

The Institute of Certified Public Accountants

(Reg No: Maharashtra/252/2015, Registered under the societies registration act, 1860)

Registered Address: 4582 A, Sangli Ves, Guruwar Peth, Miraj -41610. Dist Sangli,
Maharashtra-India

Email: secretary@icpaindia.org Tel: +91 9545331199 Website: www.icpaindia.org

To,

Honourable Chairman,

GST Council,

New Delhi

**Subject: Suggestions on Model GST Law and corresponding rules affecting
Tax Practitioners**

We are really excited and as a stake holders for Tax Practitioners fraternity, to welcome GST Act. It is we who serve as a mediator between Small & Medium Tax payer and Department at very grass root levels.

We are glad that CBEC has taken cognizance of our RTI filed earlier pointing out Problems faced by Tax Practitioners. We welcome GST Councils views on revamping our profession, now a ray of hope is there by creation of following provisions for TRP class

- A. Recognition as a separate designation [Definition section 2 (99)]
- B. Separate Login facility on Common Portal on behalf of client/ signing off returns and records using DSC (this will fix TRP's liability for preparation and submission of correct records)
- C. Online/Single and Transparent registration facility and forms for surrender and misconduct trials [Rule 24 & 25 along with form GST TRP 1-7]

However we request the TRP scheme should be either renamed as "Tax Practitioners Scheme "Or similar scheme shall be notified with corresponding rules and regulations for exclusive class of existing "Tax Practitioners". With powers to appear before National & State Appellate Tribunals and also a separate code of conduct must be prescribed and be supervised by an independent committee in this regards. Please facilitate transition of current "Tax Practitioners" as it is under the new scheme.

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Following are our suggestions, with justifications for the same with regards to GST Act & Rules provisions affecting Tax Practitioners

A. Suggestions in respect of Model GST Act, 20..

Sr. No	Our Observations	Section No	Suggestions
1)	Missing Definition of “Tax Practitioner” & “Accountant”	2	Include Tax Practitioner definition as - “Tax Practitioner” means a person who has been approved to act as a Tax Practitioner under the section 86(1) (d) or special scheme notified for the same by the council. Similarly “Accountant” means...& Includes a Tax Practitioner.
2)	Missing provision in “Authorised Representative” Clause	86	Include “Tax Practitioner” as a special class in section 86 (1) (d)
3)	Missing provisions in “Audit” Clause	42 (4)	Include “Tax Practitioner” along with other class of professionals after CA/CMA
Comment: The word “Tax Practitioner” appears invariably in other parts of the model GST law along with other class of professionals like CA/CMA/CS/Advocates and Tax Return Preparers, it is however “Missing” in above mentioned sections – <ul style="list-style-type: none">• Section 132(2) (xiv) - Power of Government to make Rules• Section 136(1) (a) – Service of Notice• 126 (4) (i) – Disclosure of information by public servant			

B. Draft Goods and Service Tax Return Rules, 20..

(Specifically with regards to Tax Return Prepares Rules and Forms)

Sr. No	Our Observations	Rule/ Form No.	Suggestions
1)	Why only TRP provisions have been considered and notified?, No provisions for Tax Practitioners Registration, Cancellation, Code of	24	Corresponding “Same” rule shall be notified and made applicable for “Tax Practitioner” or Tax Return Preparer may be termed as “Tax Practitioners”

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	Conduct, and Maintenance of registers, even though Model GST Law uses the term " Tax Practitioner" and current State/Central Indirect Tax laws has its own Tax Practitioners Class & (See Annexure I for List of Current Statutes having special class for us)		Please note that "Tax Return Preparer" term is Insulting and lower in designation as compared our class. Please delete this name.
2)	Tax Practitioners Class is specifically excluded from representation before Any GST authority! Even though every even though Model GST Law uses the term " Tax Practitioner" and current State/Central Indirect Tax laws has its own Tax Practitioners Class (See Annexure I for)	25	Corresponding "Same" rule shall be notified and made applicable for "Tax Practitioner" or Tax Return Preparer may be termed as " Tax Practitioners" Delete TRP's rule 25
3)	Tax Return Preparer/ Tax Practitioner have been barred from appearance before Appellate Tribunal! (both National & State)	Form GST-TRP-6	Please amend the same to invariably allow Tax Practitioners to appear before Tribunals as many State VAT/Central Excise/Service Tax Tribunals cases are represented by Tax Practitioners. Appellate, also Rule 25 mentions any authority (that includes Quasi-Judicial GST Authority & Tax Tribunals) So When one rule is allowing the authority the other rule can't take back that authority by prescribing additional conditions by way of foot note.
4)	Disciplinary committee and code of conduct for Tax Return preparers is still missing		Please notify a separate & independent disciplinary committee to supervise and handle misconduct complaints of TRP's and Tax Practitioners.
5)	Recognition of examination and qualification for Tax Practitioners Class is missing	24 (1) (c) (iii) or (iv)	Please Include Examination and Qualification issued by "The Institute of Certified Public Accountants" and "All India Tax Practitioners Institute" fit for the purpose of becoming TRP /Tax Practitioner

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Justification for the Above Amendments –

1. With regards to inclusion of “Tax Practitioners” Definition and Representation Authority u/s 86 (1) (d) & Corresponding Rule similar 24 & 25 with relevant forms and Audit U/s 42(4) ...
 - a. Indirect Tax Law Practice is the domain area of Tax Practitioners!
 - b. Presently “Tax Practitioners” are estimated to be around 1 lac (as per our RTI applications filed with various State VAT Commissioners and Central Excise/Service Tax Practitioners
 - c. They Cannot be left in isolation while drafting “Authorised Representative” provisions in the GST Laws, as they are already practicing with a valid state government licenses issued (See Annexure I)
 - d. See the Impact on their existing small and medium size practice
 - e. Moreover CA/CMA’s are not sufficient in number to handle the migration of existing VAT dealers to GST regime, work is going to be increased many folds for sure!
 - f. States like Karnataka and Gujarat have Vat Audit Powers to special class of Tax Practitioners
2. Tax Return Preparer are mere clerks! They do not have any experience in representation. By allowing representation powers in terms of Rule 25, GST Council is mixing Tax Practitioners Class with Tax Return Preparers! Both these are separate professionals and have different responsibilities assigned in the GST ACT. Plus GST Council is converting “Tax Practitioners” to TRP’s, which is humiliating as TRP’s enjoy lower status in existing direct/ Indirect Taxes of both state and central legislations! As per Direct Tax and Service Tax Return Prepares schemes any graduate without any experience in tax laws can become one. It is this lower status and powers due to which the scheme has considerably failed as when launched in the earlier statutes. Hence we request to either delete TRP term or amend it to “Tax Practitioners” with inclusion of powers to appear before Tribunals
3. Institute of Certified Public Accountants along with All India Tax Practitioners Institute is continuously striving for professional up- liftment of existing “Tax Practitioners” which also includes “Tax Advocates” “Accounting Technicians” “ Accounting Graduate practicing Accounting Profession”
4. We have designed a state of Art syllabus covering Accounting, Taxation (Direct & Indirect), Banking-Finance & Management Accounting, and Business and Regulatory Laws.

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5. Our Syllabus specifically includes GST Act Training from migration, registration returns, refunds to filing appeals before First and Appellate Tribunals. It involves compulsory practical forms filing exercises and online computer based examination first of its kind in the history of Indian accountancy profession
6. Further our course will be in line with Government of India's skill development initiatives duly approved by National Skill Development Corporation and relevant SSC at Level 7 (Post Graduate study) of National Skill Qualification Framework, plus final online skill certification exam will be taken by SSC, giving Government of India approved skill certificate in the relevant area!
7. We are also striving for the membership of IFAC- International Federation of Accountants (A global regulator of Accountancy profession) both our statutory accountancy institutes of CA's & CMA's are members of the same and worldwide they are recognised as "Professional Accountants" by the reason that they have a proper Membership organisation addressing their
 - a. Education & Training & Continuous professional development/learning
 - b. Having proper Code of Conduct & disciplinary mechanism
 - c. Also they have proper Accounting and Auditing standards in place for their profession
8. We are glad to state that our voluntary society (ICPA) too have
 - a. Adopted IFAC's Code of conduct for "Professional Accountants" which addresses ethical conduct of members at par with our National & International Accountants
 - b. An Independent Disciplinary committee in place for handling our members disciplinary matters
 - c. Adopted International Auditing Standards which are in line with ICAI's current auditing standards (as they too have adopted the same) which trains our members to perform all types of auditors functions
 - d. Adopted International Accounting Standards (IFRS), which are also in line with ICAI's current accounting standards (as they have adopted the same), in fact we have adopted IFRS for SME's (which ICAI hasn't even considered in their road map yet till 2022!)
9. We have special training on Tax Accounting Standards and various other Accounting and Taxation issues relevant for the time being
10. We have voluntarily taken the task to educate existing tax practitioners and dealers to educate and train on GST Laws.

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11. Hence please consider our amendments positively and include both our institutes to train, certify and maintain continuous learning activity for the class of "Tax Practitioner" & TRP's

Yours Sincerely,

Sd/-

Mohasin Tahasildar (AFA/MIPA, FCPA)

(Income Tax & Sales Tax Practitioner)

Founder President ,ICPA

Date: 28st September, 2016

C/C to

1. Honourable Revenue Secretary Shri Hasmukh Adia ji
2. Honourable CBEC, Chairmen ,Shri Najib Shah ji
3. Honourable Chairmen, Empowered Committee of state Finance Ministers, Shri Amit Mitra ji

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Annexure I

List of Laws under which "Authorised Representation" is allowed to existing Tax Practitioners as a separate class along with other professionals -

Sr no	State/ Union Territory VAT laws	Section	Rule
1	Kerala Value Added Tax Act,2003	86	97(2)/(5)
2	Tamilnadu Value Added Tax Act,2007	78	17 (2) (b/e)
3	Karnataka Value Added Tax Act,2005	86	168
4	Andhra Pradesh Value Added Tax Act,2005 (Similar for Telangana)	66	65
6	Goa Value Added Tax Act,2005	82(c)	56
7	Maharashtra Value Added Tax Act,2002	82	74
8	Gujarat Value Added Tax Act,2003	81	
9	Rajasthan Value Added Tax Rules,2003		61 to 66
10	Madhya Pradesh Value Added Tax Act,2002	23	35
11	Chhattisgarh Value Added Tax Act,2006	34	
12	Odisha Value Added Tax Act,2005	91(1)(c)	124
13	West Bengal Value Added Tax Rules,2005		2 (1) (a) (v)
14	Jharkhand Value Added Tax Act,2005	91(1)(c)	
15	Bihar Value Added Tax Act & Rules,2005	87(b)	54
16	Delhi Value Added Tax Act & Rules,2004	82(1)(c)	64
17	Jammu & Kashmir Value Added Tax Act & Rules,2005	84(1)(c)	87
18	Dadra & Nagar Haveli Value Added Tax Act & Rules,2005	82(1)(c)	64
19	Daman & Diu Value Added Tax Act & Rules,2005	82(1)(c)	63
20	Puducherry Value Added Tax Act,2005	70 (c)	62 (2)
21	Meghalaya Value Added Tax Act,2003	87(3)	64
22	Mizoram Value Added Tax Act,2005	78(1)(c)	
23	Manipur Value Added Tax Act, 2005	87 (1)(c)	
24	Assam Value Added Tax Rules,2003	103 (1)(c)	
25	Tripura Value Added Tax Rules,2005	81 (1)(c)	
26	Nagaland Value Added Tax Act & Rules,2005	90(1)(c)	76
27	Arunachal Pradesh Goods Tax Act & Rules,2005	83(1)(c)	78(4)
28	Uttarakhand Vat Act	-	50
29	Punjab Vat Act	73	
30	Hariyana Vat Act	52	

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31	Sikkim Vat Act	-	2
32	Himachal Pradesh Vat Act	36	2
33	Uttar Pradesh Vat Act	-	-
34	Chandigarh Vat Act	-	-
35	Andaman & Nicobar Vat Act	-	-
36	Lakshadweep Vat Act	-	-

List of Central Taxation & Other Allied Laws having "Authorised Representatives" clause

Sr no	Central Statutes	Section	Rule
1	Central Excise Act 1944	35Q (2)	
2	Finance Act 1994- (Service Tax Act)	96 D	
3	Customs Act 1962	146A (2) (d)	
4	Income Tax Act 1961	288(2) (vi)	51 to 55
5	Companies Act,2013	432	
6	Similar provisions exists for appearance before authorities on behalf of clients for firms/cooperative societies/societies/trust/PF/ESI/Shop & Establishment Authorities and many other laws in India		

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