FAQ: India's Goods and Services Tax

India's Goods and Services Tax (GST) of 2017 integrates several central and state taxes with the goal of making business easier. India's GST is one of the world's most complex and includes the world's second highest tax rate, according to the World Bank's bi-annual India Development Update. Under the GST Act, any "person" who engages in economic activity including trade and commerce is treated as a taxable person; this includes charitable organizations. GST is regulated by the Ministry of Finance.

1 WHAT IS GST?

GST is an indirect tax applicable throughout India. GST incorporates under a single law various indirect taxes, including the service tax on services rendered and value-added tax (VAT) on the sale of goods. It replaces multiple taxes that were previously levied separately by the central and state governments.

2 WHY IS GST REFERRED TO AS AN INDIRECT TAX?

Income tax paid on a salary or business income is a direct tax. Taxes charged by vendors of goods or services to consumers and then paid to the government, such as the service tax and VAT, are indirect taxes. In other words, while the onus of charging an indirect tax is on the provider of services or goods, the burden of payment is indirectly on the consumer.

3 WHO IS A TAXABLE PERSON UNDER THE GST ACT?

Under the GST Act, a taxable person is a person who conducts any business anywhere in India and is registered or required to be registered under the act. Any person who engages in economic activity, including trade and commerce, is treated as a taxable person.

The word "person" includes an individual, a Hindu Undivided Family, a company, a firm, a limited liability partnership, an association of persons or a body of individuals, a corporation or government company, a body corporate incorporated under the laws of a foreign country, a co-operative society, a local authority, a government, or an artificial juridical person. The definition of taxable person also includes a trust. However, if the trust is not engaged in economic activity, it will not be treated as a taxable person under the GST Act.

GST registration is mandatory for any business whose total volume of sales or services in a financial year exceeds four million rupees (approximately $55,918) or two million rupees (approximately $27,959) in the North Eastern and Hill States of India. If the turnover consists only of the supply of exempted goods or services, registration is not necessary.

4 ARE SOME GOODS AND SERVICES EXEMPT FROM GST?

Education and healthcare are exempt.

GST: QUICK FACTS

When did GST come into effect?
July 1, 2017

What are the GST rates?
Under the GST Act, goods and services are taxed at varying rates of 0, 5, 12, 18, or 28 percent. For example, items such as fresh chicken and eggs are not taxed, while items such as packaged foods and coffee are taxed at 5 percent. Most services are taxed at 18 percent. Luxury cars are taxed at 28 percent.

Are some goods and services exempt from GST?
Yes, education and healthcare are exempt.

When must a nonprofit organization register under the GST Act?
If a nonprofit organization's turnover from goods or services is more than two million rupees (approximately $30,680), then it should register under the GST Act.

Photo: Rodney Ee

5 SHOULD NONPROFITS THAT RECEIVE GRANTS REGISTER UNDER THE GST ACT?

No. Grants are in the nature of a gift, and GST should not be deducted on grants or donations. However, GST does apply to sponsorship and advertisements on behalf of nonprofits if benefit is accrued by the sponsor or advertiser.

For example, ABC Bank decides to sponsor a dance and music show organized by the XYX nonprofit organization, which supports children with hearing and visual disabilities. ABC Bank puts its banners up on the venue and derives advertising benefits. In this case, the XYZ organization should be registered under the GST Act, charge GST to ABC Bank, and pay GST to the government.

6 ARE ALL SERVICES RENDERED BY CHARITABLE ORGANIZATIONS EXEMPT UNDER THE GST ACT?

Services constituting charitable activities by a tax-exempt entity registered under Section 12AA of the Income Tax Act are exempt from GST. However, a charitable organization's paid commercial services are subject to GST if they amount to more than two million rupees (approximately $27,959) in a financial year.

7 ARE "CHARITABLE ACTIVITIES" DEFINED UNDER THE GST ACT?

Under the GST Act, the scope of charitable activities is narrower and more restricted than under the Income Tax Act. Charitable activities include:

(1) The following public health services:

(a) Care or counseling of

(i) Terminally-ill persons or persons with severe physical or mental disability

(ii) Persons with HIV or AIDS

(iii) Persons addicted to a dependence-forming substance, such as narcotics, drugs, or alcohol

(b) Public awareness of preventive health, family planning, or prevention of HIV infection

(2) Advancement of religion, spirituality, or yoga

(3) Advancement of educational programs or skills development relating to:

(a) Abandoned, orphaned, or homeless children

(b) Physically or mentally abused and traumatized persons

(c) Prisoners

(d) Persons over the age of 65 residing in a rural area

(4) Preservation of the environment (including watershed, forests, and wildlife).

WHERE CAN I LEARN MORE ABOUT PHILANTHROPY LAW IN INDIA?

More information may be found in ICNL's India Philanthropy Law Report, which offers detailed information about national laws and regulations affecting philanthropy in India:

https://www.icnl.org/post/report/india-philanthropy-law