

THE UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017

Commentary :

A separate Act is implemented for Union Territory states to impose and administer Goods and Service Tax (GST) in India in the name of The Union Territory Goods and Service Tax Act, 2017 (UTGST).

The Constitution (One Hundred and first Amendment) Act, 2016 inserted a new clause, Clause 26B in Article 366 of the Constitution. As per this clause, “State” with reference to Articles 246A, 268, 269, 269A, and 279A includes a Union territory with Legislature.

Even ‘State’ for the purposes of GST, includes a Union territory with Legislature. Delhi and Puducherry are Union Territories with legislature and are considered as “States”.

Technically SGST cannot be levied in a Union Territory without legislature. This applies to following Union Territories of India: Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh.

To plug this loophole, GST Council has decided to have Union Territory GST Law (UTGST) – which would be at par with State Goods and Service Tax (SGST). As per Article 246(4) of Constitution, the Parliament has powers to make laws with respect to any matter for any part of the territory of India, which is not included in the State, including the matters enumerated in State List. Therefore, with the approval from the GST Council, the Central Government passed the UTGST Law in the Parliament.

Thus following combination of taxes will be applicable for any transaction:-

1. For Supply of goods and/or services within a state (Intra-State): CGST + SGST;
2. For Supply of goods and/or services within Union Territories (Intra-UT): CGST + UTGST;
3. For Supply of goods and/or services across States and/or Union Territories (Inter-State/ Inter-UT): IGST

Order of utilization of Input Tax Credit of UTGST would be the same like SGST. This means, Input Tax Credit of SGST or UTGST would first set-off against SGST or UTGST respectively output tax liabilities and balance, if any, can be set-off against IGST output tax liabilities.

THE UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017

NO. 14 OF 2017 [12th April, 2017]

An Act to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Union territories and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

SHORT TITLE, EXTENT AND COMMENCEMENT

- (1) This Act may be called the Union Territory Goods and Services Tax Act, 2017.
- (2) It extends to the Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh and other territory.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

DEFINITIONS

In this Act, unless the context otherwise requires,—

- (1) “appointed day” means the date on which the provisions of this Act shall come into force;
- (2) “Commissioner” means the Commissioner of Union territory tax appointed under section 3;
- (3) “designated authority” means such authority as may be notified by the Commissioner;
- (4) “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be exempt from tax under section 8, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;
- (5) “existing law” means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation;
- (6) “Government” means the Administrator or any Authority or officer authorised to act as Administrator by the Central Government;
- (7) “output tax” in relation to a taxable person, means the Union territory tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;
- (8) “Union territory” means the territory of,—
 - (i) the Andaman and Nicobar Islands;
 - (ii) Lakshadweep;
 - (iii) Dadra and Nagar Haveli;
 - (iv) Daman and Diu;
 - (v) Chandigarh; or
 - (vi) other territory.

Explanation.—For the purposes of this Act, each of the territories specified in sub-clauses (i) to (vi) shall be considered to be a separate Union territory;

- (9) “Union territory tax” means the tax levied under this Act;
- (10) words and expressions used and not defined in this Act but defined in the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, the State Goods and Services Tax Act, and the Goods and Services Tax (Compensation to States) Act, shall have the same meaning as assigned to them in those Acts.