

# OVERVIEW OF THE GUJARAT VALUE ADDED TAX (GVAT)

*AS APPLICABLE IN THE STATE OF GUJARAT  
(WITH EFFECT FROM 1<sup>ST</sup> APRIL 2006)*

“KEY PROVISIONS”

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## **G.K.Choksi & Co.**

**Chartered Accountants**

'Madhuban', Nr. Madalpur Underbridge, Ellisbridge,  
Ahmedabad – 380 006.  
Phone : 91-79-30012009 Fax : 91-79-30011909

## *THE GUJARAT VALUE ADDED TAX – 2006*

### **1.0 PREFACE:**

- 1.1 VAT is a simplified, transparent and progressive taxation system now used in over than 130 countries around the world and from 1st April 2005 as we know that more than 20 States of India implemented the State Level Indirect Taxation System. This is an historical revolution event in the Indian State level taxation. All the States has constitutionally power to make laws regarding levy and collection of tax on transactions made within the State. Dr. Raja Chelliah Committee on tax reform had advocated introduction of VAT in India. This was initially triad out on Central Excise and after its success, extended to Service tax levy and on these successful progress of revolution in the indirect taxation system, the same has now been extended to State sales tax levies.
- 1.2 The Government of Gujarat had passed the “The Gujarat Value Added Tax Act, 2003” (VAT Act) in the year 2003 and the same has been assented by the President of India on 17<sup>th</sup> January 2005. The VAT Act, 2003 specified that the date of implementation (Appointed date) of the same would be notified later. Accordingly, it has since been notified that the said VAT Act would be implemented in the State of Gujarat with effect from 1<sup>st</sup> April 2006 with certain changes as notified. The Gujarat Value Added Tax Rules, 2006 are declared by the Government in *Official Gazette* as on 22<sup>nd</sup> March 2006. The provisions of the law will be effective from 1<sup>st</sup> April 2006 in the State of Gujarat.
- 1.3 The Gujarat Value Added Tax Act-2006 will merge following three existing State level taxes:
- ➔ The Gujarat Sales Tax Act-1969 and
  - ➔ The Gujarat Purchase Tax on Sugarcane Act-1989 and
  - ➔ The Bombay Sales of Motor Spirit Taxation Act, 1958,
- 1.4 However “The Gujarat Tax on Entry of Specified Goods into Local Area Act-2001” which levies on specified goods shall continue in VAT and “The Central Sales Tax Act, 1956” which levies sales tax on inter state sales is still effective and all inter-state sale and purchase transactions effected after the applicability of VAT shall continue to be subject to levy of Central Sales Tax as was applicable earlier.

### **2.0 APPLICABILITY:**

VAT Applies to all types of business segments including importers and exporters, wholesalers, retailers, works contractors, lessors.

### 3.0 REGISTRATION:

- 3.1 If a dealer is registered under GST Act, there is no need to apply for new VAT registration. He will automatically be registered for VAT form 01-04-2006 if his annual turnover of sales or purchase in the Previous Year is above as prescribed in below categories,

#### Threshold Limit

Dealer	Threshold Limit
Casual dealer or auctioneer	Turnover of taxable sales of Rs.10,001 or more.
All Others	Total Sales or Purchase turnover of Rs.5,00,001 or more AND turnover of taxable goods of Rs.10,001 or more.

- 3.2 However, if on Appointed Day, a dealer is registered under the Central Sales Tax Act, 1956 and he is not registered under the GST Act, than irrespective of turnover, he must apply for a VAT registration **with in 30 days** from the date of VAT Act become operative in Gujarat.
- 3.3 The threshold limit for new dealer registrations with effect from Appointed Day is based on the total turnover and turnover of taxable goods in total turnover. The threshold limit for registration depends on the nature of business as tabulated below:

Dealer	Who is he?	Threshold limits
Casual dealer or auctioneer	A dealer who undertake occasional transaction of a business nature.	❖ Total turnover of taxable sales of Rs.10,001 or more
Others	All dealers who are not casual dealer or auctioneer.	❖ Total turnover of sales or purchase of Rs 5,00,001 or more <b>AND</b> Sales or purchase of taxable goods during the year is not less than Rs10,000.

- 3.4 Further, if a person is liable to registered under the Central Sales Tax Act, 1956 he must register under the Gujarat VAT, in spite of the threshold.
- 3.5 There are also a provisions for dealers to apply for voluntary registration under the Gujarat VAT Act, by depositing Rs.25,000. This deposit amount can be adjusted against the liability of payment of VAT, penalty or interest payable under the VAT Act.
- 3.6 A dealer must apply within 30 days immediate after he became liable to pay tax under the Gujarat VAT Act, which is when his turnover first exceeds the threshold limit or he is liable to register for the Central Sales Tax Act, 1956.
- 3.7 **Minimum Rs.10,000/- Security** will be required to be submit for obtaining VAT registration

#### 4.0 CHARGING UNDER VAT:

Under Gujarat VAT, Tax is levied at each point of sale. Tax levied on purchase point will be allowed to be Credit, also referred to as input tax credit under VAT.

#### 5.0 INPUT TAX CREDIT:

5.1 Tax Credit is one of the important and basic fundamentals of the Value Added Taxation structure. Gujarat VAT also, Tax Credit is the amount of tax which can be claimed by an eligible registered dealer in VAT return. It is the tax, which is paid while purchasing the goods. This credit can be adjusted against the VAT payable on the sales affected, and the balance of VAT has to be paid to the Government. The Credit will be available at the point of its purchase by **Tax Invoice and entry of purchases accounted in the books of accounts**, irrespective of its subsequent point of sale or use. There also is no requirement of one to one correlation of purchases and sales.

5.2 General conditions regarding Input Tax Credit:

- ✓ The amount of tax credit will be the amount paid or payable under this act or the amount of tax calculated on the fare market price of purchased goods which ever is lower.
- ✓ No tax credit will be admissible if purchase goods are disposed other than: Sale – Resale – Inter-State Sales – Branch Transfer or Consignment – Export – Used in manufacturing of taxable goods – Sale to EOU/SEZ
- ✓ Tax credit of the particular tax period will be adjusted firstly with VAT payable, thereafter if any refund shall be adjusted against CST payable for the same period and excess Credit can be carried forward to the next return period. In case of excess unutilised tax credit at the **year end, the same will be carried forward in the subsequent year [r.18(2)]**.

***Our Note:***

While rule 15(6) provides that if at the end of the year any tax credit remains unadjusted than such amount will be refunded not later than expiry of two years from the end of the year.

Rule 18(2) provides carried forward of tax credit in the next financial year and rule 15(6) provides time limit for grant of refund of excess tax credit at the end of any financial year this both provisions create big confliction between each other because how may year the excess tax credit will be carried forwarded and from which years the time limit of 2 years will be calculate? Dealer will never get a refund of excess tax credit until he closes his business! Thus this rules required necessary modifications.

- ✓ A registered dealer shall apply fair and reasonable method for VAT regulations for claming Tax Credit.
- ✓ For claiming tax credit the original tax invoice and necessary accounting thereof is must.

5.3 Set-off or Input Tax Credit available to Manufacturer shall be as under:-

- 100% tax credit for Input Tax paid on below transactions.  
Local/Inter state/Export or in the course of export Sales/Sales to EOU-SEZ
- Input tax credit is to be reduced by 4% of value of input used in finished goods or of traded goods on below transactions.  
Consignment / Branch or Depot Transfer / Non permissible sales/ Fuel used in manufacturing.

## **6.0 PROVISIONS RELATED TO CAPITAL GOODS:**

6.1 Capital goods means Plant & Machinery (Other than second hand P & M) meant for **use in manufacture of taxable goods** and **accounted as Capital Assets** in the books of accounts.

6.2 Input Tax Credit :

Tax Credit is available on Capital Goods purchased on or after 1<sup>st</sup> April 2006 and capitalised as an Assets in the books of accounts. Credit is not available in following cases;

- Used in manufacturing of tax free or exempt goods.
- Used in generation of electrical energy including captive power.
- Used in works contracts.
- Used in lease transactions.
- If capital assets - not used within the State - continuous 5 years from the date of its purchase, than for the short period, tax credit will be reduced proportionality.

## **7.0 REDUCTION OR RETENTION OF TAX CREDIT:**

7.1 The provisions of the GJ VAT prescribed certain specified retention or reduction in the value of tax credit for certain category of transactions such as manufacturer and sale of tax free goods, stock transfer, Consignment of taxable goods to other State, Transactions with defraud dealer, Transaction with the dealer whose registration number is suspended or business discontinued or not continued by successor.

7.2 Sec. 11(5) of the Act prescribed purchases of certain goods which are not eligible for Tax Credit such as;

- Purchase made from URD dealer or dealer who is not liable to pay tax or a dealer who opted composition scheme, and
- Purchases made prior to the relevant date of liability under VAT, and
- Purchase of goods which are disposed of otherwise than in sale, resale, manufacturing, and
- Tax free goods and goods or packing used in manufacturing of tax free goods. Vehicles of any type and its equipments, accessories or spares parts except when purchasing dealer is engaged in the business of sales of such goods and goods or property not connected with business, and

- Goods which are used as fuel in generation of electrical energy meant for captive or otherwise or used in motor vehicles, and
- Original tax invoice does not contain the details of tax charged separately, and
- Original tax invoice or authenticated copy of invoice is not available or etc,
- Purchase of petrol, HSD, Crude Oil and lignite not for resale.

## 8.0 TAX CREDIT OF OPENING STOCK:

- ✓ A registered dealer will be able to claim Tax Credit on Closing Stock held as on 31-03-2006, **which was purchased on or after 01-04-2005.**
- ✓ The Tax Credit/Set-off would be available if the stock statement in form-108 of Closing Stock as on 31-03-2006 submitted to the Jurisdictional Sales Tax Authority **BEFORE 30<sup>TH</sup> APRIL 2006.**
- ✓ In this Stock Statement the dealer have to show only the **VALUE** of total stock held as on 31-03-2006.
- ✓ Form the total value of Stock the following types of purchases stock will be deducted first and balance value will be considered for the calculation of Input Tax Credit of Closing Stock held as on 31-03-2006.
  - > Tax Free or Exempt Goods (Under GST or VAT) or raw materials there of.
  - > Exempted purchase from Eligible Unit -> Capital Goods -> URD -> Against F-17B, 18B, 18C, 19, 17BB, 18BB, "H" -> Stock brought by Transfer -> OGS -> Import -> Vehicles, Fules, Spares ect.
- ✓ Tax Credit of GST, Purchase Tax & Entry Tax will be admissible.
- ✓ It is required to submit separate details of **including GST and Excluding GST Charged purchases stock held as on 31-03-2006, 31-03-2005 and 31-03-2004.**
- ✓ If you having stock of different types of commodity on which different rates tax was charged or levied under GST Act, than you have to prepare different tax rate wise details of closing stock held as on above three years.
- ✓ Stock of goods as on **31-03-2006**, on which purchase tax U/s.15A paid or Entry tax paid will be required to shown separately in Stock Statement.
- ✓ It is important to note that quantitative details are not required to be given in Stock Statement but it's advisable to maintain proper quantitative records of inventory otherwise FIFO method will be applied by the department.
- ✓ Department will be verified and determined tax credit from the stock statement and if determined tax credit is less than the claimed by the dealer, than within **10 days department will informed the dealer.**
- ✓ Determined Tax Credit of Stock will be admissible to the dealer in **SIX EQUAL INSTALMENTS FROM JULY 2006 TO DEC. 2006.**

## **9.0 INVOICES OR BILLS:**

9.1 The Gujarat Value Added Tax Act, 2006 provides two types of Invoices required to be prepared by a dealer as per his transactions of his business. Sec. 60 and Rule 42 contain a provision regarding the Tax Invoice and Retail Invoice. When and where tax invoice or a retail invoice is to be given or taken for the transaction is described as under:

### **9.2 TAX INVOICE:**

(1) Tax invoice is to be issued by a seller who is registered dealer for all sales within the State of taxable goods to a purchaser who is a registered dealer for sale price of any amount.

(2) A Tax Invoice should contain following details

- (a) Consecutive serial number and serial number of book of tax invoice,
- (b) Date of issue of tax invoice, and
- (c) Name, address, TIN & CST No. of Seller and Purchaser, and
- (d) Full description of goods with HSN code and Quantity of goods, and
- (e) Price of goods Excluding tax (VAT), and
- (f) Rate of tax and Amount of Tax charged separately, and
- (g) Gross value of goods including the amount of tax, and
- (h) Signature of the Authorised person of the business.

(3) Tax invoice is to be pre printed at the top of the invoice.

(4) Tax invoice number is to be serially and mechanically numbered.

(5) Tax invoice is to be prepared in TRIPLICATE. Original and Duplicate copy is to be given to the buyer registered dealer and Triplicate copy is to be retained by the selling registered dealer. If dealer requires more than 3 copies, then he can prepare by extra numbering for additional copies of tax invoice.

(6) Tax invoice will be issued by the Principal while transferring taxable goods to the selling commission agent for sale.

(7) Tax invoice will be issued by the Buying Commission agent to the principal in respect of taxable goods purchased by the commission agent on behalf of the principal while transferring the purchased goods to the principal.

(8) Tax Invoice is NOT to be Issued in Following Transactions:

- (a) for Sales of Tax Free or Exempt goods, or
- (b) for Export or In the Course of Export of goods, or
- (c) For Inter-State Sales or Branch Transfer or Consignment to agent outside the State, or
- (d) for sale to a person who is not registered dealer under the VAT Act, or
- (e) tax invoice is not to be issued by a selling dealer who opted for and holds a valid permission to pay lump-sum tax.

(9) Tax invoice is one of the important documents for claiming tax credit.

### **9.3 RETAIL INVOICE**

(1) Retail invoice will be issued for all the sales of any goods, taxable or tax free to a purchaser who may or may not be a dealer for sale price exceeding Rs.100/-. Retail invoice may or may not be issued for sales of any goods, for sale price not exceeding Rs.100/- in value.

(2) A Retail Invoice should contain following details:

- (a) Consecutive serial number and serial number of book of tax invoice,
  - (b) Date of issue of tax invoice, and
  - (c) Name, address, TIN & CST No. of Seller and Name, Address and CST No. of purchaser for the sale in the course of inter-State sale or export.
  - (d) Full description of goods and Quantity of goods, and
  - (e) Price of goods excluding tax (VAT or CST), and
  - (f) Rate of VAT or CST and Amount of Tax charged separately, and
  - (g) Gross value of goods including the amount of tax, and
  - (h) Signature of the Authorised person of the business.
- (3) Retail invoice is to be pre printed at the top of the invoice.
- (4) Retail invoice number is to be serially and mechanically numbered.
- (5) Retail invoice is to be prepared in DUPLICAT. Original copy is to be given to the buyer and Duplicate copy is to be retained by the selling registered dealer. If dealer requires more than 2 copies, than he can prepare by extra numbering for additional copies of retail invoice.
- (6) Retail Invoice is to be issued in Following Transactions:
- (a) For Sales of Tax Free or Exempted goods
  - (b) For Export or In the course of Export sales.
  - (c) For Inter State or Branch transfer or Consignment Sales.
  - (d) For sale to any person who is not registered delaer.
  - (e) A selling dealer who has opted for and holds a valid permission to pay lump-sum tax is required to issue only a retail invoice.

#### 10.0 SCHEDULE & RATES:

Under VAT, the rates have been simplified. The details of the individual commodities and the rates to which they are subject to are given in schedule-I, schedule-II and Schedule-III of the Act. Schedule-III specially inserted to cover the commodity of motor spirit and other fuels which are earlier covered under the provisions of the Bombay Sales of Motor Spirit Taxation Act, 1958.

Category of Items (Mainly)	Schedule and Entry No(s)	Rate of Tax
Agricultural implements operated exclusively by human or animal, Bread, Cattle feed, Books (other than commercial books), Cereals and pulses, Chillies, tamarind, and turmeric whole and powder form Milk whole or separated or pasteurized, Salt and items of general importance and mass consumption by the poor. Etc.	I Entry 1 to 54	0%
Bullion and Specie, Gold, Silver and other precious metals and Article made thereof, Precious stones and semiprecious stones and pearls of all types etc	II Entry 13	1%
All liquor other than foreign liquor manufacturing in India or foreign liquors that is potable foreign liquor brought into or manufactured in India etc.	II Entry 25	60%
All goods other than those specified in schedule I,	II	

schedule III and in preceding entries of this schedule.	Entry-87	12.5%
All types bearings, Brass Parts, Bricks of all types, Bulk Drugs, Capital Goods as notified by Govt., Casting or Cast iron casting, Raw materials used in the manufacturing process, Industrial Inputs, IT products and some goods of common consumption, etc.	II other than Entries 13,25 and 87	From 4% to 25%.
HSD, Aviation Turbine Fuel (Duty paid and Bonded), Aviation Gasoline (Duty paid and Bonded), Any other kind of motor spirit	III entry 1 ot 6	From 24% to 38%

#### 11.0 RECORD KEEPING UNDER VAT LAW:

- 11.1 The Gujarat VAT Act provide that every dealer and any class of registered dealer will be liable to maintain a true account of the value of goods produced, manufactured, brought, transferred, purchased, imported, sold and supplied by him.
- 11.2 Every dealer will have to maintain monthly stock register of finished goods and different types of raw-materials (if manufacturer) containing particulars of purchases or receipt, sales, deliveries and balance stock of **each of his place of business and godown or ware house.**
- 11.3 Dealer who dealt with the commodity specified in Schedule-III (Motor Spirits) shall have to keep and **maintain DAILY and MONTHLY Stock Accounts** with the other books of accounts.
- 11.4 Works contractor and Lesser have also required to prepare detailed books of accounts and records of executing work and t transferring right to use any goods.

#### 12.0 FILING OF RETURN AND PAYMENT OF TAX:

- 12.1 Section 29 of the Gujarat VAT Act, 2006 provides that registered dealers are liable to file returns in such forms, for such period, by such dates and to such authority as may be prescribed by the VAT Rules. Default in filing the returns shall be liable to pay by way of penalty a sum of Rs.100 per month or part thereof for the default period. As per the provisions of the Tentative Draft Rules declared by the Government liability for filing of return for different dealers is as under:

<i>Dealers Category</i>	<i>Return Period</i>	<i>Due Date For Filing of Return and Payment of Tax</i>
Retailers who have opted for Lump-Sum Tax Payment Scheme.	Quarterly In Form 202 with Form 202A	Within 22 days from the close of the Quarter of Financial Year.
Dealer other than dealer who deals with the commodity specified in Schedule – III.	Monthly In Form 201 with Other Annexure.	Within 22 days from the close of the Calendar month.
Dealers who deals with the commodity specified in	Monthly Return in Form-212 &	Return within 22 Days and Payment of Tax within 12

Schedule-III	213	Days from the close of the Calendar month.
Retailers who have opted for composition Scheme.	Annual Return In Form 202 with form 101E and other Annexure	Within 3 Months from the end of Financial Year.
Others:	Annual Return In Form 205 with form 101E	Within 3 Months from the end of Financial Year.

- 12.2 In case of an error in the return submitted, a person or a dealer can submit a revised return for the period in question to correct the error. However, the revised return must be filed before expiry of 3 months next following the last date prescribed for furnishing the original return.
- 12.3 If dealer having more than one place of business, than he shall make an application in form-206 to submit consolidated returns before the concerned authority.
- 12.4 If the turn over of the dealer is more than Rs.1 Coror in previous year or exceed the limit of Rs.1 Coror during any year after 1-04-2006, than with the hard copy of the return he is also liable to file Compulsory a Monthly and Yearly return with all the other forms on the Web-Site of the Department within the time limit prescribed for filing the monthly return or as the case may be the annual return.
- 12.5 If turn-over of the dealer is exceeds Rs. 1 Coror than he will be required to furnish Annual Accounts containing **Trading A/c., Profit & Loss A/c. and Balance Sheet** in hard copy before the Concern Authority and also on Web-Site of the **Department within SIX MONTHS** from the end of respective financial year.

### 13.0 PROVISION OF ASSESSMENT UNDER VAT ACT:

- 13.1 **SELF ASSESSMENT:** Every registered dealer is liable to file annual return by way of self-assessment in prescribed form specifying such particulars and accompanied by supporting documents as may be prescribed. If the dealer has furnished all the returns within prescribed period and if commissioner satisfied with the correctness and completeness of the filed return he may assess the dealer by way of Self-Assessment.
- 13.2 **AUDIT ASSESSMENT:** With a view to promoting compliance with the provisions of the Act, the Commissioner may arrange for audit of the business of any registered dealer. For this purpose, the selection of the dealers for audit shall be made from amongst the specified dealers.
- 13.3 **TURNOVER ESCAPING ASSESSMENT :** If the dealer is assessed for any period, under any provision of this act and if the Commissioner has reason to believe that the taxable turn-over is escaped or under assessed or assessed at a lower rate or wrongly been allowed any deduction or credit than after giving an opportunity of being heard to the dealer, Commissioner may assess to the best of his judgment before the five years from the end of the year in respect of which or part of which the tax is assessable.

There is also provision for Provisional Assessment under the Gujarat VAT.

#### **14.0 AUDIT OF BOOKS OF ACCOUNTS:**

- 14.1 Under Gujarat VAT, every dealer, registered or unregistered, liable to pay tax and if his turnover of Sales or Purchases exceeds of rupees 1 Crore in any year, than his accounts in respect of such year audited by an accountant (i.e. Practising Chartered Accountants or Cost Accountants or Legal Practitioner or Sales Tax Practitioner) within **SIX MONTHS** from the end of that year.
- 14.2 A copy of such audit report will required to be furnished by such dealer to the Commissioner within **30 days** from the date of obtaining audit report.
- 14.3 In case of any failure to furnish the copy of the report within the time prescribed, the Commissioner may, after giving a reasonable opportunity, impose in addition to the tax payable, sum by way of penalty maximum of Rs.10,000/-.

#### **15.0 COMPOSITION/LUMP-SUM TAX PAYMENT SCHEME:**

In order to relieve some businesses of the need to keep detailed records, a simpler method of accounting for VAT, called a “Payment of Lump sum Tax in lie of VAT” scheme is provided.

- 15.1 The lump sum tax scheme is not available to manufacturers (other than Specified by the Government) and dealers whose total turnover has exceeded 50,00,000/- in the previous year.
- 15.2 The lump-sum tax scheme is also not available if a dealer,
- (1) effecting Inter-State or Import – Export, Sales or Purchases, or
  - (2) effecting Consignment or Branch transfer out side of Gujarat, or
  - (3) who receives consignment of goods from branch or an agent outside of Gujarat, or
  - (4) who effect sales or purchases of goods through the commission agents, or
  - (5) who is a Works Contractor or a lessor, or
  - (6) a dealer who purchases goods from or sales goods to a dealer holding Lump-Sum permission
- 15.3 If the turnover exceeded the specified limit or breach of any condition of the Scheme by the lump sum tax permitted dealer, than he will be liable to pay tax under this Act, from the immediate succeeding month in which the event occur.
- 15.4 A dealer who is permitted to pay lump sum tax shall not entitle to claim of tax credit on his purchases, not charged tax or lump-sum tax in his sales bill or invoice and not issue tax invoice to any dealer who purchases form him.
- 15.5 A dealer who is permitted to pay lump sum tax will be liable to pay purchase tax on his URD purchases.

## **16.0 INTEREST AND PENALTY:**

- 16.1 **Interest:** Simple interest is payable by a dealer or a person at 18%, per annum, in case of failure to apply for registration or late registration or in case of delay in payment of tax as per return or revised return or in case of delay in payment of assessed dues and interest is also payable on differential dues. It may be noted that interest is mandatory and no power has been given to Commissioner of Sales Tax, Appellant Authority or Tribunal etc. to waive interest.
- 16.2 **Penalty:** in case of contravention of the provisions of the VAT Act or Rules, penalty may be levied on dealer or a person after considering the facts and circumstances of the case at the different prescribed rates. It may be noted that there is no provision or power to levy penalty at reduced rates. However, the concerned authority on due satisfaction of the circumstances can waive or drop the penalty proceedings totally.