

## Goods and Services Tax (GST): Key changes proposed by the 2016 amendments to the Constitution (122<sup>nd</sup> Amendment) Bill, 2014

The Constitution (122<sup>nd</sup> Amendment) Bill, 2014 was introduced in Lok Sabha on December 19, 2014.<sup>1</sup> The Bill was passed by Lok Sabha on May 6, 2015 and referred to a Select Committee of Rajya Sabha which submitted its Report on the Bill on July 22, 2015.<sup>2</sup> Certain official amendments were circulated to the 2014 Bill on August 1, 2016.<sup>3</sup> We present details of the proposed amendments.

### Key amendments proposed

#### Additional tax up to 1% on interstate trade

- **2014 Bill** (Clause 18): An additional tax of up to 1% on the supply of goods will be levied by centre in the course of inter-state trade or commerce. The tax will be directly assigned to the states from where the supply originates. This will be for two years or more, as recommended by GST Council.
- **2016 proposed amendments:** Deletes the provision.
- **Select Committee, 2015:** The Committee had noted that the provision for the 1% additional tax is likely to lead to cascading of taxes.

#### Compensation to states

- **2014 Bill** (Clause 19): Parliament *may*, by law, provide for compensation to states for any loss of revenues for a period which may extend to five years. This would be based on the recommendations of the GST Council. This implies that Parliament may decide (i) whether it wants to provide compensation; (ii) the time period for which it can provide such compensation, up to five years.
- **2016 proposed amendments:** Parliament *shall*, by law, provide for compensation to states for any loss of revenues, for a period which may extend to five years. This would be based on the recommendations of the GST Council. This implies that (i) Parliament must provide compensation; and (ii) compensation cannot be provided for more than five years, but allows Parliament to decide a shorter time period.
- **Select Committee, 2015:** The Select Committee had recommended that compensation should be provided *for a period of five years*. This recommendation has not been addressed by the 2016 amendments.

#### Dispute resolution

- **2014 Bill** (Clause 12): The GST Council may decide upon the modalities to resolve disputes arising out of its recommendations.
- **2016 proposed amendments:** The GST Council shall establish a mechanism to adjudicate any dispute arising out of its recommendations. Disputes can be between: (a) the centre vs. one or more states; (b) the centre and states vs. one or more states; (c) state vs. state. This implies there will be a standing mechanism to resolve disputes.
- **Select Committee, 2015:** No recommendation.

### Other changes introduced by 2016 amendments

#### Integrated GST

- **Replacement of the term IGST** (Clause 12): Under the 2014 Bill, the GST Council would make recommendations on the apportionment of the Integrated Goods and Services Tax (IGST). However, the term IGST was not defined. The 2016 amendments replace this term with 'goods and services tax levied on supplies in the course of inter-state trade or commerce'.
- **Apportionment of Integrated GST** (Clause 9): This is a technical change in relation to the apportionment of the IGST. It clarifies that the states' share of the IGST shall not form a part of the Consolidated fund of India.

#### Inclusion of CGST and IGST in tax devolution to states

- **2014 Bill (Clause 10):** The GST collected and levied by the centre, other than states' share of IGST, (CGST and centre's share of IGST) shall also be distributed between the centre and states.

- **2016 proposed amendments:** The amendments state that the CGST and the centre's share of IGST will be distributed between the centre and states. This is just a restatement of the provisions in the 2014 Bill in clearer terms.
- **Select Committee, 2015:** Not discussed.

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1. The Constitution (122nd Amendment) Bill, 2014, <http://www.prsindia.org/uploads/media/Constitution%20122nd/Constitution%20%28122nd%29%20%28A%29%20bill.pdf>.
  2. Report of the Select Committee on The Constitution (122nd Amendment) Bill, 2014, July 22, 2015, <http://www.prsindia.org/uploads/media/Constitution%20122nd/Select%20comm%20report%20-GST.pdf>.
  3. Notice of Amendments, Rajya Sabha, The Constitution (122nd Amendment) Bill, 2014, August 1, 2016, <http://www.prsindia.org/uploads/media/Constitution%20122nd/GST%20amendments-%201%20aug%202016.pdf>.

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