



The Companies Act 2013

Enlightening Nation

E-newsletter

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About the E-newsletter

Dear Users,

To keep you updated about the latest notifications, circulars & orders issued during the month, thecompaniesact2013.com present herewith its monthly e-newsletter. This is the issue of the June month comprising contemporary articles & monthly amendments.

The notion is to render all the updates in a compiled format and serve a better pavement for easy accessibility.



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GST



As Goods and Service tax is expected to come into force soon, we are hereby providing you a layman view of the same....Are you ready for the Most Awaited Change ?..So, here it is...

- **What Is GST?**

As there are a lot of views and confusions over GST, we need to clarify first, what exactly it is.

Goods and Services Tax would be a comprehensive indirect tax on manufacture, sale and consumption of goods and services throughout India.

- **Why we need GST?**

It is the most genuine question that why we need to overcome from current Taxation system. What are the lead loopholes of Present scenario? So, following are some backdrop of present structure:

- ✚ **Multiple Taxation:** In the present system, on Some specified transaction, we have to pay dual tax. For Example- Mr. A enjoyed dinner in a restaurant, Total amount of Bill was 800/- Rs. On 40% of bill Amount i.e. Rs. 320/- , he need to pay VAT according to applicable rate and on total amount he has to pay Service tax also, which means on 40% of the bill amount he shall pay both VAT and Service tax.
- ✚ **Insufficient Credit mechanism:** At present, one can not avail 100% credit of already paid tax. For Example- if Mr A, resident of Gujarat purchased goods from Rajasthan, and sell the manufactured goods then he has to pay CST at the time of purchasing goods and VAT at the time of selling goods but he can not avail credit of VAT against CST. This is called Insufficient Credit Mechanism.
- ✚ **Complexions:** In the present scenario a lot confusions and complexions are there regarding credit mechanism, returns, Scrutiny etc. So, a businessman has to use his mind and devote his time to all of this rather than his business, which create a demoralisation among entrepreneurs.
- ✚ **Lack of transparency :** At present, a customer can never know how much tax he paid. Is he paid tax on tax? How many hiding taxes have charged with him? In the total amount how much factor

relates from goods and how much relates to service? By the virtue of GST one would be able to know answer of all such questions as there will be only a single tax on both Goods and Services.

✚ **Classification Disputes:** This is a major Problem that one can not identify the applicable tax rate on a particular type of goods as there are some goods , whose nature creates confusion. For Example: if Somewhere it is mentioned that handicrafts will be exempted and in the other schedule it is mention that Wooden articles will be chargeable at 4% then it is a general question that what would be tax rate? It is just an example but in real life we have to face such problems on a daily basis. This is a major disadvantage of present tax scenario

- **History/Roadmap of GST:**

In order to introduce GST in India, an amendment in the Constitution of India is necessary in order to confer powers to the Centre to levy tax on sale of goods.

Amendment of the Constitution is being initiated by the introduction of a Bill in both the Houses of Parliament. For its passage, it will require not less than two thirds majority of the members present and voting in the Lok Sabha and Rajya Sabha.

The Bill is also required to be ratified by the Legislatures of not less than one-half of the States.*

It shall be thereafter presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended.

The GST Council would be formed within 60 days of enactment of the Bill which would give recommendations on various aspects of the GST legislation.

***States has ratify GST Bill till the date** ⇒

Assam, Bihar, Jharkhand, Himachal Pradesh., Chhattisgarh, Gujarat, Madhya Pradesh, Delhi, Nagaland
Maharashtra, Haryana, Telangana, Mizoram, Sikkim, Goa, Orissa, Rajasthan, Pondicherry

- **Features of proposed GST**

- **Destination based Tax:** GST would be a destination based tax, which means that state will get the tax in which final consumption would take place, not that state in which good has been manufactured. Whereas at present manufactured state gets such taxes.
- **Uniform rate across the country:-**As GST is a step towards good governance, so centre will declare an uniform rate of CGST for the whole country for same class of goods.
- **Dual GST:** India has adopted Dual GST system in which two components are there viz. CGST and SGST. This GST model would be implemented through multiple statutes (one for CGST and SGST statute for every State)
- **IGST** on interstate supply of goods and services (levy and collected by state).
- **Apply all stage of supply of goods and service:** As like present scenario, GST would be levy at every supply of goods and service and credit can be claimed of tax paid at the last supply subject to the Credit Mechanism* conditions.

***Credit Mechanism:-**Under proposed GST system, CGST credit would be taken against CGST and SGST Credit shall be available against SGST. It means, already paid CGST will not be available as credit against SGST and amount of already paid SGST will not be available as credit against CGST.

Furthermore, in case of Interstate Supply of goods and services i.e. in case of IGST, Credit shall be available in the method given hereunder:

1. **IGST against IGST**
2. **CGST against IGST**
3. **SGST against IGST**

- **Taxes to be subsumed:** By the virtue of GST, following are Major indirect taxes, which are going to subsumed, *have a look:*

Central Level	State Level
Central Excise Duty	State Value Added Tax
Additional Excise Duty	Entertainment Tax (other than the tax levied by the local bodies)
Service Tax	Central Sales Tax (levied by the Centre and collected by the state)
Additional Customs Duty commonly known as countervailing Duty; and	Octroi and Entry Tax , Purchase Tax, Luxury Tax and
Special Additional Duty of customs	Taxes on Lottery, betting and gambling

- **Taxes which are not proposed to be merged in GST** (and therefore to continue with the Union or State as the case may be) are:

- Excise duty on petroleum products (Presently in the list of Union)
- Tax on sale of petroleum products (Presently in the list of State)
- Tax on alcoholic liquor for human consumption (Presently in the list of State)

- Tax on entertainment and amusement levied and collected by Panchayat / Municipality/ Regional Council/ District Council

The proposed GST framework would cover all products except alcohol for human consumption. For petroleum products, while enabling provisions are created, levy of GST is to be made effective at a future date.

Returns Under GST: As we have to file VAT 07, VAT 10 and various other returns related to sale of goods and supply of services under present tax system, Following are the returns and purposes thereof, which we have to file under proposed GST regime:-

Name	Purpose	Due date
GSTR 1	Outward supplies made by taxpayer (other than compounding taxpayer and ISD)	10 th of the next month
GSTR 2	Inward supplies received by a taxpayer (other than a compounding taxpayer and ISD)	15 th of the next month
GSTR 3	Monthly return (other than compounding taxpayer and ISD)	20 th of the next month
GSTR 4*	Quarterly return for compounding Taxpayer	18 th of the month next to quarter
GSTR 5	Periodic return by Non-Resident Foreign Taxpayer	Last day of registration
GSTR 6	Return for Input Service Distributor (ISD)	15 th of the next month
GSTR 7	Return for Tax Deducted at Source	10 th of the next month
GSTR 8	Annual Return	By 31 st December of next FY
ITC ledger of Tax Payer	-	Continuous
Cash ledger of Tax Payer	-	Continuous
Tax ledger of Tax Payer	-	Continuous

*Compounding taxpayers would have to file a quarterly return called GSTR-4. With this, Compounding taxpayer will also file a simple annual return.

Note: The filing of return would be only through online mode although the facility of offline generation and preparation of returns would be provided. The returns prepared in offline mode would have to be uploaded.

- **What is GSTN:**

Goods and Services Tax Network (GSTN) is a Section 25 (not for profit), non-Government, private limited company set up primarily to provide IT infrastructure, systems and services to the Central and State Governments, tax payers and other stakeholders for supporting implementation and administration of the GST in India, also referred as “GST System” or “GST System Project”.

Based on consensus amongst States/UT’s and Central government on a common GST System, GSTN has been made responsible to build and operationalize this system as the only national agency.

The project of setting and operations of IT infrastructure for enabling country wide GST rollout is a unique and complex IT initiative. It is unique as it seeks, for the first time, to establish a uniform interface for the taxpayer and a common and shared IT infrastructure between the Centre and States. Currently, the Centre

and State indirect tax administrations work under different laws, regulations, procedures and formats and consequently the IT systems work as independent silos.

Article by : ACS Kavita Sharma

NOTIFICATIONS

A. G.S.R. 791(E) Companies (Share Capital and Debentures) Fourth Amendment Rules, 2016.

Dated 12.08.2016

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Share Capital and Debentures) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Share Capital and Debentures) Fourth Amendment Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Share Capital and Debentures) Rules, 2014, in rule 18, after Sub-rule (10), the following sub-rule shall be inserted, namely:-

“(11) Nothing contained in this rule shall apply to rupee denominated bonds issued exclusively to overseas investors in terms of A.P. (DIR Series) Circular No. 17 dated September 29, 2015 of the Reserve Bank of India.”

CIRCULARS

A. General Circular No. 09/2016 Issuance of rupee bonds to overseas investors by Indian companies - Clarification regarding applicability of provisions of Chapter III of the Companies Act, 2013

Dated 03.08.2016

1. The Ministry has received references from stakeholders seeking clarity on applicability of provisions of Chapter III of the Companies Act, 2013 (Act) and rule 18 of Companies (Share Capital and Debenture) Rules, 2014 to the issue of rupee bonds by Indian companies exclusively to persons resident outside India in accordance with applicable sectoral regulatory provisions.
2. The matter has been examined in the Ministry in consultation with Reserve Bank of India. The matter relating to issue of rupee denominated bonds to overseas investors is being regulated by RBI as part of ECB Policy framework. It is, accordingly clarified that unless otherwise provided in the circular/ directions/ regulations issued by Reserve Bank of India, provisions of Chapter III of the Act and rule 18 of Companies (Share Capital and Debenture) Rules, 2014 would not apply to issue of rupee denominated bonds made exclusively to persons resident outside India in accordance with applicable sectoral regulatory provisions as stated above. Necessary changes in Companies (Share Capital and Debenture) Rules, 2014 in this regard are being made
3. This issues with the approval of the competent authority.

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- [SEBI UPDATES: FAQs on SEBI \(ALTERNATIVE INVESTMENT FUNDS\) REGULATIONS, 2012](#)
- [Companies \(Share Capital and Debentures\) Fourth Amendment Rules, 2016.](#)
- [SEBI UPDATES : Revised Formats for Financial Results and Implementation of Indian AS by listed entities which have listed their debt securities and/or non-cumulative redeemable preference shares](#)
- [Frequently Asked Questions \(FAQs\) on Goods and Services Tax \(GST\)](#)
- [Issuance of rupee bonds to overseas investors by Indian companies - Clarification regarding applicability of provisions of Chapter III of the Companies Act, 2013](#)
- [MCA UPDATES regarding IEPF Authority \(Recruitment, Salary and other Terms and Conditions of Service of Officers and other Employees\) Rules, 2016](#)

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