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FREQUENTLY ASKED QUESTIONS ON GOODS AND SERVICES TAX (GST)

On 1st of July 2017 the historical Goods and Services Tax (GST) was launched officially in India by the Prime Minister Narendra Modi who hailed the new tax as "Good and Simple Tax". After ten years of deliberations and many representations from the industry and foreign investors to ease the business environment in India and increase predictability in costs the GST was rolled out in the country. After almost one year of the introduction of the GST there are many queries are received by the Embassy regarding GST from the Austrian companies. Though the Government of India has a dedicated website (<https://cbec-gst.gov.in/>) for information relating to GST, the Embassy of India in Vienna has developed this brochure for Austrian Nationals to explain GST and provide answers to various related queries. We have formulated this in frequently asked questions format for the convenience of our readers of India Readers publication.

The information provided hereunder is general in nature and meant for initial orientation purposes only.

What is GST?

GST is the new unified indirect tax on goods and services introduced by the Government of India. The indirect tax regime before July 2017 comprised of different types of taxes and levies at the central, state and at municipality level. Tax rates were not uniform with no clear regulations on incidence of tax leading to opaque structures and cascading of taxes. The current structure is envisaged as simplified tax structure with easy compliance to promote the trade and industry.

Why is GST a simplified tax?

As compared to the previous indirect tax system, GST is **much simplified**. First now all goods and services are covered under GST – there are no negative lists. Second the rates of all the goods and services have been classified into different slabs. Incidence of tax is now clearly defined by law. GST is a destination based tax. GST is levied at

Which taxes have been replaced by the new GST?

| Central Taxes | State Taxes |
|---|---|
| Central Excise Duty on manufacture of goods | Value Added Tax and Central Sales Tax on Sales of Goods |
| Service Tax | Entry Tax Import of Goods |
| Additional Duty of Customs on Imports | Local Body Tax |
| Special Additional Duty | Luxury Tax |
| Additional Excise duty on Specified Goods | Entertainment Tax |
| Various Surcharges and Cesses | |

all stages starting from manufacturing till the consumption stage. Credit of taxes paid can be set off against tax liability. Only value addition is taxed and tax burden is borne by the final consumer making the current system predictable while calculating the costs.

Are there any Taxes and Duties which are not covered by GST?

GST does not cover electricity tax. **Stamp Duty** as applicable on sale of immovable property and other legal instruments continues. Of course, also **Basic Customs Duty** ("BCD") on import of goods into India also continues to be levied.

How is GST structured?

Since India is a federal country, the GST is structured as a dual system and has the following components:

- Central GST (CGST) is levied by the Centre
- State GST (SGST) is levied by the States
- Integrated GST (IGST) is levied and administered by Centre on every inter-state supply of goods and services.

Which of these three taxes or a combination thereof would apply on a transaction depends on the "place of supply". Supply of goods and services within one Federal State will be subject to both CGST and SGST, whereas supply of goods and services between two states and imports from abroad will be subject to IGST only.

| Place of Supply | Applicable Tax |
|-----------------------------------|----------------|
| Supplies within one Federal State | CGST SGST |
| Inter-state Supplies | IGST |
| Import of Goods | IGST / BCD |
| Import of Services | IGST |

In summary, the place of supply for goods is the place where the movement of goods terminates for delivery. For services, it will generally be the location of the service receiver. Exports of goods and services will be exempt from GST.

How high is the tax rate?

The standard rates of GST for most goods and services are 18% and 28%. For supplies within one federal state, the tax rate is divided between CGST and SGST. In the case of inter-state supplies, the

combined IGST rate applies. The fact that both CGST and SGST apply on supplies within a Federal State will not increase the applicable GST rate. The GST rate structure is as follows:

| Supply Group | IGST (in brackets CGST + SGST) |
|---|--------------------------------|
| Exports | 0% |
| Important daily consumer goods | 5% (2.5% plus 2.5%) |
| Preferential tax rate for subsidized industries | 12% (6% plus 6%) |
| Capital Goods (standard rate 1) Services | 18% (9% plus 9%) |
| All other goods (standard rate 2) | 28% (14% plus 14%) |

Is there classification of goods and services under GST?

Under GST all the goods have been allotted a code known as **Harmonised System of Nomenclature** (HSN). Classification of services is done as per the code allotted under the **Services Accounting Code** (SAC). Taxpayers are required to mention the codes while raising invoices.

Is an input tax deduction possible?

Yes. Registered taxable persons are able to deduct the GST paid on purchases as input tax from the GST payable on the taxable supplies subject to prescribed restrictions. To this extent, GST is comparable to the **European VAT system**. Thus, manufacturing companies, traders or service providers are able to offset the GST paid for the purchase of goods or services against the GST calculated and collected from their customers. The GST thus becomes a cost factor only in the hands of the end user.



| CGST Collected can be utilized against | SGST Collected can be utilized against | IGST Collected can be utilized against |
|--|--|--|
| ./ Input CGST | ./ Input SGST | ./ Input IGST |
| ./ Input IGST | ./ Input IGST | ./ Input CGST |
| | | ./ Input SGST |

However, due to the three-tier structure of the GST, the provisions relating to input tax deduction are more complex. Input CGST is deductible as tax credit from output CGST and IGST while input SGST is deductible as tax credit from output SGST and IGST. Cross utilization between CGST and SGST is not permitted. Input IGST is deductible against all types of output GST, i.e. IGST, CGST and SGST.

The prerequisite for an input tax deduction is receipt of a correct invoice, actual receipt of goods or services and the timely submission of tax declarations ("GST returns"). While these conditions are not surprising, the GST law also requires actual deposit of GST by the person issuing the invoice for entitlement of input tax credit in the hands of the purchaser. If the issuer collects the GST but does not pay it, the purchaser will not be allowed to offset the GST paid as input tax. The digital and automated financial management systems will recognize such cases. For companies, this means a considerable economic risk, which can only be covered by an increased controlling effort.

Will input tax credits be refunded?

No. In general **input tax credits are not refunded**. An exception applies to companies undertaking export of goods/ services and cases where credit has accumulated on account of rate of GST on inputs being higher than rate of GST on output supplies (for example, where supplies are subject to a GST rate of 18% while the purchases are subject to a GST rate of 28%). As a result, any unutilized input tax credits resulting due to situations apart from the above two cases, would accumulate in the books of accounts as in the previous CENVAT system.

An example, please!

A supplier in **Delhi** sells air conditioners worth INR 100 to a customer in **Mumbai**. They will be shown on the invoice to the customer at INR 100 plus IGST of INR 28. The supplier can pay the IGST collected by utilizing input tax credits of SGST, CGST or IGST paid on its purchases. The customer in

Mumbai can claim IGST amounting to INR 28 as input tax credit.

If the transaction is executed within Delhi, the supplier will record the value of INR 100 plus CGST of INR 14 and SGST of INR 14 on the invoice. The supplier can pay the CGST collected by utilizing input tax credits of CGST or IGST and the SGST collected by utilizing input tax credits of SGST or IGST. The customer in Delhi can claim CGST and SGST totaling to INR 28 as input tax credit.

Is the GST system paper based and how does it work?

India has implemented the GST through a **digital / online structure**. All forms can be filed online and taxes can be paid online. The physical interaction with the tax office is limited. The set of GST returns through which taxes are being reported and input taxes are being claimed currently underwent changes and further simplified (July 2018). The simplified GST return forms are expected to be launched by January 2019.

Does the GST also affect foreign companies without a presence in India?

Due to the **seamless input tax credit system** available for resellers, foreign enterprises now enjoy lower costs of sales in India. Resulting opportunities should be seized. Current sales structures can be revised, prices renegotiated and sales agents may be replaced by reseller structures. In general, apart from this, the situation for foreign enterprises having no presence in India largely stands unchanged. In majority of cases, foreign enterprises do not have to report indirect taxes on their invoices under the GST. The customer will calculate and pay the applicable GST on the basis of the net invoice himself ("reverse-charge procedure"). He should not reduce the invoice amount by the GST paid. It should be noted that withholding tax is still levied on fees for services and royalties paid from India. However, such tax is the income tax liability of the foreign company in India and thus a completely different issue.

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➤ The Embassy of India Commercial Wing

The website of the Embassy of India, Vienna, offers a wide variety of business-related information carefully selected to meet India-Austria's business demands. In our online portal, companies not only have the opportunity to find relevant information on India-related trade matters, but can also interact with the commercial wing of the Embassy by submitting their trade inquiries online.

Additionally, the Embassy compiles a quarterly economic and commercial report on Austria, which is targeted at Indian business readers and trade corporates. The same can be received via email by registering with the Embassy's Commercial wing.

Besides the online presence, the Embassy also has a Business Centre Facility, located on the first floor of the Main Chancery Building. Business people and parties interested in requesting, exchanging or providing information on India-related business matters are cordially invited to visit us. You can either schedule an appointment with a representative of our commercial wing at the contacts given below or simply visit us during our opening hours Mondays to Fridays from 11AM to 1PM.

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