

Meeting of the GST Council on 22nd and 23rdSeptember, 2016

Agenda Notes

Table of Contents

1. Draft Rules of Procedures and Conduct Of Business in GST Council.....	3
2. Proposed timetable for the implementation of GST	20
3. Thresholds for exemption and composition under GST	22
4. Draft Modalities for GST Compensation and draft Compensation Law	24
5. Provisions for Cross-Empowerment to ensure Single Interface Under GST	27

AGENDA NOTE NO. 1:

Clause (8) of Article 279A of the Constitution provides as follows:

“(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.”

Accordingly, the following Draft Rules of Procedures and Conduct of Business in GST Council are placed before GST Council for consideration:

DRAFT RULES OF PROCEDURES AND CONDUCT OF BUSINESS IN GST COUNCIL

Table of Contents

RULE		PAGE
CHAPTER I		
Short Title and Definitions		
1.	Short Title.....	5
2.	Definitions.....	5
CHAPTER II		
Meetings of the Council		
3.	Notice of Meeting.....	6
4.	Seating.....	6
5.	Roll of Members.....	6
CHAPTER III		
Selection of Vice-Chairman		
6.	Nomination(s) of Vice-Chairman.....	7
7.	Election of Vice-Chairman, if required.....	8
CHAPTER IV		
Sitting of the Council		
8.	Duly constituted sitting.....	9
9.	Frequency of meeting.....	9
CHAPTER V		
Procedure For Moving Proposal For Recommendation		
10.	Notice of proposal seeking recommendation.....	10
11.	Admissibility of proposals.....	10
12.	Circulation of proposal for recommendation to all members, and tabulation of comments received.....	11
13.	Proposal moved not to lapse.....	12
14.	Withdrawal of proposal.....	12

CHAPTER VI		
Division		
15.	Decision on proposals.....	13
16.	Division by open ballot.....	13
CHAPTER VII		
Proceedings of the Secretariat, Secretariat Papers and custody of papers		
17.	Preparation and publication of proceedings.....	15
18.	Printing and publication of Secretariat papers.....	15
19.	Custody of papers.....	15
CHAPTER VIII		
Miscellaneous		
20.	Decisions of the Chairman.....	16
21.	Guiding principles for decisions.....	16

CHAPTER I
SHORT TITLE AND DEFINITIONS

<p>1. These rules may be called the ‘Rules of Procedure and Conduct of Business in the Goods and Services Tax (GST) Council’.</p>	Short title
<p>2. (1) In these rules, unless the context otherwise requires,-</p> <p>“Constitution” means the Constitution of India;</p> <p>“Council” means the Goods and Services Tax Council constituted under article 279A of the Constitution;</p> <p>“Chairman” means the Union Finance Minister;</p> <p>“Member” means a member of the GST Council, and shall include the following:</p> <ul style="list-style-type: none"> (i) The Union Finance Minister, (ii) The Union Minister of State in charge of Revenue or Finance, (iii) The Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government; <p>“Member in charge of the proposal” means the member who has introduced the proposal seeking recommendation of the GST Council;</p> <p>“Recommendation” means a recommendation of the GST Council;</p> <p>“Secretariat” means the GST Council Secretariat.</p> <p>(2) Words and expressions used in the Constitution and also in these rules shall, unless the context otherwise requires, have the meanings assigned to them in the Constitution.</p>	Definitions

CHAPTER II
MEETINGS OF THE GST COUNCIL

<p>3. (1) With the approval of the Chairman, the Secretary shall issue a notice to each member specifying the date and place for a meeting of the Council.</p> <p>(2) The notice of the meeting shall be sent at least seven days prior to the date of the meeting of the GST Council.</p> <p style="padding-left: 40px;">Provided that, with the approval of the Chairman, an emergency meeting of the GST Council can be convened by the Secretary at a notice of two days.</p>	<p>Meeting Notice</p>
<p>4. The members shall sit in such order as the Chairman may determine.</p>	<p>Seating</p>
<p>5. (1) There shall be a Roll of Members of the Council by every member, before taking his seat.</p> <p>(2) No member shall be permitted to authorize a representative to attend the meetings of the Council on her/his behalf. Further, no official of a State Government shall be permitted to attend a meeting of the Council, unless the authorized member from the respective State is attending the said meeting.</p>	<p>Roll of Members</p>

CHAPTER III
SELECTION OF VICE-CHAIRMAN

<p>6. (1) The Secretary shall seek nominations from the members for the post of Vice-Chairman, as per Form – I. The nominations shall be sought as soon as the GST Council is constituted in the first instance. Thereafter, the nominations for the post of Vice-Chairman shall be called in any of the following cases:</p> <p style="padding-left: 40px;">(a) Three months before the expiration of tenure of the serving Vice-Chairman, or</p> <p style="padding-left: 40px;">(b) In case of vacancy of the post of Vice-Chairman arising out of any reason other than expiration of term of serving Vice-Chairman, the Secretary shall seek nominations as soon as such vacancy arises or is likely to arise.</p> <p>(2) The Vice-Chairman shall hold office for a period of two years or till the time s/he remains member of the GST Council or on resignation as Vice-Chairman, whichever is earlier.</p> <p>(3) The election of the Vice-Chairman shall be held on such date as the Chairman may fix.</p> <p>(4) The meeting notice for the GST Council in which the election of Vice-Chairman is proposed to be held shall specifically mention the same in the agenda.</p> <p>(5) At any time before noon on the day preceding the date so fixed, any member may nominate another member as the Vice-Chairman of the GST Council, and the nomination shall be accompanied by a statement by the member whose name is nominated that the said member is willing to serve as Vice-Chairman, if elected:</p> <p style="padding-left: 40px;">Provided that a member can also nominate one’s own self. In case a member is nominating one’s own self, there would be no requirement for another member to second the proposal.</p>	<p>Nomination(s) for Vice-Chairman</p>
<p>7. (1) In case of receipt of more than one nominations for the post of Vice-Chairman, Chairman shall read out all the nominations received in the meeting of the Council, and invite the Members of</p>	<p>Election of Vice-Chairman, if required</p>

the Council as mentioned in sub clause (c) of clause (2) of article 279A of the Constitution, to cast their votes by a system of secret ballot, in the form prescribed in Form - II.

(2) The votes shall be counted by the Secretary in the presence of the Council. The candidate who gets the maximum votes shall be declared as elected. In case of any question of validity of any vote cast, the matter shall be decided by the Chairman.

CHAPTER IV

MEETING OF THE COUNCIL

8. A meeting of the Council is duly constituted when it is presided over by the Chairman with at least one-half of the members of the Council being present.	Duly constituted meeting
9. The GST Council shall meet at least once in every quarter of the financial year.	Frequency of meeting

CHAPTER V

PROCEDURE FOR MOVING PROPOSAL SEEKING RECOMMENDATION

<p>10. (a) Proposal seeking recommendation of the GST Council shall be given by any Member in writing addressed to the Secretary.</p> <p>(b) The proposals can be sent at any time.</p> <p>(c) All proposals should contain a background note, the specific sub-clause and article of the Constitution under which powers have been conferred on GST Council to make recommendations, justification for the proposal, and specific points on which recommendation of the Council is sought.</p>	<p>Notice for proposal seeking recommendation</p>
<p>11. In order that a proposal for seeking recommendation may be admissible it shall satisfy the following conditions, namely:-</p> <p>(i) it shall be related to one or more of the following subject matters:</p> <ul style="list-style-type: none">(a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;(b) the goods and services that may be subjected to or exempted from the goods and services tax;(c) model Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax and the principles that govern the place of supply;(d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;(e) the rates including floor rates with bands of goods and services tax;(f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;(g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand;	<p>Admissibility of proposals</p>

<p>(h) any other matter relating to the goods and services tax, as already decided by the Council;</p> <p>(i) the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel; and</p> <p>(j) mechanism to adjudicate any dispute –</p> <p style="padding-left: 40px;">(a) between the Government of India and one or more States; or</p> <p style="padding-left: 40px;">(b) between the Government of India and any State or States on one side and one or more other States on the other side; or</p> <p style="padding-left: 40px;">(c) between two or more States, arising out of the recommendations of the Council or implementation thereof.</p> <p>(ii) if it contains a statement the member shall make himself responsible for the accuracy of the statement.</p>	
<p>12. On receipt of proposal seeking recommendation from a member, the Secretary shall –</p> <p style="padding-left: 40px;">(a) Take approval of the Chairman to circulate the proposal to each of the members,</p> <p style="padding-left: 40px;">(b) Receive comments (if any) from all the members on the proposal, and tabulate the same,</p> <p style="padding-left: 40px;">(c) Take the approval of Chairman for including the proposal seeking recommendation in the agenda of GST Council meeting,</p> <p style="padding-left: 40px;">(d) Circulate the tabulated comments received from members to all the members, before the date on which the relevant proposal is to be taken up in the GST Council for discussion.</p>	<p>Circulation of proposal for recommendation to all members, and tabulation of comments received.</p>
<p>13. In case no decision is taken by the GST Council on a proposal before it in any particular meeting, the same proposal may be</p>	<p>Proposal moved not to lapse</p>

carried over for consideration before the Council in its subsequent meeting.	
14. A member who has made a proposal may withdraw the same by leave of the Chairman.	Withdrawal of proposal

CHAPTER VI

DIVISION

<p>15. All proposals before the GST Council shall be discussed threadbare. Thereafter, Chairman shall put the question and invite the Members of the Council to cast their votes by show of hands. In case any Member seeks division on any proposal, the Chairman shall put the proposal to vote through secret ballot.</p>	<p>Decision on proposals</p>
<p>16. (1) The ballot paper shall be drafted as per Form – III. (2) The result of the division shall be announced by the Chairman and it shall not be challenged. (3) The Result of the division shall be based in accordance with the following principles:</p> <ul style="list-style-type: none"> a) The vote of the Central Govt. shall have a weightage of 1/3rd of the total votes cast; b) Votes of all the State Governments taken together shall have a weightage of 2/3rd of the total votes cast in that meeting. c) The proposal shall be carried if the total weighted votes of the members present and voting in favour of the proposal is equal to or greater than 3/4th. <p>Illustration:</p> <p>In terms of clause (9) of the article 279A of the Constitution, the “weighted votes of the members present and voting” in favour of a proposal in the Goods and Services Tax Council shall be determined as under: -</p> $WT = WC + WS$ <p>Wherein,</p> <p>WT = Total weighted votes of all members in favour of a proposal,</p> <p>WC = Weighted vote of the Union = $\frac{1}{3}$ if the Union is in favour of the proposal, and be taken as “0” if Union is not in favour of a proposal,</p>	<p>Division on proposals</p>

And,

$$WS = \left(\frac{SF}{SP}\right) \times \left(\frac{2}{3}\right)$$

Wherein –

WS = Weighted votes of the States in favour of a proposal,

SF = Number of States voting in favour of a proposal, SP =

Number of States present and voting.

The proposal shall be carried if:

$$WT \geq \frac{3}{4}$$

Numerical example:

If in a meeting 25 States are present, and 20 States and the Centre vote in favour of a proposal, WT shall be calculated as follows:

$$WT = \left(\frac{1}{3}\right) + \left[\left(\frac{20}{25}\right) \times \left(\frac{2}{3}\right)\right]$$

$$WT = \frac{13}{15}$$

Since in this case, $WT > \frac{3}{4}$, this proposal shall be carried.

(4) The Secretariat shall assist the Council in conduct of voting (if required).

CHAPTER VII
PROCEEDINGS OF THE SECRETARIAT, SECRETARIAT PAPERS AND
CUSTODY OF PAPERS

<p>17. (1) The Secretariat shall cause to be prepared a full report of the proceedings of the Council at each of its sittings and shall, as soon as practicable, publish it in such form and manner as the Council may, from time to time, direct.</p> <p>(2) The Secretariat shall maintain continuous running minutes of all the proceedings of the GST Council, and all the minutes of the GST Council shall be signed by the Chairman.</p> <p>(3) Minutes of previous meeting shall be put up for confirmation in the next meeting.</p> <p>(4) Video recordings shall be made of all proceedings of the Council.</p>	<p>Preparation and publication of proceedings</p>
<p>18. If a question arises whether a paper, document or report is in connection with the business of the Council or not, the question shall be referred to the Chairman whose decision shall be final.</p>	<p>Printing and publication of Council papers</p>
<p>19. The Secretariat shall have custody of all records, documents and papers belonging to the Council.</p>	<p>Custody of papers</p>

CHAPTER VIII
MISCELLANEOUS

20. All decisions of the Chairman made in pursuance of these Rules shall be final, and shall not be challenged.	Decisions of the Chairman
21. In discharge of its duties, the GST Council shall be guided by the need for a harmonized structure of goods and services tax and for the development of a harmonized national market for goods and services.	Guiding principles for decisions

Form – I

Nomination of a Member as Vice-Chairman of GST Council

Name and Designation of the Nominated Member.....
State/UT.....

Name and Designation of the Proposing Member:
State/UT.....


Signature of the Proposing Member
Date/Place.....

I hereby convey my willingness to function as the Vice-Chairman of GST Council, if chosen.

Signature of the Nominated Member
Date/Place.....

Form – II

Ballot Paper for Electing the Vice-Chairman of the GST Council

Please tick  one of the following boxes:

Name of Candidate 1

Name of Candidate 2

Name of Candidate 3 and so on

The ballot paper shall be considered invalid in the following circumstances:

- (i) If more than one boxes are ticked,
- (ii) If the tick is not put in any of the boxes,
- (iii) If the tick is put outside the box, and
- (iv) If more than one ticks are put on the ballot paper.

A valid vote appears as follows:



Form - III

Ballot Paper for Voting on Proposals for Recommendation in the GST Council

Agenda No.:

Proposal to be voted on:

Please tick  the appropriate box:

In Favour of Proposal Moved

Against the Proposal Moved

The ballot paper shall be considered invalid in the following circumstances:

- (i) If more than one boxes are ticked,
- (ii) If the tick is not put in any of the boxes,
- (iii) If the tick is put outside the box, and
- (iv) If more than one ticks are put on the ballot paper.

A valid vote appears as follows:



AGENDA NOTE NO. 2:

PROPOSED TIMETABLE FOR THE IMPLEMENTATION OF GST

The target date for the roll-out of Goods and Services Tax (GST) is 1st April, 2017. All provisions of the Constitution (One Hundred and First Amendment) Act, 2016, have been brought into force. Hence, all preparations for the implementation of GST need to be made in a timely manner as mentioned below:

I. Legal Framework

Sr. No.	Target Date of Completion	Task
1.	22 nd November 2016	Recommendations of the GST Council on the following issues: i. Draft IGST, CGST and SGST Laws ii. Draft IGST, CGST and SGST Rules iii. GST Rate Structure iv. Exemption Lists
2.	December 2016	Passage of Central Goods and Services Tax (CGST) Act and Integrated Goods and Services Tax (IGST) Act by the Parliament, and the State Goods and Services Tax (SGST) Act by all State Legislatures in the Winter Session of 2016.

II. IT Framework

Sr. No.	Target Date of Completion	Task
1.	November 2016	Development of backend IT systems of banks, RBI and Central and State accounting authorities.
2.	December 2016	Development of backend IT systems of 9 States and the Central Board of Excise and Customs (CBEC).
3.	January 2017	Development of common GST portal and the frontend IT modules, as well as backend IT systems of 22 States and UTs by the Goods and Services Tax Network (GSTN).
4.	February - March 2017	Testing and integration of GST frontend and backend IT systems of all stakeholders by GSTN.

III. Training and preparedness of officials and staff

Sr. No.	Target Date of Completion	Task
1.	December 2016	Completion of 5 days training of all Central and State Tax officials and staff by the National Academy of Customs, Excise and Narcotics (NACEN) and concerned State authorities. All officials to be tested on their knowledge of GST.
2.	January – March 2017	Constant engagement with all tax officials of Centre and State through virtual classroom, e-learning modules and contact sessions to update and refresh their knowledge to ensure maximum preparedness.

IV. Sensitisation of trade, industry and consumers by March 2017

AGENDA NOTE NO. 3:
THRESHOLDS UNDER GST

The Report of the Committee on Dual Control, Exemptions and Thresholds, in June 2014, recommended that the threshold limit for exemption under GST should be Rs. 25 lakhs (Rs. 10 lakhs for North Eastern States) and the threshold limit for compounding should be Rs. 75 lakhs.

2. However, the Empowered Committee has recommended that the threshold limit for exemption under GST should be Rs. 10 lakhs (Rs. 5 lakhs for North Eastern States) and the threshold limit for compounding should be Rs. 50 lakhs. Some states have also recommended that there should be no compounding schemes for service providers.

3. The Government of India has previously conveyed the view that the limits of Rs. 10 lakhs and Rs. 50 lakhs for exemptions and compounding, respectively, proposed by the EC were too low.

4. In the meeting of the Empowered Committee held on 26th July 2016, there was more or less unanimity in the view of the States that the threshold exemption should be kept at Rs. 25 lakhs per annum. Accordingly, the following is being proposed for consideration of the GST Council:

(i) The threshold limit for exemption under GST be kept at Rs. 25 lakhs.

Justification:

- a. Figures collected from the States indicate that more than 60% of the traders have a turnover of Rs. 25 lakhs annually, and they contribute to only 2% of the revenues, which results in a high cost of collection. In case of services, around 70% of taxpayers have a turnover of less than Rs. 25 lakhs annually and they contribute to less than 3 % of total service tax paid.
- b. The present threshold of exemption in States and Centre does not include the value of clearance of exempted goods/services. However, under the GST regime, it is proposed calculate the threshold on the basis of gross turnover, which would include the turnover of exempted and exported goods and services as well.
- c. The higher threshold limits of Rs. 25 lakhs for exemption would give relief to a large number of small dealers/traders, and would also substantially reduce the cost of collection of tax authorities.
- d. The threshold turnover would be worked out taking into account the supply of both goods and services of the tax payer with the same PAN on an All-India basis and, therefore, the proposed threshold of Rs. 10 lakhs would be too low especially when inflation is factored in.
- e. A high exemption threshold would reduce the compliance costs for small businesses, and increase ease of doing business.

- (ii) The threshold limit for compounding scheme be kept at Rs. 50 lakhs, and this scheme to not be available to service providers.**

Justification:

- a. Most states are of the view that the threshold for composition should be Rs. 50 lakhs. This would ensure minimum leakages of revenue since composition dealers would be levied GST at a very low rate compared to the standard GST rate.
- b. Since service providers make substantial value addition to goods and services, there would be considerable loss of revenue if the composition scheme were made available to service providers.
- c. At present, there is no composition scheme for service providers under the service tax provisions.

AGENDA NOTE 4:

DRAFT MODALITIES FOR GST COMPENSATION AND DRAFT COMPENSATION LAW

Provision in the Constitution for Compensation

Section 18 of the Constitution (One Hundred and First Amendment) Act, 2016 provides as follows:

“18. Parliament may, be law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period of five years.”

Compensation Formula

In order to compensate the States for any loss of revenue to the State consequent to implementation of Goods and Services tax, the revenues collected by the State in a base year need to be projected at a specified growth rate with respect to a base year. Thus, to ensure that trajectories of revenues being contemplated are maintained, there is a need to arrive at the following

- (i) a base year and
- (ii) the projected growth rate.

The following principles are proposed for calculation and payment of Compensation to States:

Calculation of Compensation amount

- (a) The base year for making growth projection of Revenue shall be 2015-16
- (b) Projected growth rate shall be taken as average growth rate of revenue collection in three financial years ending 31st March 2016, 31st March 2015 and 31st March 2014 over the previous year.
- (c) For any particular year for which Compensation is payable, Revenue shall be projected based on the base year and the growth rate as per (a) and (b).
- (d) Amount arrived at (c) above shall be compared with the actual revenue collection accruing to the State under GST and in case actual Revenue collected under GST is less than the projected amount, then the difference of the two shall be payable as Compensation to the State.

Following draft law for compensating the States for loss of revenue is proposed for consideration of the GST Council:

GOODS AND SERVICES TAX (COMPENSATION FOR LOSS OF REVENUE)

BILL, 2016

(No. __ of 2016)

[__*th* _____, 2016]

A Bill to provide for compensation to States for loss of revenue arising on account of implementation of the goods and services tax for a period of five years as per Section 18 of The Constitution (One Hundred and First Amendment) Act, 2016.

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

1. Short title and Commencement

- (1) This Act may be called the Goods and Services Tax (Compensation for Loss of Revenue) Act, 2016.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. Definitions

- (1) “base year” shall have the meaning assigned to it in the section 3.
- (2) “compensation” means an amount determined under sub section (3) of section 6.
- (3) “Council” means Goods and Services Tax Council established as per the Article 279A of the Constitution.
- (4) “projected growth rate” means the rate of growth projected for the transition period as per section 4.
- (5) “projected revenue” for any period means the amount of revenue projected to be received during that period, during the transition period, as calculated in section 5.
- (6) “transition date” means 1st April 2017.
- (7) “transition period” means a period of five years from the transition date.

(3) Base year

- (1) For the purpose of calculating the compensation amount in any of the year during the transition period, the financial year ending 31st March 2016 will be taken as the base year.

- (2) The amount of revenue collected during the base year in a State shall be the base year revenue for that State.

(4) Projected growth rate

- (1) The projected growth rate for a State during the transition period shall be the average of the growth rates observed in the revenue collected by the State in financial years ending 31st March 2016, 31st March 2015 and 31st March 2014 over the previous year.
- (2) The projected growth rate shall be calculated on the basis of the figures of revenue collected as audited by the Comptroller and Auditor General of India.

(5) Projected revenue for any year

The projected revenue for any financial year in a State, during the transition period, shall be calculated by applying the projected growth rate over the revenue collected in the base year in that State.

(Illustration) : If the projected growth rate calculated as per section 3 above is 10 percent and the revenue collected in the base year 2015-16 is Rs. 100, then the projected revenue for, say, financial year 2018-19 shall be $100 \times ((1 + (10/100))^3) = \text{Rs. } 133.10$)

(6) Calculation and release of compensation

- (1) The final compensation for any financial year for a State shall be calculated based on audited figures of revenue collection reported by the Comptroller and Auditor General of India for that financial year.
- (2) The loss of revenue for every financial year for a State during the transition period shall be calculated at the end of the year as the difference between the actual revenue collected arrived at on basis of audited figures of the actual Goods and Services Tax collected by the State including Integrated Goods and Services Tax assigned to that State as reported by the Comptroller and Auditor General of India and projected revenue for the year calculated as per section 5 above. In case actual revenue is greater or equal to projected revenue, no compensation shall be payable for that year.
- (3) The manner of calculation of revenue subsumed, the manner of raising resources for compensation, release of compensation and other modalities for implementing the provisions of this Act shall be as prescribed.

AGENDA NOTE NO. 5:

PROVISIONS FOR CROSS-EMPOWERMENT TO ENSURE SINGLE INTERFACE UNDER GST

1. Need for Single Interface under GST

1.1 GST would replace multiple indirect taxes levied by the Centre and the States with a dual levy comprising CGST & SGST- both of which would be governed by an almost identical law and rules. In this situation, regardless of their size or turnover, requiring taxpayers to deal simultaneously with two tax administrations (dual interface) would not only result in higher compliance costs but also uncertainty- especially if the two administrations take divergent positions on important issues or in disputes with taxpayers. There appears to be strong convergence on the view that, as far as possible, the taxpayer should have to deal only with one administration (for both CGST & SGST) at a given point in time.

2. Threshold-based Model for Single Interface

2.1 As proposed by the States, one of the means of achieving this is to prescribe that small taxpayers (with annual turnover upto Rs.1.5 crore) would be under the **exclusive jurisdiction** of the States for both taxes (CGST & SGST) & for all business processes. In this model taxpayers above this threshold would be **handled jointly** by the Centre & the States – again with a view to provide a single interface – but the modalities for which are yet to be finalized.

2.2 The splitting of the taxpayer base in this manner throws up several legal and administrative challenges. It assigns a disproportionately high burden (almost 93%) of service providers to the States who have virtually no experience in the area. The model would make it difficult for the Centre to verify credit flows across the entire value chain of transactions- should the need for that arise. Finally, it also overlooks the fact that it is not feasible to eliminate dual control for some of the business processes such as refunds, export rebates, remission, recovery of arrears etc. Further the Centre cannot abdicate its responsibility of collecting CGST which it is constitutionally mandated to do so.

2.3 The model meets the objective of providing single interface to small taxpayer who are the most vulnerable. But it does not eliminate the need to resort to cross-empowerment of

SGST officers to perform functions under the CGST law and procedure. On the contrary, it is also based on such cross-empowerment or provision of concurrent jurisdiction.

3. General Features of the Cross-Power Model

3.1 The alternative proposed by the Centre also uses cross-empowerment as the basis but does not require any splitting of the taxpayer base. In developing it, the model GST law has been scrutinized to identify the provisions/ business processes that require physical interface between the taxpayer and tax administration. It seeks to eliminate or reduce multiple interface for detailed scrutiny of returns and audit; enforcement and certain processes dealing with the rejection/ cancellation of registration through three protocols (sets of rules). To begin with, the protocols require legal cross-empowerment of CGST & SGST officers i.e. of CGST officers under SGST law and SGST officers under CGST law. This would authorize them to carry out the functions stipulated under the relevant provisions of GST law for both taxes. The protocols would then specify the circumstances under which the jurisdiction of either of the two (CGST or SGST) would be excluded so that the taxpayer deals only with one administration for both taxes. In simple terms, either taxpayers or cases would be distributed between the two administrations- based on certain rules- so that each administration deals with the assigned taxpayer or cases for that function (audit, scrutiny, enforcement etc.) for both taxes simultaneously.

3.2 Certain business processes could be assigned exclusively to either CGST or SGST authorities for both taxes to avoid multiple interface e.g. job-work permissions to SGST and provisional assessments to CGST authorities.

3.3 The model recognizes that for certain business processes such as refunds, recovery of arrears, and handling of CAG objections it is infeasible to eliminate dual interface and these would be administered independently by the Centre & the States.

3.4 The model does not require splitting of the taxpayer base using turnover or any other criterion as a basis.

4. Protocol on Detailed scrutiny of returns/ Audit

- i. There would be an **overall cap** (say x% of the total number of returns /taxpayers in each segment) **on the number of interventions** by the Centre & States taken together

- ii. At the beginning of the year, taxpayers to be prioritized in descending order of risk for detailed scrutiny/ audit
- iii. CGST and SGST authorities to prepare separate list of taxpayers to be audited or returns to be scrutinized in this manner
- iv. These lists would be matched-
 - a. Taxpayers appearing exclusively in one list to be assigned to the administration in whose list they appear
 - b. Taxpayers common to the two lists to be assigned to the authority on whose list they have a higher risk ranking
- v. Scrutiny/ audit would cover all three taxes i.e. CGST, SGST & IGST
- vi. Once a taxpayer is assigned to one administration for scrutiny/ audit, the other administration will NOT carry out his scrutiny/ audit in that period
- vii. Copy of scrutiny/ audit report would be shared with the other administration
- viii. SGST authorities detecting any IGST violation would inform IGST authorities for follow-up action
- ix. In all other cases, follow-up work emanating from a scrutiny/ audit such as issuance of demands, adjudication of cases, appeals, review or revision would be handled by the administration that conducted the detailed scrutiny/ audit

5. Enforcement Protocol

- i. Both CGST and SGST authorities would designate a Nodal Officer for coordination/ information sharing for the purpose of Enforcement functions in each State
- ii. Both CGST and SGST authorities would independently carry out enforcement activities (collection of intelligence, cultivation of informers, searches etc.)
- iii. The administration that initiates enforcement action against a taxpayer would file an information report with details of the case within 48 hours with the nodal officer of both administration
- iv. Once an information report is filed, the other administration would be precluded from initiating action against the same taxpayer for a period of at least one year unless there are “compelling reasons”
- v. In all other respects, the protocol would work in the same manner as the Audit Protocol

6. Cancellation of Registration

- i. Action for rejection of registration or application for amendment of particulars either by CGST or SGST authority to cover both taxes
- ii. Cancellation of registration emanating from audit/ detailed scrutiny of returns or enforcement action to be handled for both taxes by the authority that conducted that audit, scrutiny or enforcement

- iii. Revocation of cancellation to be handled by the authority that cancelled the registration of that taxpayer
- iv. Simple rule also prescribed for handling cancellation applications received from taxpayers

7. **Further work**

Legal text of provisions for incorporation in Model GST law and rules to give effect to these protocols have been drafted and shared with the States. The model can be refined further after discussion with States. Empowering CGST & SGST officers to file an appeal if aggrieved by an order passed by the other administration could be considered. Further work is needed on alignment of dispute settlement systems between Centre & States (review vs. revision).

8. **Proposal**

It is proposed that the GST Council may consider the Cross Empowerment model for Single Interface delineated in paragraphs 3 to 6 of the Note “in principle” subject to further work on the lines specified in para 7.
