 | 3.15 | With this First Discussion Paper and the Annexure on frequently asked Questions and Answers on GST, interaction with the representatives of industry, trade and agriculture would begin immediately at the national level, and then also simultaneously at the State levels. Similarly awareness campaign for common consumers would also be initiated at the same time. As a part of the discussion and campaign the views of the industry, trade and agriculture as well as consumer may be sought to be obtained in a structured and time bound manner. | Empowered Committee may prepare a plan with clear timelines for orientation of stakeholders so that required steps may be taken by all the States in time. |