

Key Changes in the Model GST Law (Amended)

An amended version of Model GST Law ("MGL") has come into circulation in public domain through undisclosed sources. There is no authenticity which can be attached to the source of this document, however, the document contains certain suggestive amendments in track change mode in the original version of the MGL which was put into public domain by the government. The present document without going into the authenticity of the document, simply summarizes the main amendments as available.

- **Intermediary** has been deleted from the definition of the term 'Agent' and thus, such category of persons shall no longer be included as agents. It is important to mention that there is no specific definition of the term intermediary in the new law, the term has been defined in existing Service Tax law (Finance Act, 1994)
- **Aggregate turnover** shall not include non taxable turnover. However, exempted turnover is still continued in the amended MGL for consideration into aggregate turnover.
- Definition of the term 'Capital asset' has been deleted from Section 2. It was relevant only in terms of inclusion of its value as part of supply when undertaken at the inception or closure of the business.
- Definition of the term '**Capital Goods**' has been amended and the earlier definition as borrowed from Excise laws has been deleted. The new definition synchronizes the concept of capital goods with that of capital asset in accounts i.e. capitalized assets.
- Definition of the phrase '**composite supply**' has been amended to provide that composite supply would only be those bundled supply of multiple goods/ services which are bundled in the normal course of business.
- Definition of '**Goods**' has been amended to include actionable claims and intangible property. However, securities is deleted from the definition, however, since securities are movable goods per se, such deletion might not effect an exclusion from such definition.
- Definition of the terms '**input**' and 'input services' has been amended to exclude the condition of use of such input and input services for provision of output services and the only condition provided is that such inputs or input services should be used in the course or furtherance of business. This is a much needed relief as this amendment has given a very wide ambit and many services and goods which earlier could not be included in such definition due to absence of direct nexus and formed part of litigation shall now be included in the definition of such inputs and input services.
- Term 'financial year' has been removed. This may be in line with the thought to move the accounting year to January – December.
- Definition of **works contract** has been amended to remove activities undertaken in relation to moveable properties. Thus, works contract when used shall be only in relation to immovable property.
- Section 7 relating to levy has been amended to specify threshold of 14% (seems unlinked)
- Provisions in relation to e commerce operator introduced to provide for person liable to pay GST in his case when such person is located outside taxable territory.

- Definition of **Taxable person** has been amended to provide that every person registered or liable to be registered shall be a taxable person. Accordingly, every registered person (including branches of same person) in every state shall be a different taxable person.
- Provision of Remission of duty deleted under Section 11.
- Event of recipient showing receipt in books of accounts has been deleted as a determining point in Time of supply for goods.
- Provisions of effective determination of point of tax in case of change in rate of tax has been extended to supply of goods also
- Provisions relating to determination of the value of supply made by a person providing addition of free of cost supplies by recipient, royalties/license fees, reimbursable expenditure, discount has been deleted.
- Application of Determination of valuation rules extended to all transactions.
- Scope of Cenvat credit disallowance in relation to immovable property has been enhanced as the exclusion of plant and machinery has been restricted to pipelines, towers, machinery, etc.
- Power of seizure of vehicle has been removed. However, power to detain remains.
- Provision relating to restriction on unjust enrichment by suppliers on count of enhanced credit has been introduced as Section 163. Thus, benefits accruing on introduction of GST on account of enhanced credits need to be passed to the consumer.
- Certain changes have been introduced in transitional provision which are corrective in nature.
- Capital goods on which Cenvat credit has not been availed, shall not be exigible to GST if supplied / disposed without consideration.
- Temporary application of business assets/ services to private or non business use has been removed from being deemed supply.
- Transactions (including importation) between related persons and also branches of same person when registered separately, when made in course of business has remained in definition of supply and other non commercial transactions have been removed from the definition.
- Separate schedule created for activities not to be considered as supply. This shall be like a negative list.

The above compilation is only a broad based compilation and does not include detailed analysis of impact of amendments. Also, certain procedural and other amendments have been left by the author.