

To: Mr. Arun Jaitley  
Chairman of the GST Council  
Finance Minister of India  
North Block Central Secretariat New Delhi 110001

Date: 13 October 2016

Subject: GST Rate for Services Provided by Insurers and Other Key GST Issues

Dear Minister,

The Global Federation of Insurance Associations (GFIA) wishes to congratulate you and the Indian government for passing the historic Goods and Services Tax Regime (GST). However, GFIA wishes to alert you to the need for serious consideration of the GST's treatment of insurance, in order to support economic inclusion, growth and the financial stability of India's economy.

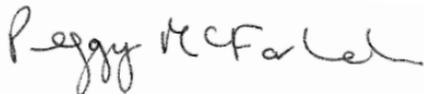
GFIA, which represents 41 regional and national insurance and reinsurance associations that account for 87% of global insurance and reinsurance premiums, strongly believes that insurance products play an important role in supporting a dynamic and resilient economy in line with the Honorable Prime Minister's goals.

However, under the GST, effective tax rates on insurance are expected to increase to 18%, from the current service tax rate which ranges from 1.5% to 15%. This would increase the costs of input services and other operating expenses, such as rent, legal and professional fees, advertising, insurance, and telecommunications.

In turn, this would result in higher insurance premiums for both consumers and businesses, and so their access to affordable insurance would decline. Therefore, ***GFIA asks you to consider granting a zero-rating for the supply of goods and services provided by insurance companies.***

GFIA appreciates the opportunity to provide comments to the GST Council. In addition to recommending zero-rating for the supply of goods and services provided by insurance companies, the attached includes comments on some additional key issues and concerns regarding GST, which GFIA would like to put forward for your consideration.

Yours faithfully,



Peggy McFarland  
Chair of the GFIA Taxation working group

cc. Mr. Hasmukh Adhia  
Revenue Secretary  
Ministry of Finance – Department of Revenue

## **GFIA recommendations regarding the draft of the Model GST law released June, 2016**

### **1. Zero-rating of GST for services provided by insurance companies**

- The Model GST law envisages a concept of 'zero-rated supply', which is defined under Section 2(109) to mean 'a supply of any goods and/or services on which no tax is payable, but credit of the input tax related to that supply is admissible'. The explanation to the definition of 'zero-rated supply' states that exports shall be treated as zero-rated supplies.
- GFIA wishes to emphasize that, while the Model GST law contemplates that other supplies of goods or services may also be zero-rated, this benefit has currently only been extended to exports. Insurance products provide significant economic benefits to India, and accordingly, GFIA suggests that the benefit of zero-rating should be extended to insurance services.
- This is because insurance is a social-economic instrument that is particularly relevant and important in India where:
  - State sponsored social security and health benefits are limited, compared to developed countries.
  - Household savings are low and risk protection through insurance protects against poverty in the event of a loss.
  - Increasingly frequent natural catastrophes present major challenges to all levels of government that need to respond to them. A more inclusive insurance industry can lead to quicker economic recovery from natural disasters in affected areas.
- Overall, insurance has had a very positive impact on India's economic development, with the sector gradually increasing its contribution to the country's GDP. The insurance sector is increasingly a critical source of financing for infrastructure, with investments growing each year. This is in part due to the long-term of these investments, which mirrors the long-term nature of the industry's liabilities. Likewise, the increased management of risk within critical industries has led to lower preventable losses and has protected an increasing number of Indian workers. GFIA is concerned that, if the GST leads to unnecessarily higher insurance costs, it could cause unintended harm to the economy by discouraging business and individuals from protecting themselves. Then, when loss events occur, more of the burden would fall on the Indian government as the guarantor of last resort.

Accordingly, GFIA requests that the definition of 'zero-rated supply' should be extended to include supplies made by insurance companies. Also, to enable the full benefit of zero-rating to insurance services, a refund mechanism should be provided, whereby insurance companies can claim a refund of the GST paid on input supplies.

## **2. Alternatively, insurance services should attract a merit rate of GST (12%) & exemption for micro-insurance**

- In the event that a zero-rating for these services is not considered feasible by the government, GFIA recommends that:
  - a. Insurance services are taxed at the lowest rate possible. For example, the 'Report on the Revenue Neutral Rate and Structure of Rates for the Goods and Services Tax (GST)' dated December 4, 2015, suggests a merit rate of 12% for insurance services.
  - b. To ensure that there is no inverted duty structure, insurance auxiliary services (ie, commission agent services) and reinsurance services that constitute core input services, should also be assessed at the lower rate of 12%.
  - c. Separately, a presumptive rate of tax/ composition scheme should be granted for certain life insurance products, such as endowment policies, consistent with current practice. This would ensure that GST is levied only on the premium collected by insurance companies for the supply of insurance services, i.e. excluding the investment portion where insurance companies act purely in a fiduciary capacity on behalf of policyholders.
- Finally, micro-insurance policies (for example, life insurance with a life cover up to INR 50,000) are currently exempt from service tax. Given that micro-insurance policies provide insurance coverage for Indian citizens of lower income brackets, GFIA strongly recommends that micro-insurance, rural insurance and the PMJJY<sup>1</sup> scheme continue to be exempt under the GST regime.

## **3. Place of provision of insurance services**

- In order to issue a policy to a particular customer, various offices/ branches of an insurance company may be involved [ie with the policy being issued by the head office, and know your client (KYC) compliance norms being carried out by the branch where the customer is located]. Determination of the 'location of supplier of services' in the context of insurance services would be difficult and is likely to be subject to diverse interpretation by taxpayers and tax authorities, especially in the case of inter-state services, given that insurance companies have branches all across the country.
- In terms of Sections 3 and 3A of the Integrated Goods and Services (IGST) Act, inter-state supply of services means any supply where the 'location of the supplier of services' and the 'place of supply' are in different states, and 'intra-state supply' means any supply where the location of the supplier and the place of supply are in the same state.

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<sup>1</sup> PMJJY (Pradhan Mantri Jeevan Jyoti Yojana) refers to the Prime Minister's Social Security scheme which provides life and accident insurance.

- In terms of Section 6(14) of IGST Act under the Model GST law, the place of supply of insurance services is as follows:
  - In case the supply is to a registered person – the location of such person.
  - In case the supply is to a person other than a registered person – the location of the recipient of services on the records of the supplier of services.
  
- Obtaining an insurance policy is not a one-step process and various offices/branches are involved. The inherent complexity of the process to issue an insurance policy may result in unnecessary disputes and litigation in the determination of the location of supplier of service. It is therefore necessary that the Model GST law stipulates or clarifies that the head office of the insurance company from where the policies are usually issued should be treated as the 'location of supplier of service'.

It is worthwhile to note that appropriate stamp duty is paid on policies issued by insurance companies in the state of issuance of the policies, ie, the state of the head office. This would enable/ facilitate centralised billing of stamp and other taxes on policies across India.

- Such a move would not lead to loss of revenue to any state, given that GST is a destination based tax and IGST would be paid to the account of the respective state of the policyholder.

#### **4. Place of provision of key insurance related input services**

Similarly, in determining the 'location of recipient of service' for services provided to insurance companies, such as insurance auxiliary services (ie, commission agent services), reinsurance services, advertising services, etc, the location should be the head office that is contractually receiving the services, to provide the policies therefrom.

#### **5. Distribution of credit accumulated at branches and non-treatment as 'self-supplies'**

- The Model GST law contemplates that the present input service distributor (ISD) system may continue for the distribution of the credit for GST paid on services. The service provider would be required to obtain ISD registration for distributing the credit for GST paid on services, which is proposed to be used at multiple separately-registered locations. In fact, the ISD scheme should be widened to cover transfer of credits on inputs and capital goods as well.
  
- At present, insurance companies have a centralized registration, and pay service tax through a centralised office, including services received at branches. Under the Model GST law, it is likely that the GST paid at the branches would be accumulated.
  
- The credit accumulated at all premises of the service provider should be permitted to be cross-utilised by other premises/ branches. In short, the input tax credit in different states should be permitted to be transferred to a central location to prevent cash flow issues and compliance costs from claiming refunds in different states.
  
- It appears that the GST law would warrant a 'self-supply' of services from the branch offices to the head office, attracting GST in terms of entry 5 of Schedule I of the Model GST law that provides that the

supply of goods and / or services by a taxable person to another taxable or non-taxable person in the course or furtherance of business shall be a 'supply'.

- Accordingly, GFIA requests that this 'self-supply' provision be omitted – as one cannot provide a service to oneself. This concept will lead to unwarranted litigation and disputes, in terms of characterisation of the services and their valuation. Specifically, it should be clarified that the self-supply provision is eliminated and that credits built up at branches can be transferred through a widened ISD system.

## **6. Centralised registration for CGST and IGST purposes**

- The Model GST law requires registration in each state where a business or fixed establishment makes a taxable supply of goods/services. This would be particularly onerous for insurers, since they currently operate in a regime of centralised registration and a single agency for administration.
- Multiple registrations and corresponding compliance in each state could cause undue hardship, especially for the insurance industry, where most services are rendered and received through multiple offices under single contracts, executed by head offices. Any significant increase in compliance and associated complexities would negatively impact the industry and consumers, and make it more difficult to conduct business. This will be even worse, where the authorities of the central government administering its levies, namely CGST and IGST, will be separate for each state.
- GFIA strongly recommends that a central registration mechanism should be incorporated for the administration of at least the central levies i.e. CGST and IGST.

### **About GFIA**

Through its 41 member associations, the Global Federation of Insurance Associations (GFIA) represents the interests of insurers and reinsurers in 60 countries. These companies account for around 87% of total insurance premiums worldwide. The GFIA is incorporated in Switzerland and its secretariat is based in Brussels.