GOODS AND SERVICES TAX ('GST') ALERT

The crucial 14th GST Council meeting at Srinagar on May 18 &19, 2017 has set the ball rolling for the GST rollout targeted for July 1, 2017 with the finalization of GST rate schedule for goods [around 1200 products] and services.

Apart from the rates, the Classification Scheme for Services under GST based on Service codes has been prescribed along with the list of services on which GST would be paid under revere charge mechanism (RCM). The list covers 18 services which are grandfathered from the existing RCM list with 100% liability to be discharged by the recipient.

Further, the GST Council has also finalized the GST Compensation cess on notified goods.

I. Rate schedule of goods

- The goods have been classified under the five-rate slab which was earlier agreed by the GST council. Majority of the products have been classified under the 18% rate and the broad structure appears as under:

GST rate	Goods (illustrative list)	Proportion of goods under respective slab
Nil	Fresh meat, eggs, milk, natural honey, fresh fruits and vegetables, flour, bread, salt, stamps, judicial papers, printed books, newspapers, bangles, handloom etc.	7%
5%	Fish fillet, cream, skimmed milk powder, branded paneer, frozen vegetables, sugar, coffee, tea, spices, pizza bread, kerosene, coal, medicines, stent, lifeboats etc.	14%
12%	Frozen meat products, butter, cheese, ghee, dry fruits in packaged form, fruit juices, namkeens, ayurvedic medicines, tooth powder, agarbatti, colouring books, contact lenses, utensils, umbrella, sewing machine, tractor, bicycle and cellular phones.	17%
18%	Hair oil, toothpaste, soap, pasta, cornflakes, pastries and cakes, preserved vegetables, jams, sauces, soups, sugar confectionery, ice cream, instant food mixes, mineral water, tissues, envelopes, note books, steel products, printed circuits, camera, laptop, speakers and monitors etc.	43%
28%	Pan masala, aerated water, chewing gum, molasses, chocolate not containing cocoa, paint, deodorants, shaving products, hair shampoo, dye, sunscreen, wallpaper, ceramic tiles, water heater, dishwasher, weighing machine, washing machine, ATM machines, vending machines, vacuum cleaner, automobiles, motorcycles, tyres and tubes, aircraft for personal use and yachts.	19%

- GST rates for the remaining category of goods such as jewellery and precious metals etc. are expected to be discussed on June 3, 2017.

Note: 81% of the goods will be liable to GST at a rate of 18% or lower.

Key highlights

- Food products
  - Items of daily consumption such as milk, fruits and vegetables, jaggery, food grains and cereals have been exempted from tax while others such as sugar, tea, coffee, edible oil, sweets and newsprint have been placed in the lowest slab of 5%.

- FMCG sector
  - FMCG products such as hair oil, toothpaste and soap would be taxed at 18% as compared to existing tax rate of approximately 28%.

- Pharmaceutical products
  - Lifesaving drugs/medicine would be taxed at 5% under GST as compared to the existing rate of approximately 10%.

- Automobile sector
  - A uniform GST rate of 28% on motor vehicles (except refrigerated motor vehicles) and its parts.
  - Further, GST compensation cess of 1%, 3% and 15% on small petrol cars, small diesel cars and other motor vehicles respectively has been finalized (refer section III for details).
  - All types motorcycles to attract 28% [compensation cess of 3% to apply on motorcycle above 350cc].

- Others
  - Coal, the key raw material for power and various other industries, has been placed under the 5% slab as against the current incidence of 11-12%.
  - Capital goods and industrial intermediate items will be under the 18% slab.
  - Electronic appliances such as air conditioner, refrigerator etc. are categorized to be tax at 28%.
  - Cellular phones to be taxed at 12%.

BDO Comments

- *Zero rating and lower rate for items of mass consumption and essential commodities based on the original intent of the GST Council leads to a less regressive and responsive structure.*
- *Small cars currently attract excise duty at 12.5% and VAT at 12.5-14.5%. The proposed rate of 28%, along with the compensation cess of 1-3%, could inflate total levies to 29-31% as against 27-29% presently. Whereas, post GST implementation, luxury cars would attract 43-45% as against 53-55% presently.*
- *The tractor makers were amongst the handful, lobbying for being taxed under GST given the loss on account of excise duty and service tax credits on most of its procurements. Now with GST at 12% the tractor makers are likely to recoup the taxes on the input side and the final price to the farmer is would also remain intact.*
- *Inclusion of products like motorcycles, water heater, shampoo and shaving creams under the highest slab of 28% appears to be a complete departure from the primary intention of the legislature to tax only luxury and de-merit goods under the said slab.*
- *Domestically manufactured cellular phones will get costlier by 4-5% with the imposition of 12% GST rate as against VAT of 5-6% in most of the states and excise duty of 2% (without credits) presently. Whereas, imported cellular phones likely to get cheaper under GST.*
- *Product such as cement which is an essential commodity for the infrastructure space would have boosted industry impetus had it been placed in the 18% category. Given the fact that the current tax cost hovers in the range of 28% to 32%, the industry would have wanted a lower rate, especially since the transportation costs and working capital requirements are higher in this sector. Moreover, due to the gap between the input [viz. limestone that will attract 5% tax] and output tax rate of 28%, there is a serious additional working capital requirement.*

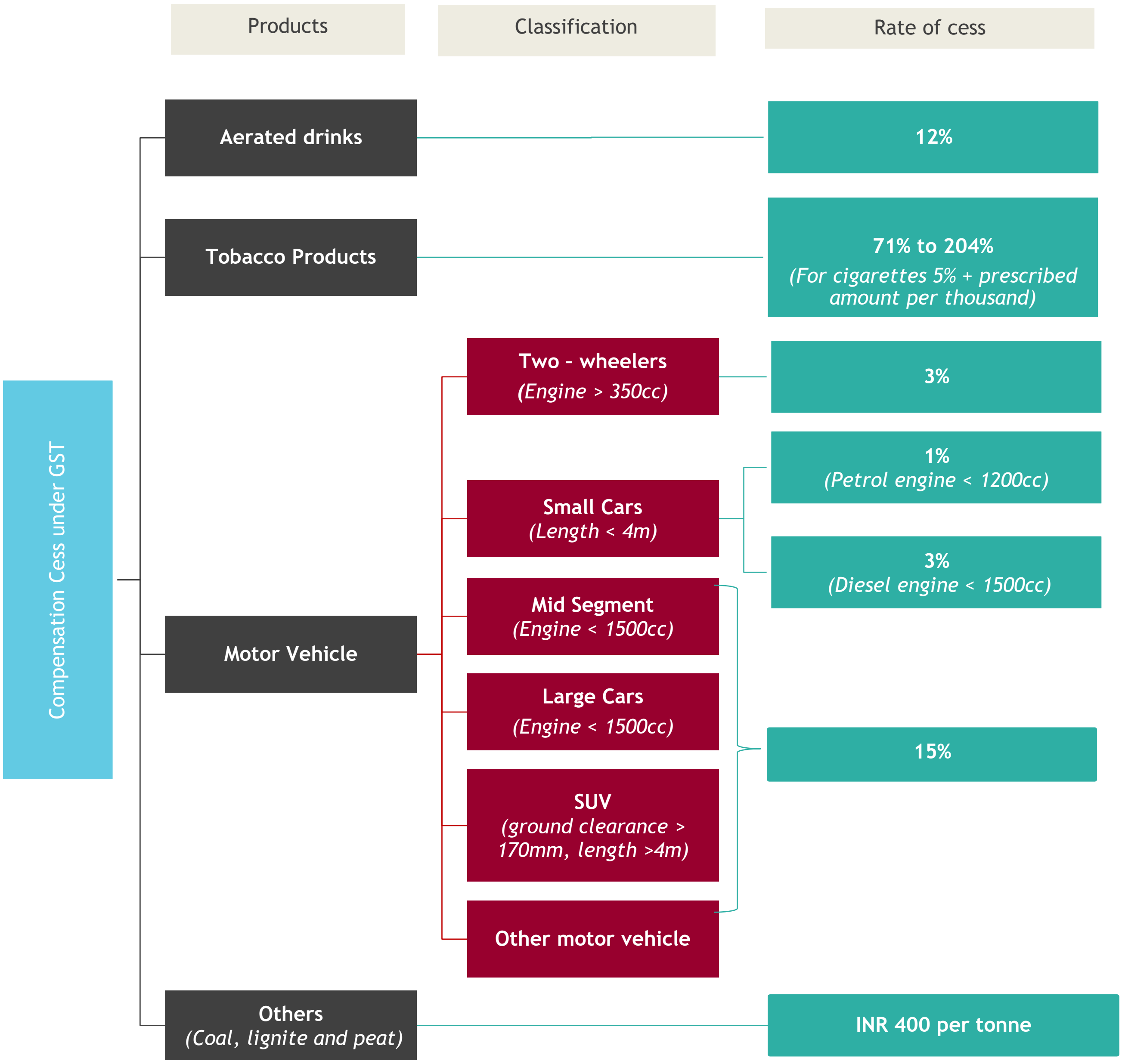
II. Services

- Standard GST rate of 18% would be applicable on most services.
- Education and healthcare services continue to be exempt under GST regime.
- Travelling in metro, local trains, Non-AC trains or coaches and religious travel will be exempt.
- Restaurant services to be taxed at
  - 12%, in case of non-air conditioned (non-AC) restaurants that don't serve liquor;
  - 18% in case of AC restaurants or restaurants that serve liquor (even if non-AC); and
  - 28% in case of AC restaurants in a five start or above rated hotels.
- Accommodation service by Hotel service to be taxed at
  - Nil, in case of hotel day tariff of below INR 1,000
  - 12%, in case of hotel having day tariff of INR 1,000 to 2,500;
  - 18%, in case of hotel having day tariff of INR 2,500 to 5,000; and
  - 28%, in case of five star hotels or hotels having day tariff of above INR 5,000.
- Passenger travel by air in
  - Economy class to attract 5%; and
  - Business class to attract 12%.
- Good transport agency service would be taxable at 5% without ITC
- Renting of motorcab would attract 5% without ITC. However, if fuel cost is borne by the recipient, then 18% GST will apply.
- Services by cab aggregators to attract 5%.
- Construction of complex, building (commercial and residential) or civil structure to attract 12% with full ITC (No refund of overflow of ITC), provided land value included in transaction value for levying GST.
- Composite supply of works contract as defined in section 2(119) of CGST Act [immovable property] would attract 18% with full ITC.
- Telecom and financial services to attract 18%.
- Admission to entertainment event or access to amusement facilities, racing, gambling, betting on racing, casinos and cinema services to fall under 28% slab.
- Whereas, access to circus, Indian classical or folk dance and theatrical performance would be taxable at 18%. However, an exemption is prescribed where consideration of admission is not more than INR 250 per person.
- Selling of space for advertisement in print media would attract 5% with full ITC. Earlier, the same was covered in negative list.
- No RCM on manpower supply or security services under GST.
- New service covered under RCM i.e. Transfer of copyright by author, music composer, photographer and artists etc. to the publisher, music company and producer respectively, GST to be paid by the publisher, music company and producer.

BDO Comments

- *Grandfathering of current exemptions for services (including healthcare & education) leaves limited anomaly on the taxability services and the Council has clarified that no additions shall be made to the exemption list.*
- *The multiple rates for services may lead to tax disputes regarding classification and interpretation for instance in case of composite supplies [movable vs. immovable property].*
- *Rate of 18% for the telecom and financial services may appear higher as against the current service tax rate of 15%; however, these sectors are likely to derive substantial benefits on the input credit front given the eligibility of credit on the goods which was not the case under the current regime.*
- *Overall positive impact for restaurants (AC or non-AC or those serving liquor) given that full input tax credit would be allowed as against the current tax incidence on the sector due to the ineligible credits. It's noteworthy that restaurants having less that INR 50 Lakhs of turnover in a year may opt for the composition scheme at 5% subject to the conditions prescribed.*
- *With respect to works contract service, the 12% rate with full input tax credit could be an overall boom for civil construction as against the current taxes at 6% (central) and 1-5% (state). Overflow of ITC, if any would not be allowed as refund given that the major inputs i.e. steel and cement would be tax at 18% and 28% respectively.*
- *Taxing the transportation services at 5% is a welcome move considering that fuel i.e. the major input is not under GST. Transportation of used household goods for personal use i.e. services by packers and movers to be taxed at 5% as against 15% presently.*

III. GST Compensation cess



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