

## 101st CONSTITUTION AMENDMENT ACT, 2016

ARTICLE	AMENDMENT
<p><b>246-</b> The article empowers-</p> <ol style="list-style-type: none"> <li>(1) Parliament to make laws w.r.t matters listed under Union List</li> <li>(2) Parliament &amp; state to make laws for matters covered under Concurrent List</li> <li>(3) State to make laws for matters under State List.</li> <li>(4) Parliament to make laws for Union Territories irrespective that such matter is covered under state list;</li> </ol>	<p><b>246A-</b></p> <p>(1)The article overrides sec 246 &amp; 254. It empowers parliament &amp; state to make laws w.r.t GST imposed by Union or by such state.</p> <p>(2) Parliament has exclusive power to make laws w.r.t GST on INTER state supply of goods or services.</p> <p>Expln: For non GST supply i.e petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel, the section shall apply from date recommended by GST Council.</p>
<p><b>248-</b> The article empowers-</p> <ol style="list-style-type: none"> <li>(1) Parliament to make any law in respect of matters not covered under Concurrent or State List.</li> </ol>	<p><b>248-</b></p> <p>(1) for the word "Parliament", the words, "<u>Subject to article 246A, Parliament</u>" shall be substituted.</p> <p>Impact- parliament has power to make laws keeping in view article 246A.</p>
<p><b>249-</b></p> <ol style="list-style-type: none"> <li>(1) If the council of states with 2/3rd of majority passes a resolution that it is necessary in national interest to make laws by the parliament in respect of matters covered under State List then parliament is bound to make such laws.</li> </ol>	<p><b>249-</b></p> <ol style="list-style-type: none"> <li>(1) after the words "with respect to", the words "goods and services tax provided under article 246A or" shall be inserted.</li> </ol> <p>Impact- the article is also applicable to article 246A.</p>
<p><b>250-</b> (1) The article overrides whole of the chapter where- Parliament has power to make laws in respect of matters covered under State List, if a proclamation of emergency is in operation, for the whole or part of territory.</p>	<p><b>250-</b></p> <ol style="list-style-type: none"> <li>(1) after the words "with respect to", the words "goods and services tax provided under article 246A or" shall be inserted.</li> </ol> <p>Impact- parliament has power to make laws w.r.t GST Act, if a proclamation of emergency is in operation.</p>

<p><b>268-</b> (1) The article deals with levy and apportionment of duties between center and states. Stamp duty <u>and such duties of excise on medicinal and toilet preparations</u> are levied by GOI.</p>	<p><b>268-</b> (1) the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.</p>
<p><b>268A-</b> Service tax levied by Union and collected and appropriated by the Union and the State</p>	<p><b>268A-</b> Now omitted via amendment.</p>
<p><b>269-</b> The article empowers GOI to levy &amp; collect tax on purchase and sale of goods &amp; tax on consignment of goods but shall be assigned to states.</p>	<p><b>269-</b> This article is NA to article 269A.</p> <p>Also, <b>269A</b> got inserted which provides for <b>Levy and collection of goods and services tax in the course of inter-State trade or commerce.-</b></p> <p>(1) GST on INTER state supplies shall be levied and collected by GOI which shall be apportioned between Union &amp; State in the manner specified by parliament on recommendation of council.</p> <p>Expln- for the purpose of this clause import shall be deemed to be considered as Inter State supply.</p> <p>(2) The SGST component of IGST as collected under the above clause shall not be t/f to the consolidated fund of INDIA.</p> <p>(3) Where IGST collected is used for payment of SGST, <b>balance</b> amount shall not be t/f to the consolidated fund of INDIA.</p> <p>(4) Where SGST collected is used for payment of IGST, <b>balance</b> amount shall not be t/f to the consolidated fund of STATE.</p> <p>(5) Parliament has the power to formulate principles to determine the POS and categorise a particular supply as Inter State supply.</p>
<p><b>270-</b> (1) The article empowers GOI to impose taxes and duties mentioned under Union List <u>except taxes referred to in articles 268,268A and 269</u>, surcharge on taxes &amp; duties referred in article</p>	<p><b>270-</b> (1) The exception of articles 268,268A and 269 shall be substituted with articles 268, 269 and 269A.</p> <p>Two new clauses have been inserted-</p>

<p>271 and cess for specific purpose. Such levy collected shall be distributed between union and state.</p>	<p><b>(1A)</b> Tax collected by union under article 246A(1) shall also be distributed between union and states in manner specified in clause 2 of the present article.</p> <p><b>(1B)</b> The tax levied under article 246A and 269A i.e IGST credit which is used to payment of tax levied by union under article 246A(1) i.e IGST and the apportioned IGST levied by GOI under article 269A shall also be apportioned between union and state in manner specified under clause 2 of article.</p>
<p><b>271-</b> The article empowers parliament to impose surcharge on taxes referred to in those articles for the purpose of union and all proceeds of surcharge shall form part of consolidated fund of India.</p>	<p><b>271-</b> exception has been provided to GST under 246A, meaning thereby no surcharge shall be levied under GST.</p>
	<p><b>279A-</b> The article provides for constitution of GST Council where-</p> <ol style="list-style-type: none"> <li>(1) The President, by order, is bound to constitute a GST Council within 60 days from date of commencement of this amendment act, 2016.</li> <li>(2) The clause prescribes members of GST Council.</li> <li>(3) Members in charge of Finance or Taxation shall choose vice chairperson of the council.</li> <li>(4) Matters on which council shall make recommendations to union and states.</li> <li>(5) Council shall recommend the date from which GST shall be applicable on petrol, natural gas and ATF.</li> <li>(6)</li> <li>(7) Quorum shall be 50% of total number of members.</li> <li>(8) Council itself shall determine procedure in performance of its functions.</li> <li>(9) Every decision shall be taken at a meeting with not less than 75% votes of members present and voting.</li> <li>(10) The council shall also develop a mechanism to adjudicate any dispute.</li> </ol>

<p><b>286- Restrictions as to imposition of tax on the sale or purchase of goods.</b></p> <p>(1) State is not empowered to impose or authorise to impose tax on <u>sale and purchase of goods</u> outside the state; or at the time of import into or export out of territory of india.</p> <p>(2) Parliament has power to make law formulating principles to determine POS for <u>sale and purchase of goods</u> mentioned in clause 1</p>	<p><b>286-</b> For the words sale and purchase of goods, supply of goods or services or both shall be substituted.</p> <p>(3) Clause 3 omitted</p>
<p><b>366-</b> The article provides for definition of various terms</p>	<p><b>366-</b> Following definitions added- <b>(12A)</b> goods and services tax means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption; <b>(26A)</b> “Services” means anything other than goods; <b>(26B)</b> “State” with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;’</p>
<p><b>368-</b> The article empowers parliament to amend constitution. (2) Amendment can be done only by introduction of bill in both the houses of parliament to be passed by majority of voting and then president assent is required to form an act. Provided that- (a) article 54, article 55, article 73, [<u>article 162, article241</u>] or article 279A]or Amend shall be ratified by legislatures of not less than half of states before president assent</p>	<p><b>368-</b> <b>(2)(a)</b> for the words and figures “<u>article 162 or article 241</u>”, “article 162, article 241 or article 279A” shall be substituted.</p>
<p><b>Seventh schedule- Union List- List I</b></p>	<p><i>Entry No. 84 substituted by- Duties of excise on the following goods manufactured or produced in India, namely:— (a) petroleum crude; (b) high speed diesel; (c) motor spirit (commonly known as petrol); (d) natural gas; (e) aviation turbine fuel; and (f) tobacco and tobacco products.”;</i></p>
<p><b>Seventh schedule- Union List- List II</b></p>	<p><i>for entry 54, the following entry shall be substituted, namely:—</i></p>

	<p><i>"54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.";</i></p>
<p><b>Transitional Provision</b></p>	<p>Any provision of any law relating to goods or services or both immediately before commencement of this act, which is inconsistent with provisions of present constitution amend act shall continue to stay in force until amended or repealed by authority or until expiry of one year from such commencement, whichever is earlier.</p>
<p><b>Power of President to remove difficulties</b></p>	<p>(1) Any difficulty arising to implement provisions of this act or difficulty in relation to transitional provisions, President has power, by order, to make such provisions or adapt or modify such provisions for the purpose of removal of difficulty;          Provided that no such order can be made after expiry of 3 years from date of assent.</p> <p>(2) Every order made has to be laid before each house of parliament.</p>