

Preparing for transition to GST

GST being the largest indirect tax reform in Indian tax history is on the verge of implementation. Every business, small or big, will get impacted by GST. Amidst other changes in Indian economy, like demonetization, application of IND AS, changing business environment etc. GST implementation is likely to be the biggest change and it becomes vital for every business to gear itself for smooth transition to GST regime from the existing regime.

Businesses and Government are running against time to prepare for and implement GST in a manner that it creates less hassle after implementation date. Section 165 to Section 197 of Revised Model GST law deal with various situations like carry forward of credit, refunds, job work, goods lying in stock on transition date, etc. There may be many legal points which will arise during transition to GST regime but few other areas which need appropriate action to ensure seamless transition are discussed in this article.

Revamping IT Systems

IT systems like SAP and other ERP need to be changed substantially, to make business GST compliant. Many new transactions are being covered under GST e.g. cost allocation by head office to its various units across India would attract GST. Also, various transactions will go out of GST ambit too, e.g. transfer of stock within the same State between two units having single registration. There are many other procedural changes too e.g. change in format of invoice, change in returns frequency and format. IT systems need to be modified to cover all such modified legal requirements.

Vendor Management/Education

Unorganized vendors of businesses shall be educated about GST to make them understand how their GST compliances are going to impact recipient's business. To illustrate, input tax credit will be available in electronic ledger only when vendor pays tax to government and files the GST return timely. Those vendors who are GST compliant as per compliance records shall be chosen for dealing to avoid loss of credit under GST.

Also, as per Section 163 of revised model law, anti-profiteering clause is proposed to be introduced which states that taxpayer has to pass on the benefit to its customers on account of (a) increase in input tax credit and (b) reduction in tax rates. Hence, vendors shall be asked to send their quotes again (after) considering the above mentioned benefits under GST. Vendors can further re-negotiate with their sub-vendors to pass on the benefit.

GST Enrolment

Enrolment process which covers updating existing business information is underway. Decision shall be taken considering impact of registrations taken before migration, whether separate registration would be required for more than one business place or vertical of a legal entity under one State or single registration to be obtained for one State. There is no concept of centralized registration under GST as of now.

Modifying agreements

Corporates may have entered into many long term contracts with various clauses related to taxes, price variations, advances, etc. All those contracts shall be re-visited and safeguard clauses shall be inserted to make them GST compliant. To illustrate, advances shall be received with GST amount now as otherwise recipient shall have to pay GST from the advance received. Also, safeguard clauses regarding payment of taxes shall be inserted in all the contracts.

Filing of last return under existing regime

As per Section 167 of revised model law, credit of Cenvat/VAT/Entry tax appearing in return filed related to the last day (existing regime) shall be eligible to be carried forward under GST regime. Hence, returns filed on last day shall capture maximum details related to the period belonging to the existing regime to avoid any credit loss or to avoid any procedural hassle. Model law provides for refund in cash in certain situations. Considering all these, extra efforts shall be made to file last return carefully.

Representations

Final GST law is expected to be released next month. Industry can look at the issues arising out of revised GST law so that appropriate representations can be made to the government seeking relaxations/clarity. To illustrate, whether input tax credit of excise duty present in goods lying with unregistered / registered depots on transition date will be available is not yet clear.

Business restructuring decisions

GST is a major change which will impact various other areas of business also along with taxation. For instance, many companies have opened warehouses/depots in other States due to tax reasons (to avoid CST sales). As all transactions would be tax neutral under GST, whether inter-State or intra-State sale, retaining depots opened in earlier regime due to tax reasons may have to be reconsidered, as separate registration shall be required for depots, etc., in the States where they are located.

Conclusion

It appears there may be some delay in implementation of GST. However, slight delay is welcomed by industry as every business will get time to prepare itself for GST. As per old saying "*The early bird catches the worm*", which means the person who takes the earliest opportunity to do something will gain the advantage over others. For smooth transition from existing regime to GST regime and to ensure proper implementation, every business should plan and prepare for GST from today.