

## Goods and Services Tax: Comparison of the 2014 Bill with the 2011 Bill

**2014 Bill:** The Constitution (122<sup>nd</sup> Amendment) Bill, 2014 was introduced in the Lok Sabha on December 19, 2014.<sup>1</sup> It seeks to amend the Constitution to introduce the goods and services tax (GST), and impose concurrent powers on the centre and states to do so.

**2011 Bill:** Earlier, the Constitution (115<sup>th</sup> Amendment) Bill, 2011, also in relation to the introduction of GST was introduced in the Lok Sabha on March 11, 2011.<sup>2</sup> The Bill was referred to the Standing Committee on Finance on March 29, 2011. The Standing Committee submitted its report on the Bill in August 2013.<sup>3</sup> However, the Bill, which was pending in the Lok Sabha, lapsed with the dissolution of the 15<sup>th</sup> Lok Sabha.

The Table below compares the provisions of the 2014 Bill with that of the 2011 Bill and the recommendations of the Standing Committee, 2013.

**Table 1: Comparison of the provisions of the 2014 Bill with that of the 2011 Bill and the recommendations of the Standing Committee:**

The Constitution (115 <sup>th</sup> Amendment) Bill, 2011	The Constitution (122 <sup>nd</sup> Amendment) Bill, 2014	Standing Committee Recommendations, 2013	Comments
<b>Introduction of goods and services tax (GST)</b>			
<ul style="list-style-type: none"> <li>▪ <b>Objective of the Bill:</b> The 2011 Bill inserted a new Article in the Constitution to give the central and state governments the concurrent power to make laws on taxation of goods and services.</li> <li>▪ <b>GST:</b> The Bill defined GST as any tax on the supply of goods or services, except taxes on the supply of: (i) petroleum crude; (ii) high speed diesel; (iii) motor spirit (petrol); (iv) natural gas; (v) aviation turbine fuel; and (vi) alcoholic liquor for human consumption.<sup>1</sup></li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Objective of the Bill:</b> Same as the 2011 Bill.</li> <li>▪ <b>GST:</b> The Bill defines GST as any tax levied on the supply of goods, or services, except taxes on the supply of alcoholic liquor for human consumption.<sup>1</sup></li> </ul>	<ul style="list-style-type: none"> <li>▪ Imposition of GST may be made optional for states as was done in the case of VAT.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Standing Committee recommendation not incorporated.</li> </ul>
<b>Levy and collection of GST in the course of inter-state trade or commerce.</b>			
<p><b>Levy of Integrated GST (IGST):</b> The Bill inserted a new Article in the Constitution which states that only the centre would levy and collect goods and services tax on supplies in the course of inter-state trade or commerce. Further, the tax collected would be divided between the centre and the states in a manner to be prescribed by Parliament by law. This law was to also lay down the principles for determining when a supply of goods, or of services,</p>	<ul style="list-style-type: none"> <li>▪ <b>Levy of IGST:</b> Same as the 2011 Bill.</li> <li>▪ <b>Apportionment of IGST:</b> The Bill adds a provision related to functions of the GST Council to include that the GST Council would also make recommendations related to apportionment of IGST.</li> <li>▪ <b>Place of supply:</b> The GST council is to also make recommendations on formulation of the principles</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Distribution of remaining IGST amounts:</b> There may be a positive balance in the proceeds of IGST at the end of a fiscal year. Therefore, a provision may be made in the Constitution in relation to distribution of remaining proceeds of IGST after the accounts of that fiscal year have been settled.</li> <li>▪ <b>Concerns of producer states:</b> As the destination-based IGST model favours</li> </ul>	<ul style="list-style-type: none"> <li>▪ Standing Committee recommendations partially incorporated.</li> </ul>

<sup>1</sup> GST would subsume the following: CENVAT; service tax; central excise duty; additional excise duties; excise duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955; service tax; additional customs duty (countervailing duty or CVD); special additional duty of customs (SAD); central surcharges and cesses; state VAT; state sales tax; entertainment tax not levied by local bodies; luxury tax; taxes on lottery, betting, and gambling; tax on advertisements; state cesses and surcharges related to supply of goods and services; and entry tax not levied by local bodies.

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The Constitution (115 <sup>th</sup> Amendment) Bill, 2011	The Constitution (122 <sup>nd</sup> Amendment) Bill, 2014	Standing Committee Recommendations, 2013	Comments
or both occurs in inter-state trade or commerce.	<p>that govern the place of supply.</p> <ul style="list-style-type: none"> <li>▪ <b>Additional tax:</b> The Bill states that an additional tax (not to exceed 1%) on the supply of goods in the course of inter-state trade or commerce would be levied and collected by the centre.</li> </ul> <p>Such additional tax shall be directly assigned to the states from where the supply originates. This would not be a part of the Consolidated Fund of India (except for the amounts due to the union territories).</p> <p>This shall be implemented for a period of two years, or as recommended by the GST Council. The centre may exempt certain goods from its purview and formulate principles for the determination of place of origin related to supply of goods.</p>	<p>consumer states more than producer states, the revenue concerns of these states also must be addressed.</p> <ul style="list-style-type: none"> <li>▪ <b>Alternative to IGST regime:</b> The Modified Bank Model, suggested by the Task Force on GST constituted by the 13th Finance Commission, could be considered to simplify and ease compliance, and ensure a smooth clearing house mechanism between states.</li> </ul>	
<b>Goods and Services Tax Council</b>			
<p>The Bill inserted a new Article in the Constitution which requires the President to set up a Goods and Services Tax Council within 60 days of enactment of the Bill.</p> <ul style="list-style-type: none"> <li>▪ <b>Objective of the Council:</b> The Council was to be guided by the need for a harmonised structure of goods and services tax and to develop a harmonized national market of goods and services.</li> <li>▪ <b>Members:</b> The GST Council was to consist of the following three members: (i) the Union Finance Minister (as Chairman), (ii) Union Minister of State in charge of Revenue, and (iii) Minister in charge of Finance or Taxation or any other Minister nominated by each state government.</li> <li>▪ <b>Quorum:</b> One-third of the total members of the Goods and Services Tax Council were to constitute the quorum at its meetings.</li> <li>▪ <b>Consensus:</b> Every decision of the Goods and Services Tax Council taken at a meeting was to be with the consensus of all the members present.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Objective of the Council:</b> Same as the 2011 Bill.</li> <li>▪ <b>Members:</b> The Bill modifies the composition to state that one of the members could either be the Union Minister of State in charge of Revenue or Finance.</li> <li>▪ <b>Quorum:</b> One-half of the total members of the Goods and Services Tax Council were to constitute the quorum at its meetings.</li> <li>▪ <b>Voting:</b> Every decision of the GST Council is to be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles: <ul style="list-style-type: none"> <li>(i) The vote of the central govt is to have a weightage of one third of the total votes cast</li> <li>(ii) The votes of all the state governments taken together are to have a weightage of two thirds of the total votes cast.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Objective of the Council:</b> The word “harmonized structure” may be clearly defined to remove any ambiguity.</li> <li>It should also be clarified that this provision related to harmonised structure is a guiding principle and not mandatory in nature.</li> <li>▪ <b>Quorum:</b> The quorum may be increased to half from the proposed one-third.</li> <li>▪ <b>Consensus:</b> The Bill must provide for voting instead of consensus for decisions of the GST Council.</li> <li>Thus, one-third weight age for the centre and two-thirds weight age for the state may be provided, with the decision taken by the Council being passed with more than three fourths votes of the representatives present in the meeting. This was agreed upon by the Empowered Committee.</li> <li>▪ <b>GST Monitoring / Evaluation Cell:</b> A cell must be set up to closely monitor the immediate impact of GST on key aspects such as GDP growth, inflation, hoarding,</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Objective of the Council:</b> Standing Committee recommendations not incorporated.</li> <li>▪ <b>Quorum:</b> Standing Committee recommendations incorporated.</li> <li>▪ <b>Consensus:</b> Standing Committee recommendations incorporated.</li> <li>▪ <b>GST Monitoring / Evaluation Cell:</b> Standing Committee recommendation not incorporated.</li> </ul>

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		<p>compliance costs for taxpayers, administrative bottlenecks and retail prices paid by the ultimate consumer.</p> <ul style="list-style-type: none"> <li>▪ <b>Co operative Federalism:</b> If the proposed GST Council were to function like the present Empowered Committee of state Finance Ministers, the spirit of cooperative federalism would be upheld.</li> </ul>	
<b>Functions of the Goods and Services Tax Council</b>			
<p>The GST Council was to make recommendations on the structure of the goods and services tax, including:</p> <ul style="list-style-type: none"> <li>(i) taxes, cesses, and surcharges to levied by the Centre, States and local bodies which may be subsumed in the goods and services tax;</li> <li>(ii) goods and services which may be exempt from the goods and services tax;</li> <li>(iii) the threshold limit of turnover below which goods and services tax may be exempted;</li> <li>(iv) rates of the goods and services tax; and</li> <li>(v) any other matter relating to the goods and services tax.</li> </ul>	<p>The functions of the GST Council include making recommendations on:</p> <ul style="list-style-type: none"> <li>(i) taxes, cesses, and surcharges levied by the centre, states and local bodies which may be subsumed in the GST;</li> <li>(ii) goods and services which may be subjected to or exempted from GST;</li> <li>(iii) model GST laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;</li> <li>(iv) the threshold limit of turnover below which goods and services may be exempted from GST;</li> <li>(v) rates including floor rates with bands of GST;</li> <li>(vi) any special rates for a specified period, to raise additional resources during any natural calamity or disaster;</li> <li>(vii) special provision with respect to Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and</li> <li>(viii) any other matters.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Floor rate:</b> A system of band with a floor rate should be adopted, so that states have some flexibility to calibrate the rate of tax depending on their needs. However, there could be a provision to levy higher rates on demerit goods, whenever necessary.</li> <li>▪ <b>Disasters:</b> The centre and states must have the requisite flexibility to raise additional resources during period of natural calamities and disasters.</li> <li>▪ <b>Special states:</b> Special schemes for north-eastern states, Jammu and Kashmir and other special category states must be provided for.</li> <li>▪ <b>Flexibility to the centre:</b> The central government should also have the flexibility to levy surcharge or cess whenever required, or during extra-ordinary circumstances.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Standing Committee recommendations partially incorporated.</li> </ul>
<b>Compensation to states</b>			
No provision.	<p>The Bill states that Parliament may, by law, on the GST Council's recommendations provide for compensation to states for revenue losses arising out of the implementation of the GST.</p> <p>This would be up to a period of five years.</p>	<p><b>GST Compensation Fund:</b> The Committee suggested that a GST Compensation Fund be created, under the administrative control of the GST Council, to address the issue of a possible loss of revenue to states which generate high tax revenues at present.</p> <p>This would operate as an automatic, built in,</p>	<p>Standing Committee recommendation partially incorporated.</p>

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permanent compensation mechanism.			
<b>Goods and Services Tax Dispute Settlement Authority</b>			
<p><b>Creation of a dispute settlement authority:</b> The Bill provides for the creation of the Goods and Services Tax Dispute Settlement Authority to adjudicate disputes between the central government and state governments: (i) resulting in any loss in revenue; or (ii) affecting the harmonized structure of the tax.</p> <p><b>Members:</b> The Authority shall consist of three members, including:</p> <p>(i) a former Supreme Court Judge or Chief Justice of a High Court (Chairman)</p> <p>(ii) The two other members were to be experts in the field of law, economics or public affairs.</p> <p><b>Appointment of members:</b> The President was to make appointments; The Chief Justice of India was to make recommendations for appointment of the Chairman; while the Goods and Services Tax Council were to make recommendations for appointment of the two other members.</p> <p><b>Jurisdiction of Courts:</b> Parliament may, by law, restrict the jurisdiction of all courts, except the Supreme Court, on the adjudication of the abovementioned matters.</p>	<p>The Bill has deleted the provision that creates a Goods and Services Tax Dispute Settlement Authority.</p>	<ul style="list-style-type: none"> <li>▪ <b>Omit GSTDSA:</b> GST Dispute Settlement Authority would have the effect of overriding the supremacy of Parliament and the state legislatures, and must be omitted.</li> <li>▪ Instead, the GST Council may be empowered to decide upon the modalities to resolve disputes arising out of its recommendations.</li> </ul>	<p>Standing Committee recommendations incorporated.</p>
<b>Restrictions related to imposition of tax on sale or purchase of goods</b>			
<p>The Constitution imposed restrictions on states in taxation of goods that were declared by Parliament, by law, to be of special importance in inter -state trade or commerce, or certain other goods listed in A. 366 (definitions).</p> <p>The Bill made two changes:</p> <p>(i) It removed the goods listed under A. 366 from within its ambit; (related to tax on the sale or purchase of goods)</p> <p>(ii) It specifies that this provision was not to apply to a state law insofar as it imposed GST.</p>	<p>This provision has been deleted by the Bill.</p>	<p>The Committee recommended that this provision be amended to state that the restrictions imposed by Parliament, by law, would be based on the recommendations of the GST Council.</p> <p>The Committee noted that this change would address the states' concerns on loss of fiscal autonomy.</p>	<p>Standing Committee recommendations not incorporated.</p>

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<b>Goods exempt from the Goods and Services Tax regime</b>			
<p>The Bill exempted: (i) petroleum crude, (ii) high speed diesel, (iii) motor spirit (petrol), (iv) natural gas, (v) aviation turbine fuel, and (vi) alcoholic liquor for human consumption from the purview of the goods and services tax.</p>	<ul style="list-style-type: none"> <li>▪ The Bill exempts alcoholic liquor for human consumption from the purview of the GST.</li> <li>▪ The Bill also states that the GST Council would decide when GST would be levied on the other previously exempted goods, namely: (i) petroleum crude, (ii) high speed diesel, (iii) motor spirit (petrol), (iv) natural gas, and (v) aviation turbine fuel.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Committee believed that such specific exclusions need not be provided in a Constitution (Amendment) Bill as this would needlessly make the GST regime very rigid.</li> <li>▪ The Bill has already empowered the GST Council to make recommendations on subsuming or exempting or excluding certain goods and services from the purview of GST. This provision would address emerging situations.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Standing Committee recommendations not incorporated.</li> </ul>
<b>Levy of taxes on entertainments and amusements (Amendments to the Sixth Schedule)</b>			
<p>The Bill amended the Sixth Schedule of the Constitution, to give District Councils the power to levy taxes on entertainments and amusements.</p>	<p>Same as 2011 Bill.</p>	<p>Not addressed.</p>	
<b>Levy of excise duties (Amendments to List I of the Seventh Schedule)</b>			
<p>The Bill amended List I of the Seventh Schedule of the Constitution (the Union List), on two issues:</p> <ul style="list-style-type: none"> <li>▪ It gave the central government the power to levy excise duties on goods manufactured or produced in India only in regards to: (i) petroleum crude, (ii) high speed diesel, (iii) motor spirit (petrol), (iv) natural gas, (v) aviation turbine fuel, and (vi) tobacco and tobacco products.</li> <li>▪ It omitted taxes on services and taxes on the sale or purchase of newspapers and newspaper advertisements from this List.</li> </ul>	<p>Same as 2011 Bill.</p>	<p>Not addressed.</p>	
<b>Levy of tax upon entry of goods or on intrastate trade (Amendments to List II of the Seventh Schedule)</b>			
<p>The Bill amended List II of the Seventh Schedule of the Constitution (the State List), on four issues:</p> <ul style="list-style-type: none"> <li>▪ It allowed states to tax entry of goods into a local area for use or sale only to the extent levied by a Panchayat or Municipality; and</li> <li>▪ It gave state governments the power to levy taxes on the intrastate trade of: (i) petroleum crude; (ii) high speed diesel; (iii) motor spirit (petrol); (iv) natural gas; (v) aviation turbine</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Bill deletes the provision which permits states to tax entry of goods into a local area for use or sale only to the extent levied by a Panchayat or Municipality.</li> <li>▪ It does not make any other changes to the provisions of the 2011 Bill.</li> </ul>	<p>Entry tax in general should be subsumed in GST. Further, states must be empowered to collect entry tax for distribution to local bodies instead of leaving it to be collected by different local bodies.</p>	<p>Standing Committee recommendations incorporated.</p>

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<p>fuel; and (vi) alcoholic liquor for human consumption.</p> <ul style="list-style-type: none"> <li>▪ It omitted the entry related to taxes on advertisements other than advertisements published in newspapers and broadcast by radio or TV.</li> <li>▪ It replaced the entry on luxuries, including taxes on entertainment, amusement, betting and gambling. It was to only include taxes on entertainment and amusements to the extent levied and collected by a Panchayat/ Municipality or a Regional/ District Council.</li> </ul>			

Sources: The Constitution (122<sup>nd</sup> Amendment) Bill, 2014; The Constitution (115<sup>th</sup> Amendment) Bill, 2011; 73<sup>rd</sup> Report, The Constitution (115<sup>th</sup> Amendment) Bill, 2011, Standing Committee on Finance, 2013; PRS.

1 The Constitution (122<sup>nd</sup> Amendment) Bill, 2014, <http://www.prsindia.org/uploads/media/Constitution%20122nd/Constitution%20122nd%20Bill.pdf>.

2 The Constitution (115<sup>th</sup> Amendment) Bill, 2011, <http://www.prsindia.org/uploads/media/Constitution%20115/Constitution%20115.%2022%20of%202011.pdf>.

3 73<sup>rd</sup> Report, The Constitution (115<sup>th</sup> Amendment) Bill, 2011, Standing Committee on Finance, August, 2013; <http://www.prsindia.org/uploads/media/Constitution%20115/GST%20SC%20Report.pdf>.

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