PAPER 4B: INDIRECT TAXES
STATUTORY UPDATE FOR NOVEMBER 2019
EXAMINATION


For Paper 4B: Indirect Taxes, the provisions of CGST Act, 2017 and IGST Act, 2017, including significant circulars and notifications issued and other legislative amendments made upto 30th April, 2019, are applicable for November, 2019 examinations.


The amendments made by the CGST (Amendment) Act, 2018 and IGST (Amendment) Act, 2018 as also the significant notifications/circulars issued from 26.09.2018 to 30.04.2019 are given in this Statutory Update. For the ease of reference, the amendments have been grouped into Chapters which correspond with the Chapters of the Study Material.

It may be noted that there may be certain provisions which have been amended more than once in the period covered in this Update. For knowledge purposes, all such amendments are covered in this Update. However, for examination purposes, students are expected to answer the questions on the basis of the latest position of law as applicable for their examination. Therefore, students appearing in November 2019 examination are expected to answer the questions on the basis of the position of GST law as amended by the significant notifications/circulars issued till 30.04.2019.

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1. **Definition of term business amended [Section 2(17)(h) of the CGST Act]**

Section 2(17) of the CGST Act defines “business”. Prior to amendment, as per clause (h) of said sub-section, the term business included services provided by a race club by way of totalisator or a licence to book maker in such club.

Under the amended position, clause (h) of said sub-section has been substituted to provide that business includes activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club.

Thus, the scope of term ‘business’ has widened to include all the activities of race club and all the activities of a licence book maker in such club. Further, since term ‘services’ used earlier in this clause led to ambiguity as actionable claims have been defined as ‘goods’ in the CGST Act, it has been replaced with ‘activities’.

2. **Definition of term service amended [Section 2(102) of the CGST Act]**

An Explanation has been inserted to the definition of ‘service’ under section 2(102) of the CGST Act to clarify that the expression “services” includes facilitating or arranging transactions in securities.

Since securities are excluded from the definition of both ‘goods’ and ‘services’ in the CGST Act, they are neither goods nor services. However, facilitating or arranging transactions in securities is liable to GST. In order to clarify the same, this explanation has been inserted.

**Example:** If some service charges or service fees or documentation fees or broking charges or such like fees or charges are charged in relation to transactions in securities, the same would be a consideration for provision of service and chargeable to GST.

3. **Import of service without consideration from a related party/establishment outside India in course of furtherance of business to be deemed to be supply even if such service is received by a person other than a taxable person [Schedule I of the CGST Act]**

Earlier, import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business was deemed to be supply even if made without consideration.
The word “taxable” has been omitted. Therefore, import of services by any person from a related person or from any of his other establishments outside India, in the course or furtherance of business is deemed to be supply even if made without consideration.

This amendment is to ensure that import of services by entities which are not registered under GST (for instance, who are only making exempted supplies), but are otherwise engaged in business activities is taxed when received from a related person or from any of their establishments outside India.

II. Significant Notifications/ Circulars/ Orders

1. Clarification on scope of principal and agent relationship under Schedule I of CGST Act, 2017 in the context of del-credere agent (DCA)

Circular No. 57/31/2018 GST dated 04.09.2018 clarified that the key ingredient for determining whether a principal agent relationship falls within the scope of Para 3. of Schedule I of the CGST Act, would be whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not.

Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of the said para. However, where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Schedule I of the CGST Act.

Circular No. 73/47/2018 GST dated 05.11.2018 has clarified the scope and ambit of principal agent relationship in the context of a del-credere agent (DCA¹).

DCA is an agent who guarantees the payment to the principal supplier. In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date.

This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer. Concerns have been expressed regarding the valuation of supplies from principal to recipient where the payment for such supply is being discharged by the recipient through the loan provided by DCA or by the DCA himself. Issues arising out of such loan arrangement have been examined and the clarifications on the same are as below:

¹ In commercial trade parlance, a DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier.

In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent.
**Issue:** Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?

**Clarification:** As already clarified vide *Circular No. 57/31/2018 GST*, whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios:

- In case where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of agent.
- In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent.

**Issue:** Whether the temporary short-term transaction-based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?

**Clarification:** In such a scenario following activities are taking place:

1. Supply of goods from supplier (principal) to recipient;
2. Supply of agency services from DCA to the supplier or both;
3. Supply of extension of loan services by the DCA to the recipient.

It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on principal to principal basis and is an independent supply.

Therefore, interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier2.

**Issue:** Whether DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form part of the value of supply of goods also or not?

**Clarification:** In such a scenario following activities are taking place:

1. Supply of goods by the supplier (principal) to the DCA;
2. Further supply of goods by the DCA to the recipient;
3. Supply of agency services by the DCA to the supplier or the recipient or both;
4. Extension of credit by the DCA to the recipient.

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2 Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempt vide Notification No 12/2017 CT (R) dated 28.06.2017.
It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. It is emphasised that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient.

It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per section 15(2)(d) of the CGST Act.

2. Clarification on various doubts related to treatment of sales promotion schemes under GST.

It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products. Taxability of two such schemes has been clarified as under:

A. Free samples and gifts:

- It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration.

- As per section 7(1)(a) of the CGST Act, the expression “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

- Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST (except in case of activities mentioned in Schedule I of the CGST Act).

- Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, do not qualify as “supply” under GST, except where the activity falls within the ambit of Schedule I of the CGST Act.

B. Buy one get one free offer:

- Sometimes, companies announce offers like ‘Buy One, Get One free’.

  For example, “buy one soap and get one soap free” or “Get one tooth brush free along with the purchase of tooth paste”.

- As per section 7(1)(a) of the CGST Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST (except in case of activities mentioned in Schedule I of the CGST Act).
• It may appear at first glance that in case of offers like “Buy One, Get One Free”, one item is being “supplied free of cost” without any consideration. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

• Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the CGST Act.

Note: The availability or otherwise of ITC in the hands of the supplier in relation to aforesaid two schemes has been discussed in Chapter 6 – Input Tax Credit.

[Circular 92/11/2019 GST dated 07.03.2019]
I. Amendments made by the CGST (Amendment) Act, 2018 – Effective from 01.02.2019 unless otherwise specified

1. Reverse charge on inward supplies from unregistered persons [Section 9(4) of CGST Act]

Section 9(4) of the CGST Act, which mandated all registered persons to pay the tax on reverse charge basis on intra-State purchases made from unregistered persons, was under suspension.

Said sub-section has now been substituted with a new sub-section (4) which provides as follows:

The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both. All the provisions of the CGST Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

The impact of this amendment is as follows:

As per the erstwhile provision, tax under reverse charge was payable by ALL registered persons on ALL intra-State supplies of goods and/or services received by such registered persons from any unregistered supplier. However, such tax liability had been deferred vide an exemption notification.

Under the amended provision, tax under reverse charge is payable by the NOTIFIED class of registered persons on NOTIFIED categories of intra-State supplies of goods and/or services received by such registered persons from any unregistered supplier.

Similar amendment has also been carried out in section 5(4) of the IGST Act by the IGST (Amendment) Act, 2018. Consequently, tax under reverse charge is payable by the NOTIFIED class of registered persons on NOTIFIED categories of inter-State supplies of goods and/or services received by such registered persons from any unregistered supplier.
2. Amendments in the Composition Scheme

(a) Tax payable under composition scheme is payable in lieu of tax payable under section 9(1) [Section 10 of CGST Act]

Section 10(1) has been amended in following manner with a view to remove any interpretational ambiguity and stipulate that the composition tax payers shall pay tax as a percentage of their turnover instead of the tax payable on the invoice value of the transactions under section 9(1) [applicable to regular taxpayers].

“Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 50 lakh, may opt to pay, in lieu of the tax payable by him under section 9(1), an amount of tax calculated at such rate as may be prescribed, but not exceeding ........”

(b) Turnover limit for determining the eligibility for composition scheme enhanced to ₹ 1.5 crore

Earlier, the Government had the power to increase the turnover limit for determining the eligibility for composition scheme (hereinafter referred to as eligibility turnover limit) upto ₹ 1 crore [First proviso to section 10 of CGST Act].

The said provision has been amended thereby empowering the Government to enhance the eligibility turnover limit for composition scheme upto ₹ 1.5 crore.

Consequently, in pursuance of aforesaid power, with effect from 01.04.2019, the eligibility turnover limit for composition scheme is enhanced from ₹ 1 crore to ₹ 1.5 crore. In other words, a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore is eligible to opt for composition scheme. In order to give effect to the said amendment, erstwhile Notification No. 8/2017 CT dated 27.06.2017 has been superseded by Notification No. 14/2019 CT dated 07.03.2019.

Turnover limit for determining the eligibility for composition scheme in case of Special Category States

As discussed above, earlier eligibility turnover limit for composition scheme was ₹ 1 crore. However, 9 Special Category States - Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Himachal Pradesh - had a lower eligibility turnover limit of ₹ 75 lakh while remaining 2 Special Category States – Uttarakhand and Jammu and Kashmir - had opted for higher eligibility turnover limit of ₹ 1 crore.

Notification No. 14/2019 CT dated 07.03.2019 has amended the above list. Uttarakhand has now opted for a lower limit of ₹ 75 lakh while Assam and Himachal Pradesh have moved to higher limit of ₹ 1.5 crore, with all other Special Category States in the list retaining status quo.

Resultantly, henceforth the eligibility turnover limit for composition for 8 Special Category States - Arunachal Pradesh, Uttarakhand, Manipur, Meghalaya, Mizoram,
Nagaland, Sikkim and Tripura is ₹ 75 lakh while remaining 3 Special Category States – Assam, Himachal Pradesh and Jammu and Kashmir - had higher eligibility turnover limit of ₹ 1.5 crore.

(c) Composition scheme taxpayers permitted to render services other than restaurant services\(^3\) upto a specified limit [Second proviso to section 10 of CGST Act]

Under the erstwhile provisions, only a supplier of restaurant service was eligible for composition scheme. A person engaged in the supply of any service other than restaurant service was not eligible for composition scheme\(^4\).

However, there are cases where a manufacturer/ trader is also engaged in supply of services other than restaurant service though the percentage of such supply of services is very small as compared to the supplies of goods. There may also be cases where a restaurant service provider is also engaged in supplying a small percentage of other services.

With a view to enable such taxpayers to avail of the benefit of composition scheme, second proviso has been added to section 10(1) which permits a registered person opting for composition scheme to supply services [other than restaurant services] of specified value. This specified value is value not exceeding:

(a) 10% of the turnover in a State/Union territory in the preceding financial year

or

(b) ₹ 5 lakh,

whichever is higher.

Thus, it can be inferred that a registered person opting for composition scheme whose turnover is upto ₹ 50 lakh in the preceding financial year can supply services [other than restaurant services] upto a maximum value of ₹ 5 lakh in the current financial year. Further, a registered person opting for composition scheme whose turnover is more than ₹ 50 lakh and upto ₹1.5 crore in the preceding financial year can supply services [other than restaurant services] in the current financial year upto a maximum value of 10% of the turnover in a State/Union territory in the preceding financial year.

**Example:** Ramsewak has opted for composition scheme in the financial year 2019-2020. His aggregate turnover in FY 2018-19 is ₹ 60 lakh. In FY 2019-2020, he can supply services [other than restaurant services] upto a value of not exceeding:

(a) 10% of ₹ 60 lakh, i.e. ₹ 6 lakh

or

\(^3\) Supplies referred to in clause (b) of paragraph 6 of Schedule II of the CGST Act

\(^4\) subject to Order No. 1/2017 CT dated 13.10.2017
(b) ₹ 5 lakh,

whichever is higher. Thus, he can supply services upto a value of ₹ 6 lakh in FY 2019-2020.

Consequently, eligibility to opt for composition scheme as contained in section 10(2)(a) has also been amended to provide that the registered person shall be eligible to opt for the composition scheme provided:

(i) either he is not at all engaged in supply of services other than restaurant services

or

(ii) in case he supplies services other than restaurant services, value of such services does not exceeded 10% of the turnover in a State/Union Territory in the preceding financial year or ₹ 5 lakh, whichever is higher.

(d) Rates under composition scheme

Under composition scheme, a (i) manufacturer, (ii) restaurant service provider and (iii) any other supplier eligible for composition levy, is required to pay tax @ (i) ½%5, (ii) 2½%6 and (iii) ½%7 respectively.

Earlier, tax rate under category (iii) was ½% of turnover of taxable supplies of goods in the State or Union territory.

However, as discussed above, since now a supplier opting for composition scheme has also been permitted to supply services other than restaurant services marginally, with effect from 01.02.2019, tax rate under category (iii) is ½% of turnover of taxable supplies of goods and services in the State or Union territory [Notification No. 03/2019 CT dated 29.01.2019].

(e) Interest income to be excluded while computing aggregate turnover for determining eligibility for composition scheme. Interest income not to render a person ineligible for composition scheme

As seen earlier, amended section 10(1) of the CGST Act provides that a registered person engaged in supply of services, other than restaurant services, may opt for composition scheme. However, value of such services should not exceed 10% of the turnover in a State/Union territory in the preceding financial year or ₹ 5 lakh, whichever is higher.

Further, amended section 10(2)(a) provides that the registered person shall be eligible to opt for composition scheme provided either he is not at all engaged in supply of services other than restaurant services or in case he supplies services other than restaurant services, value of such services does not exceed 10% of the turnover in a State/Union Territory in the preceding financial year or

5 Effective rate 1% (CGST+ SGST/UTGST)
6 Effective rate 5% (CGST+ SGST/UTGST)
7 Effective rate 1% (CGST+ SGST/UTGST)
₹ 5 lakh, whichever is higher.

In view of the amended provisions of composition levy, Order No. 01/2017 CT dated 13.10.2017 which was issued in view of the erstwhile position of law has been superseded by Order No. 01/2019 CT dated 01.02.2019.

Said order clarifies that the value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account -

i. for determining the eligibility for composition scheme under second proviso to section 10(1). Under this proviso, a registered person opting for composition scheme may supply services [other than restaurant services] of value not exceeding 10% of the turnover in the preceding financial year in a State/Union territory or ₹ 5 lakh, whichever is higher. Thus, while computing value of services [other than restaurant services] as referred in second proviso to section 10(1), interest on loans/deposit/advances will not be taken into account.

ii. in computing aggregate turnover in order to determine eligibility for composition scheme.

(g) Effective date in case of denial of composition option by tax authorities

In case of denial of option to pay tax under composition levy by the tax authorities, it has been clarified that the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules [Circular No. 77/51/2018 GST dated 31.12.2018].

II. Significant Notifications/Circulars/Orders

1. Option to pay concessional tax @ 3%

With effect from 01.04.2019, Notification No. 2/2019 CT (R) dated 07.03.2019\(^8\) has provided an option to a registered person whose aggregate turnover in the preceding financial year is upto ₹50 lakh and who is not eligible to pay tax under composition scheme, to pay tax @ 3%\(^9\) on first supplies of goods and/or services upto an aggregate turnover of ₹ 50 lakh made on/after 1\(^{st}\) April in any FY, subject to specified conditions. The scheme has been elucidated as under:

**Who are the persons not eligible for composition scheme, but eligible for Notification No. 2/2019 CT (R)?**

A registered person whose aggregate turnover in the preceding financial year does not exceed ₹ 50 lakh and:

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\(^8\) as amended by Notification No. 9/2019 CT (R) dated 29.03.2019

\(^9\) Effective rate 6% (CGST+ SGST/UTGST)
• who is exclusively engaged in supplying services other than restaurant services, or
• who is engaged in supply of services [other than restaurant services] alongwith supply of goods and/or restaurant services of value exceeding ₹5 lakh in current FY.

Conditions:
1. Supplies are made by a registered person who is:
   • not engaged in making any supply which is not leviable to tax under the said Act.
   • not engaged in making any inter-State outward supply – neither of goods nor of services.
   • neither a casual taxable person nor a non-resident taxable person.
   • not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52.
   • not engaged in making supplies of notified goods, namely, ice cream and other edible ice, whether or not containing cocoa [2105 00 00], Pan masala [2106 90 20] and all goods of Chapter 24, i.e. Tobacco and manufactured tobacco substitutes.

2. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

3. The registered person shall issue a bill of supply** instead of tax invoice. Such bill of supply will have the following words at its top - ‘taxable person paying tax in terms of Notification No. 2/2019 CT (R) dated 07.03.2019, not eligible to collect tax on supplies’.

**Order No. 3/2019 CT dated 08.03.2019 has clarified that provisions of section 31(3)(c) of the CGST Act, 2017 [containing provisions relating to Bill of Supply] shall also apply to a person paying tax under this notification10.

Other significant points:
1. Where more than one registered persons are having the same PAN, CGST on supplies by all such registered persons is paid @ 3% under this notification.

2. The registered person opting to pay CGST@ 3% under this notification shall be liable to pay:
   • CGST @ 3% on all outward supplies - first supplies of goods or services or both upto an aggregate turnover of ₹50 lakh made on or after the 1st April in any FY – regardless of any exemption from tax available to such supplies or any notification issued under section 9(1).

10 Since section 31(3)(c) is applicable only to a composition supplier.
• CGST on inward supplies on which he is liable to pay tax under section 9(3)/9(4) (reverse charge) at the applicable rates.

3. In computing aggregate turnover in order to determine eligibility of a registered person to pay central tax @ 3% under this notification, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

4. Where any registered person who has availed of ITC opts to pay tax under this notification, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods as if the supply made under this notification attracts the provisions of section 18(4) of the CGST Act and the rules made thereunder and after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

5. The CGST Rules, 2017, as applicable to a person paying tax under composition scheme shall, mutatis mutandis, apply to a person paying tax under this notification. In view of this provision, Circular No. 97/16/2019 GST dated 05.04.2019 has clarified that provisions contained in Chapter II [Composition Levy] of the CGST Rules shall mutatis mutandis apply to persons paying tax by availing the benefit of this notification, except to the extent specified below:

(i) the option of payment of tax by availing the benefit of this notification in respect of any place of business in any State/UT shall be deemed to be applicable in respect of all other places of business registered on the same PAN.

(ii) the option to pay tax by availing the benefit of this notification would be effective from the beginning of the FY or from the date of registration in cases where new registration has been obtained during the FY.

First supplies of goods or services or both shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from 1st April of a FY to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

2. Amendments in the reverse charge notification

The reverse charge notifications for services\(^{11}\) have been amended by Notification No. 29/2018 CT (R) dated 31.12.2018 & Notification No. 5/2019 CT (R) dated 29.03.2019 / Notification No. 30/2018 IT (R) dated 31.12.2018 & Notification No. 5/2019 IT (R) dated 29.03.2019 as follows:

\(^{11}\) Notification No. 13/2017 CT (R) dated 28.06.2017/ Notification No. 10/2017 IT (R) dated 28.06.2017
(a) Amendment in the RCM provisions applicable to GTA

In case of goods transport agency (GTA) service where the tax is payable @ 5% (2.5% CGST + 2.5% SGST/UTGST or 5% IGST) and service is received by one of the specified recipients, namely, a factory registered under Factories Act, society registered under Societies Act, Co-operative society, body corporate and partnership firm including AOP – whether or not registered under GST law, person registered under GST law & registered casual taxable person, tax is payable under reverse charge by the recipient of service.

The said provisions have been amended stipulating that reverse charge mechanism (RCM) shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to-

(a) a Department/establishment of the Central Government/ State Government/ Union territory; or

(b) local authority; or

(c) Governmental agencies,

which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.

It may be noted that the said services have been simultaneously exempted from payment of tax vide Notification No. 28/2018 CT (R) dated 31.12.2018. Thus, there will be no tax liability in this case. [Refer Chapter 4: Exemptions from GST for discussion on this amendment.]

The above amendment has become effective from 01.01.2019.

(b) New services under the RCM

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<thead>
<tr>
<th>S.No.</th>
<th>Category of supply of service</th>
<th>Supplier of service</th>
<th>Recipient of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Services provided by Business facilitator to a banking company</td>
<td>Business facilitator</td>
<td>A banking company, located in the taxable territory</td>
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<td></td>
<td>[Effective from 01.01.2019]</td>
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<tr>
<td>2.</td>
<td>Services provided by an agent of business correspondent to business correspondent.</td>
<td>An agent of business correspondent</td>
<td>A business correspondent, located in the taxable territory.</td>
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<td></td>
<td>[Effective from 01.01.2019]</td>
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<td>3.</td>
<td>Security services (services provided by way of supply of security personnel) provided to a</td>
<td>Any person other than a body corporate</td>
<td>A registered person, located in the taxable territory.</td>
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<td></td>
<td>registered person.</td>
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</table>
However, nothing contained in this entry shall apply to:

(i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or

(b) local authority; or

(c) Governmental agencies; which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or

(ii) a registered person paying tax under composition scheme.

[Effective from 01.01.2019]

4. Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter

[Effective from 01.04.2019]

5. Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.

[Effective from 01.04.2019]
(c) With effect from 01.01.2019, a new clause has been inserted in the Explanation to reverse charge notifications stipulating that the provisions of this notification, in so far as they apply to the Central Government, State Government, shall also apply to the Parliament and State Legislature.

3. Amendments in GST in real estate sector

Earlier, the effective rate of GST on real estate sector was 8%/12% with ITC. With effect from 01.04.2019, the effective rates of GST for the new projects have been brought down to a large extent.

However, the promoters/builders have been given a one-time option to continue to pay tax at the old rates on ongoing projects (buildings where construction and actual booking both have started before 01.04.2019) which have not been completed by 31.03.2019.

New effective rates of GST for the new projects by promoters are as follows:

(i) New rate of 1% without ITC on construction of affordable houses (area 60 sqm in metros/ 90 sqm in non-metros and value upto ₹ 45 lakh).

(ii) New rate of 5% without ITC shall be applicable on construction of:

(a) commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

(b) all houses other than affordable houses, and

Conditions:

Above tax rates shall be available subject to following conditions:

(a) Input tax credit shall not be available.

(b) 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons.

However, if value of inputs and input services purchased from registered supplier is less than 80%, **promoter has to pay GST on reverse charge basis, under section 9(4) of the CGST Act**, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

Further, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under section

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12 Discussion in above paras highlighted in grey is solely for the purpose of knowledge of the students and is not meant for examination purposes as rate of tax prescribed for supply of services has been excluded from the syllabus vide Study Guidelines applicable for November, 2019 examinations.
9(4) of the CGST Act, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present.

Moreover, GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates.

[Notification No. 07/2019 CT (R) dated 29.03.2019/ Notification No. 07/2019 IT (R) dated 29.03.2019]

Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer exempt from GST

Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.

Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. This will achieve a fair degree of taxation parity between under construction and ready to move property.

The liability to pay tax on TDR, FSI, long term lease (premium) has been shifted from land owner to builder under the reverse charge mechanism (RCM) – as discussed in detail in point 2.(b)(4)/(5) above.
I. Amendments made by the CGST (Amendment) Act, 2018 – Effective from 01.02.2019

1. Definition of “local authority” amended [Section 2(69) of the CGST Act]

Section 2(69) of the CGST Act defines “local authority”. Prior to amendment, by virtue of clause (f) of section 2(69), local authority meant a Development Board constituted under article 371 of the Constitution. The said clause has been amended vide the CGST (Amendment) Act, 2018 to provide that a local authority would mean a Development Board constituted under article 371 as well as article 371J of the Constitution.

Article 371 of the Constitution grants special status to Maharashtra and Gujarat. Under this article, the President is empowered to establish a separate Board to ensure equitable distribution of funds in the State’s budget to meet the developmental needs of the region.

Article 371J of the Constitution grants special status to 6 backward districts of Karnataka-Hyderabad region. Under this article, the President is empowered to establish a separate Board to ensure equitable distribution of funds in the State’s budget to meet the developmental needs of the region.

II Significant Notifications/ Circulars/ Orders

1. Amendments relating to exemptions for supply of services

Notification No. 12/2017 CT (R) dated 28.06.2017 which grants exemption to intra-State supply of services from CGST, has been amended vide Notification No. 28/2018 CT (R) dated 31.12.2018/ Notification No. 4/2019 IT (R) dated 29.3.2019 as under:

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Nature of amendment</th>
<th>Description of services</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>New entry 21B inserted - New exemption</td>
<td>Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, - (a) Department or Establishment of the Central/State Government/Union territory; or (b) local authority; or (c) Governmental agencies,</td>
</tr>
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<td></td>
<td></td>
<td>which has taken GST registration only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services. [Effective from 01.01.2019]</td>
</tr>
<tr>
<td>2.</td>
<td>New entry 27A inserted - New exemption</td>
<td>Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY) [Effective from 01.01.2019].</td>
</tr>
<tr>
<td>3.</td>
<td>Entry 34A amended – Scope of exemption enhanced</td>
<td>Services supplied by Central/State Government/Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions [Effective from 01.01.2019]. (The words ‘banking companies’ have been inserted in the entry)</td>
</tr>
<tr>
<td>4.</td>
<td>New entry 74A inserted - New exemption</td>
<td>Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centres established by Central/State Government/ Union territory or an entity registered under section 12AA of the Income Tax Act, 1961 [Effective from 01.01.2019].</td>
</tr>
<tr>
<td>5.</td>
<td>Entry 67 withdrawn</td>
<td>Earlier, services provided by Indian Institutes of Managements (IIMs) as covered under entry No. 67 of said notification were exempt. However, under the amended position, with effect from 01.01.2019, entry No. 67 has been omitted as IIMs are now covered under the definition of ‘educational institution’ whose services are exempt under entry No. 66 of the said notification. In this regard, Circular No. 82/01/2019 GST dated 01.01.2019 has clarified as under: With effect from 31.01.2018, all the IIMs are “educational institutions” as defined under Notification No. 12/ 2017 CT (R) dated 28.06.2017 as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force. IIMs also provide various short duration/ short term programs for which they award participation certificate to the executives/ professionals as they are considered as “participants” of the said programmes. These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of IIM. Services provided by IIMs as an educational institution to such participants is</td>
</tr>
</tbody>
</table>
| 6. | New entries 41A and 41B inserted- New exemption | Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them. Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. This will achieve a fair degree of taxation parity between under construction and ready to move property [Effective from 01.04.2019].

Parallel exemptions from IGST have been extended to supply of inter-State services by amending Notification No. 9/2017 IR dated 28.06.2017, which grants exemption to supply of inter-State services from IGST vide Notification No. 29/2018 IT (R) dated 31.12.2018 / Notification No. 4/2019 CT (R) dated 29.3.2019.

2. Clarification on availability of GST exemption on the upfront amount payable in installments for long term lease of plots

In respect of GST exemption granted vide Entry 41\textsuperscript{13} on the upfront amount which is determined upfront but is paid or payable in instalments for long term (30 years, or more) lease of industrial plots or plots for development of financial infrastructure, it has been clarified vide Circular No. 101/20/2019 GST dated 30.04.2019 that GST exemption on the upfront amount is admissible irrespective of whether such upfront amount is payable or paid in one or more instalments, provided the amount is determined upfront.

\textsuperscript{13} under Notification No. 12/2017 CT (R) dated 28.06.2017

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UNIT I: Time of Supply

I. Amendments made by the CGST (Amendment) Act, 2018 – Effective from 01.02.2019

1. Drafting errors in sections 12 and 13 of the CGST Act, 2017 rectified

Prior to the amendment, section 12(2) of the CGST Act, 2017 provided that the time of supply of goods is the earliest of the following dates, namely:—

(a) the date of issue of invoice by the supplier or the last date on which he is required, under section 31(1), to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply.

However, it may be noted that Notification No. 66/2017 CT dated 15.11.2017 specifies that a registered person (excluding composition supplier) should pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a).

Section 31(1) requires that a registered person supplying taxable goods shall, before or at the time of removal or delivery of goods, issue a tax invoice. However, section 31 contains other situations as well, where invoice is to be raised, e.g. continuous supply of goods, goods sent on approval basis etc.

Section 12(2)(a) has been amended by the CGST (Amendment) Act, 2018 to omit the reference of “sub-section (1)” therefrom. Thus, under the amended position, for determining the time of supply of goods, the date of issue of invoice by the supplier or the last date on which he is required, under section 31 [and not only section 31(1)] will need to be considered.

Similar amendment has been made in section 13 which prescribes the provisions for determining the time of supply of services. As per section 13(2), the time of supply of services shall be the earliest of the following dates, namely:—

(a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

(b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) section 31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply.

Here also, section 13(2) has been amended to omit the reference of “sub-section (2)” from clause (a) and clause (b) thereof. Thus, under the amended position, for
determining the time of supply of services, the invoice issued within the period prescribed under section 31 [and not only section 31(2)] will need to be considered.

II. Significant Notifications/ Circulars/ Orders

1. Special procedure for determining the time of supply of services in certain cases

With effect from 01.04.2019, supply of services by a landowner to a developer by way of –

(i) transfer of transferable development rights (TDR) or floor space index (FSI);

(ii) granting of long term lease,

for construction of residential apartments have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate or first occupation of the project, whichever is earlier, and tax is paid on them.

Such exemption for TDR, FSI, long term lease (premium) shall not be available in case of flats which remain un-booked on the date of issuance of completion certificate or first occupation of the project, whichever is earlier. The promoter (developer) shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of (i) value of development rights and/or FSI, or (ii) upfront amount paid for long term lease, as is attributable to such un-booked residential apartments.

In view of the above change, with effect from 01.04.2019, a special procedure for payment of tax has been laid down for following classes of registered persons, namely-

(i) a promoter who receives development rights or FSI (including additional FSI) on or after 1st April, 2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;

(ii) a promoter, who receives long term lease of land on or after 1st April, 2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount*,

* Such upfront amount is called as premium, salami, cost, price, development charges or by any other name.

For such persons, the liability to pay tax on, -

(a) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);

(b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relatable to construction of residential apartments in project;

(c) the upfront amount paid by him for long term lease of land relatable to construction of residential apartments in the project; and

(d) the supply of construction service by him against consideration in the form of development rights or FSI (including additional FSI),
shall arise on the date of issuance of completion certificate or first occupation of the project, whichever is earlier.

[Notification No. 6/2019 CT (R) dated 29.03.2019/ Notification No. 6/2019 IT (R) dated 29.03.2019]

UNIT II: Value of Supply

I. Significant Notifications/ Circulars/ Orders


Section 15(2) of CGST Act specifies that the value of supply shall include “any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.

It has been clarified that for the purpose of determination of value of supply under GST, tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax.


2. Clarification on value to be adopted for computing GST on services of Business Facilitator (BF) or a Business Correspondent (BC) to Banking Company

Issue: What is the value to be adopted for the purpose of computing GST on services provided by BF/BC to a banking company?

Clarification: As per RBI’s Circular and subsequent instructions on the issue (referred to as ‘guidelines’ hereinafter), banks may pay reasonable commission/fee to the BC, the rate and quantum of which may be reviewed periodically. The agreement of banks with the BC specifically prohibits them from directly charging any fee to the customers for services rendered by them on behalf of the bank. On the other hand, banks (and not BCs) are permitted to collect reasonable service charges from the customers for such service in a transparent manner. The arrangements of banks with the BCs specify the requirement that the transactions are accounted for and reflected in the bank’s books by end of the day or the next working day, and all agreements/contracts with the customer shall clearly specify that the bank is responsible to the customer for acts of omission and commission of the BF/BC.

Hence, banking company is the service provider in the BF model or the BC model operated by a banking company as per RBI guidelines. The banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via BF or BC.

[Circular No. 86/05/2019 GST dated 01.01.2019]

3. Clarification on discounts

A. Discounts including ‘Buy more, Save more’ offers
(i) Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). For example - Get 10% discount for purchases above Rs. 5,000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.

(ii) Some suppliers also offer periodic/year ending discounts to their stockists, etc. For example - Get additional discount of 1% if you purchase 10,000 pieces in a year, get additional discount of 2% if you purchase 15,000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as “volume discounts”. Such discounts are passed on by the supplier through credit notes.

(iii) It is clarified that discounts offered by the suppliers to customers (including staggered discount under “Buy more, save more” scheme and post supply/volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the CGST Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document(s) issued by the supplier.

B. Secondary Discounts

(i) These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10,000 packets of biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.

(ii) The issue for consideration is that whether credit notes(s) under sub-section (1) of section 34 of the CGST Act can be issued in such cases even if the conditions laid down in clause (b) of sub-section (3) of section 15 of the CGST Act are not satisfied. It is hereby clarified that financial/commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the CGST Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.

(iii) It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the CGST Act are not satisfied.

(iv) In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above or by any other means, except in cases
where the provisions contained in clause (b) of sub-section (3) of section 15 of the CGST Act are satisfied.

(v) There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

[Circular 92/11/2019 GST dated 07.03.2019]
I. Amendments made by the CGST (Amendment) Act, 2018 – Effective from 01.02.2019

1. Provisions introduced for availing ITC in case of bill to ship to situations in case of services [Explanation to section 16(2)(b) of the CGST Act]

Section 16(2) of CGST Act deals with the conditions for availing input tax credit. One such condition is that the goods or services or both shall be received by the registered person. In the case of “bill-to-ship-to” situations, for the purposes of availing of ITC on goods by the registered person, a deeming provision is present as an explanation to section 16(2)(b) of the CGST Act, 2017 vide which the registered person is deemed to have received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of the said registered person.

The CGST (Amendment) Act, 2018 has amended the said explanation to introduce such deeming fiction in case of services as well. As per the amended explanation, it shall be deemed that the registered person has received the goods or, as the case may be, services—

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.

2. For the purpose of reversal of ITC, value of exempt supplies not to include Schedule III items except sale of land and sale of building [Section 17(3) of the CGST Act]

As per sub-section (2) of section 17 of the CGST Act, 2017, where goods and/or services are partly used for making exempt supplies including zero rated supplies and partly for taxable supplies, ITC attributable to only taxable supplies and zero rated supplies can be taken by the registered person. In other words, in such a case, ITC attributable to exempt supplies need to be reversed.

Sub-section (3) of section 17 provides that the value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
The CGST (Amendment) Act, 2018 has inserted an explanation in this sub-section to clarify that ‘value of exempt supply’ for the purpose of this sub-section shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule, i.e. sale of land and sale of building. Therefore, while in all other items of Schedule III, ITC will not be required to be reversed; in case of sale of land and sale of building, ITC will need to be reversed.

3. **Scope of blocked credits reduced [Clauses (a) and (b) of section 17(5) of the CGST Act, 2017]**

The CGST (Amendment) Act, 2018 has substituted clauses (a) and (b) of section 17(5) with a view to expand the scope of ITC availability. Provisions relating to credit availability have undergone a change in respect of goods and services like motor vehicles, vessels and aircrafts, general insurance, servicing, repair and maintenance, food & beverages, outdoor catering, membership of club, travel benefits etc. Under the amended position, the restriction and availability of ITC in respect of such goods and services is as under:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Goods and/or services on which credit is blocked</th>
<th>Exceptions to goods and/or services mentioned in column (2) on which credit is allowed</th>
<th>Remarks</th>
</tr>
</thead>
</table>
| (i)   | Motor vehicles* for transportation of persons with seating capacity ≤ 13 persons (including the driver) | Such motor vehicles when used for:  
- making further taxable supply of such motor vehicles;  
- making taxable supply of transportation of passengers;  
- making taxable supply of imparting training on driving such motor vehicles. | • ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) used for any purpose other than ones mentioned in Sl. No. (i) of column (3) is not allowed.  
• ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.  
• ITC on any other motor vehicle (e.g. motor vehicle used for transportation of |
goods, dumpers, tippers etc.) used for any purpose is allowed.

Examples
1. ITC on cars purchased by a manufacturing company for official use of its employees is blocked.
2. ITC on cars purchased by a car dealer for sale to customers is allowed.
3. ITC on cars purchased by a company engaged in renting out cars for transportation of passengers, is allowed.
4. ITC on cars purchased by a car driving school is allowed.
5. ITC on buses purchased by a company for transportation of its employees from their residence to office and back, is allowed.
6. ITC on trucks purchased by a company for transportation of its finished goods is allowed.

(ii) Vessels and aircrafts

Vessels and aircraft when used for-
- making further taxable supply of such vessels or aircraft;
- making taxable supply of transportation of passengers;
- making taxable supply of imparting training on navigating such vessels;
- making taxable supply of imparting training on flying such aircrafts;
- transportation of goods.

ITC on vessels and aircrafts used for any purpose other than the ones mentioned in Sl. No. (ii) of column (3) is not allowed.

Examples
1. ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked.
2. **ITC on aircraft purchased by an Aviation School providing training on flying aircrafts, is allowed.**

<table>
<thead>
<tr>
<th>(iii)</th>
<th>General insurance, servicing, repair and maintenance relating to:</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>• Motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver),</td>
</tr>
<tr>
<td></td>
<td>• Vessels</td>
</tr>
<tr>
<td></td>
<td>• Aircraft</td>
</tr>
</tbody>
</table>

- Such services relating to motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) when used for purposes mentioned in Sl Nos. (i) of column (3) above
- Such services relating to vessels or aircraft when used for purposes mentioned in Sl No. (ii) of column (3) above
- Such services when received by a taxable person engaged –
  - in the manufacture of such motor vehicles (as mentioned in Sl. No. (iii) of column 2), vessels or aircraft; or
  - in the supply of general insurance services in respect of such motor vehicles (as mentioned in Sl No. (iii) of

- ITC is not allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is not allowed.
- ITC is allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is allowed.
Examples
1. ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes, is blocked.
2. ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed.

(iv)
- Food and beverages
- Outdoor catering
- Beauty treatment
- Health services
- Cosmetic and plastic surgery
- Leasing, renting or hiring of motor vehicles, vessels or aircraft on which ITC is not allowed
- Life insurance and health insurance
- Such goods and/or services when used by a registered person for making an outward taxable supply of the same category of goods and/or services (sub-contracting) or as an element of a taxable composite or mixed supply
  - When such goods and/or services are provided by an employer to its employees under a statutory obligation
- ITC on such goods and/or services when used for any purpose other than the ones mentioned in Sl. No. (iv) of column (3), is not allowed.
  - When such goods and/or services are provided by the employer to its employees without any statutory obligation, ITC thereon is blocked.

Examples
1. AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana. The firm has given the contract for supply of snacks, to be served in the marriage, to CD & Sons, a local caterer of Ludhiana. ITC on such outdoor catering services availed by AB & Co., is allowed.
2. ITC on outdoor catering services availed by a company, for a team development event organised for its employees, is blocked.
3. **ITC on outdoor catering service availed by a company to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. ITC on such outdoor catering is allowed.**

<table>
<thead>
<tr>
<th></th>
<th>Membership of a club, health and fitness centre</th>
<th>When such services are provided by an employer to its employees under a statutory obligation</th>
<th>When such goods and/or services are provided by the employer to its employees without any statutory obligation, ITC thereon is blocked.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(v)</td>
<td>Travel benefits extended to employees on vacation such as leave or home travel concession</td>
<td>When such services are provided by an employer to its employees under a statutory obligation</td>
<td>When such goods and/or services are provided by the employer to its employees without any statutory obligation, ITC thereon is blocked.</td>
</tr>
</tbody>
</table>

“Definition of Motor Vehicle” – As per section 2(76) of the CGST Act, 2017, “motor vehicle” shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988.

As per section 2(28) of the Motor Vehicles Act, 1988, “motor vehicle” or “vehicle” means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty-five cubic centimetres.

4. **SGST/UTGST to be used for payment of IGST only when credit of CGST is not available [Section 49 of the CGST Act, 2017]**

Section 49(5) prescribes the order of utilization of ITC. As per clause (c) and clause (d) of section 49(5), ITC of SGST/UTGST should first be utilized towards payment of SGST/UTGST and the amount remaining, if any, may be utilized towards payment of IGST.

The CGST (Amendment) Act, 2018 has inserted provisos after the said clause (c) and clause (d) to lay down that ITC on account of SGST/UTGST can be utilized towards payment of IGST only where the balance of the ITC on account of CGST is not available for payment of IGST.

5. **ITC of IGST to be fully utilised first [New section 49A of the CGST Act, 2017]**

The CGST (Amendment) Act, 2018 has inserted a new section 49A “Utilisation of input tax credit subject to certain conditions” in the CGST Act, 2017.

Section 49A provides that ITC of CGST, SGST/UTGST should be utilised towards payment of IGST, CGST, SGST/UTGST only after the ITC of IGST has first been
utilised fully towards such payment. Section 49A starts with a non obstante clause, “Notwithstanding anything contained in section 49....” Thus, the provisions of section 49A would prevail over the provisions of section 49.


The CGST (Amendment) Act, 2018 has inserted a new section 49B “Order of utilisation of input tax credit” in the CGST Act, 2017.

Section 49B provides that the Government may, on the recommendations of the Council, prescribe the order and manner of utilization of the ITC of IGST, CGST, SGST/UTGST towards payment of any such tax. Section 49B also starts with a non obstante clause, “Notwithstanding anything contained in this Chapter ....” Thus, the provisions of section 49B would prevail over the provisions contained in Chapter X: Payment of Tax. However, utilisation of ITC of CGST for payment of SGST/UTGST and vice versa will not be prescribed.

II. Significant Notifications/ Circulars/ Orders

1. Transfer of credit on obtaining separate registrations for multiple places of business within a State/Union territory [New rule 41A inserted in the CGST Rules, 2017]

Consequent to the introduction of enabling provisions for obtaining separate registrations for multiple places of business in a State/ Union territory, a new rule 41A has been inserted in the CGST Rules, 2017 to prescribe provisions for transfer of ITC in such situations. The rule has become effective from 01.02.2019.

The new rule lays down that a registered person (transferor) who has obtained separate registration for multiple places of business and who intends to transfer, either wholly or partly, the unutilised ITC lying in his electronic credit ledger to any or all of the newly registered place of business, should furnish the prescribed details on the common portal within a period of 30 days from obtaining such separate registrations. Upon acceptance of such details by the newly registered person (transferee) on the common portal, the unutilised ITC would get credited to his electronic credit ledger.

The ITC is transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration. Here, the ‘value of assets’ means the value of the entire assets of the business whether or not ITC has been availed thereon.

[Notification No. 03/2019 CT dated 29.01.2019]

2. Value of assets for the purpose of apportionment of ITC in case of demerger to include value of entire assets of the business, whether or not ITC has been availed thereon [Explanation inserted after proviso to rule 41(1) of the CGST Rules, 2017]

Rule 41 prescribes provisions for transfer of credit on sale, merger, amalgamation, lease or transfer of a business. Proviso to sub-rule (1) of the said rule lays down that
in the case of de-merger, the ITC shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

An explanation has been inserted after the said proviso to clarify that for the purpose of this sub-rule, the “value of assets” means the value of the entire assets of the business, whether or not ITC has been availed thereon.

[Notification No. 16/2019 CT dated 29.03.2019]

3. Value of exempt supplies and total turnover for the purpose of reversal of ITC under rules 42 and 43 to exclude central sales tax also [Rules 42(1) and 43(1) of the CGST Rules, 2017]

Rules 42 and 43 of the CGST Rules, 2017 provide the manner of determination of ITC in respect of inputs, input services and capital goods and reversal thereof. Essentially, the rules provide that when inputs, input services and capital goods are used for both taxable and exempt activity, ITC attributable to exempt supplies out of the total turnover, need to be reversed. For this purpose, prior to amendment, the value of exempt supplies and the total turnover excluded central excise duty, State excise duty and VAT as levied under entry 84 of List I and entries 51 and 54 of List II of Seventh Schedule.

With effect from 01.02.2019, the value of exempt supplies and the total turnover under rules 42 and 43 will exclude the amount of any duty or tax levied under entry 84 and entry 92A of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule. In other words, apart from excise duty, State excise duty and VAT, the value of exempt supplies and the total turnover as provided under rules 42 and 43 would now exclude central sales tax also.

[Notification No. 03/2019 CT dated 29.01.2019]

4. Clause (a) of explanation to rules 42 and 43 of the CGST Rules, 2017 omitted

Earlier, clause (a) of explanation to rules 42 and 43 provided that the value of exempt supplies exclude the values of services specified in Notification No. 42/2017 IT (R) dated 27.10.2017, i.e. services having place of supply in Nepal or Bhutan, against payment in Indian Rupees. This clause has been omitted from the explanation with effect from 01.02.2019.

[Notification No. 03/2019 CT dated 29.01.2019]

5. Other miscellaneous amendments in rules 42 and 43 of the CGST Rules, 2017 – Effective from 01.04.2019

(i) Earlier clause (g) of rule 42(1) of CGST Rules, 2017 provided that ‘T1’, ‘T2’, ‘T3’ and ‘T4’ should be determined and declared by the registered person at the invoice level in GSTR 2. It may be noted that GSTR 2 is not in operation as of now.
The said clause has been amended to provide that ‘$T_1$', ‘$T_2$', ‘$T_3$' and ‘$T_4$' should be determined and declared by the registered person at the invoice level in GSTR 2 and at summary level in GSTR 3B.

(ii) In clause (h) of rule 42(1), for the brackets and letter “(g)”, the brackets and letter “(f)” have been substituted.

(iii) Earlier, clause (l) of rule 42(1) provided that the amount of $C_3$ should be computed separately for ITC of CGST, SGST/UTGST and IGST. $C_3$ is the eligible ITC out of common credit that is attributable to the purposes of business and for effecting taxable supplies including zero rated supplies.

The said clause has been amended to provide that the amount of $C_3$, $D_1$, and $D_2$ should be computed separately for ITC of CGST, SGST/UTGST and IGST and declared in GSTR 3B or through a prescribed form. $D_1$ is ITC attributable towards exempt supplies. $D_2$ is the ITC attributable to non-business purposes.

(iv) Earlier clause (m) of rule 42(1) provided that the amount equal to aggregate of ‘$D_1$' and ‘$D_2$' should be added to the output tax liability of the registered person.

The said clause has been amended to provide that the amount equal to aggregate of ‘$D_1$' and ‘$D_2$' should be reversed by the registered person in GSTR 3B or in the prescribed form.

(v) Earlier clause (a) of rule 41(2) provided, inter alia, that where the aggregate of the amounts calculated finally in respect of ‘$D_1$' and ‘$D_2$' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of ‘$D_1$' and ‘$D_2$', such excess shall be added to the output tax liability of the registered person in the month not later than the month of September following the end of the financial year to which such credit relates.

The said clause has been amended to provide that where the aggregate of the amounts calculated finally in respect of ‘$D_1$' and ‘$D_2$' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of ‘$D_1$' and ‘$D_2$', such excess shall be reversed by the registered person in GSTR 3B or in the prescribed form in the month not later than the month of September following the end of the financial year to which such credit relates.

(vi) Earlier clause (a) of rule 43(1) of CGST Rules, 2017 provided that the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in GSTR 2 and shall not be credited to his electronic credit ledger.

The said clause has been amended to provide that the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies should be indicated in GSTR 2 and GSTR 3B and shall not be credited to his electronic credit ledger.
Clause (b) of rule 43(1) has also been amended on the similar lines to provide that the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting taxable supplies including zero-rated supplies shall be indicated in GSTR 2 and GSTR 3B and shall be credited to the electronic credit ledger.

(vii) Earlier, clause (g) of rule 43(1) provided that ‘F’ is the total turnover of the registered person during the tax period.

The said clause has been amended to provide that ‘F’ is the total turnover in the State of the registered person during the tax period.

(viii) Under the amended provisions of rule 43, the amount Te should be computed separately for ITC of CGST, SGST/UTGST and IGST and declared in GSTR 3B.

[Notification No. 16/2019 CT dated 29.03.2019]


The amendment of section 49 and insertion of new section 49A vide the CGST (Amendment) Act, 2018 – which prescribe utilization of ITC of IGST in a particular order - resulted in accumulation of ITC for one kind of tax in electronic credit ledger and discharge of liability for the other kind of tax through electronic cash ledger in certain scenarios.

The newly inserted section 49A of the CGST Act, 2017 provides that the ITC of IGST has to be utilized completely before ITC of CGST/SGST can be utilized for discharge of any tax liability. Further, as per the provisions of section 49 of the CGST Act, 2017, ITC of IGST has to be utilized first for payment of IGST, then CGST and then SGST in that order mandatorily. This led to a situation, in certain cases, where a taxpayer has to discharge his tax liability on account of one type of tax (say SGST) through electronic cash ledger, while the ITC on account of other type of tax (say CGST) remains un-utilized in electronic credit ledger.

Accordingly, in exercise of the powers conferred under newly introduced section 49B of the CGST Act, 2017 (refer amendment given at point no. I.(7) above), a new rule 88A has been inserted in the CGST Rules, 2017.

The newly inserted rule 88A allows utilization of ITC of IGST towards the payment of CGST and SGST/UTGST in any order subject to the condition that the entire ITC of IGST is completely exhausted first before the ITC of CGST or SGST/UTGST can be utilized.

The new rule provides as under:

• ITC of IGST should first be utilized towards payment of IGST.

• Remaining ITC of IGST, if any, can be utilized towards the payment of CGST and SGST/UTGST in any order, i.e. ITC of IGST can be first utilized either against CGST or SGST.
• ITC of CGST, SGST/UTGST can be utilized towards payment of IGST, CGST, SGST/UTGST only after the ITC of IGST has first been utilized fully.

[Notification No. 16/2019 CT dated 29.03.2019 read with Circular No. 98/17/2019 GST dated 23.04.2019]

7. Clarification in respect of utilization of ITC under GST

CBIC has clarified that after the insertion of new rule 88A in the CGST Rules, 2017, the order of utilization of ITC will be as per the order (of numerals) given below:

<table>
<thead>
<tr>
<th>ITC of</th>
<th>Output IGST liability</th>
<th>Output CGST liability</th>
<th>Output SGST/UTGST liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>IGST</td>
<td>(I)</td>
<td>(II) – In any order and in any proportion</td>
<td></td>
</tr>
<tr>
<td>CGST</td>
<td>(V)</td>
<td>(IV) – Not permitted</td>
<td></td>
</tr>
<tr>
<td>SGST/UTGST</td>
<td>(VII)14</td>
<td>Not permitted</td>
<td>(VI)</td>
</tr>
</tbody>
</table>

(III) ITC of IGST to be completely exhausted mandatorily

The following illustration would further amplify the impact of newly inserted rule 88A:

Illustration:

Amount of ITC available and output tax liability under different tax heads

<table>
<thead>
<tr>
<th>Head</th>
<th>Output tax liability</th>
<th>ITC</th>
</tr>
</thead>
<tbody>
<tr>
<td>IGST</td>
<td>1000</td>
<td>1300</td>
</tr>
<tr>
<td>CGST</td>
<td>300</td>
<td>200</td>
</tr>
<tr>
<td>SGST/UTGST</td>
<td>300</td>
<td>200</td>
</tr>
<tr>
<td>Total</td>
<td>1600</td>
<td>1700</td>
</tr>
</tbody>
</table>

Option 1:

<table>
<thead>
<tr>
<th>ITC of</th>
<th>Discharge of output IGST liability</th>
<th>Discharge of output CGST liability</th>
<th>Discharge of output SGST/UTGST liability</th>
<th>Balance of ITC</th>
</tr>
</thead>
<tbody>
<tr>
<td>IGST</td>
<td>1000</td>
<td>200</td>
<td>100</td>
<td>0</td>
</tr>
</tbody>
</table>

ITC of IGST has been completely exhausted

| CGST   | 0                                  | 100                               | -                                        | 100            |

14 ITC on account of SGST/UTGST should be utilized towards payment of IGST only after the ITC of CGST has been utilized fully.

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### Option 2:

<table>
<thead>
<tr>
<th>ITC of</th>
<th>Discharge of output IGST liability</th>
<th>Discharge of output CGST liability</th>
<th>Discharge of output SGST/UTGST liability</th>
<th>Balance of ITC</th>
</tr>
</thead>
<tbody>
<tr>
<td>IGST</td>
<td>1000</td>
<td>100</td>
<td>200</td>
<td>0</td>
</tr>
</tbody>
</table>

**ITC of IGST has been completely exhausted**

| CGST   | 0                                | 200                              | -                                        | 0              |
| SGST/UTGST | 0                               | -                                | 100                                      | 100            |
| Total  | 1000                             | 300                              | 300                                      | 100            |

[Circular No. 98/17/2019 GST dated 23.04.2019]

8. Clarification in respect of transfer of ITC in case of death of sole proprietor

**Issue:** Whether section 18(3) of the CGST Act, 2017 provides for transfer of ITC which remains unutilized to the transferee in case of death of the sole proprietor?

**Clarification:** For the purpose of section 18(3) of the CGST Act, 2017 and rule 41(1) of the CGST Rules, 2017, transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor.

[Circular No. 96/15/2019 GST dated 28.03.2019]

In case of transfer of business with the specific provisions for transfer of liabilities, unutilized ITC can be transferred to the transferred business in terms of section 18(3) of the CGST Act, 2017. Rule 41(1) of the CGST Rules, 2017 requires the registered person to furnish the details of transfer of business in the prescribed form electronically on the common portal along with a request for transfer of unutilized ITC lying in his electronic credit ledger to the transferee.

9. Clarification on ITC in the hands of the supplier in respect of sales promotional schemes

(i) **Free samples and gifts**

Clause (h) of sub-section (5) of section 17 of the CGST Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.

It has been clarified that ITC shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of “supply”
on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail the ITC.

(ii) Buy one get one free offer:

It is clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

[Refer Chapter 2: Supply under GST for detailed discussion on taxability of the sales promotional schemes mentioned at point (i) and (ii) above.]

(iii) Discounts including ‘Buy more, save more’ offers

It is clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

[Refer Unit II: Value of Supply of Chapter 5: Value of Supply for detailed discussion on valuation in relation to the sales promotional scheme mentioned above.]

[Circular No. 92/11/2019 GST dated 28.03.2019]

10. Procedure in respect of return of time expired drugs or medicines

It is a common trade practice in the pharmaceutical sector that the drugs or medicines are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be. Such goods have a defined life term which is normally referred to as the date of expiry. Goods which have crossed their date of expiry are colloquially referred to as time expired goods and are returned back to the manufacturer, on account of expiry, through the supply chain. For such goods and lieu of representations received CBIC vide Circular No. 72/46/2018 GST dated 26.10.2018 has prescribed the following procedure for return of time expired drugs or medicines. In case of return of time expired medicines/drugs, either of the following two options can be followed:

A. Return of time expired goods to be treated as fresh supply

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Person returning the time expired goods</th>
<th>Condition</th>
<th>Value of the returned goods</th>
<th>Whether ITC available</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td>a registered person (other than a composition taxpayer)</td>
<td>return the said goods by treating it as a fresh supply and thereby issuing an invoice for the same</td>
<td>as shown in the invoice/bill etc on the basis of which the goods were supplied earlier may be taken as</td>
<td>Recipient of such return supply eligible to avail Input Tax Credit subject to the fulfilment of the conditions specified in Section 16</td>
</tr>
</tbody>
</table>
b) a composition taxpayer  Issue a bill of supply and pay tax at the rate applicable to a composition taxpayer  the value of such return supply  No ITC available to recipient of return supply

c) an unregistered person  Issue any commercial document without charging any tax on the same  NA

Where the time expired goods which have been returned by the retailer/wholesaler are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of the provisions of section 17(5)(h) of the CGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

Illustration: Supposedly, manufacturer has availed ITC of ₹ 10/- at the time of manufacture of medicines valued at ₹ 100/- . At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is ₹ 15/- . So, when the time expired goods are destroyed by the manufacturer, he would be required to reverse ITC of ₹ 15/- and not of ₹ 10/.

B. Return of time expired goods by issuing Credit Note

a) the manufacturer/ wholesaler who has supplied the goods to the wholesaler/ retailer has the option to issue a credit note as per section 34(1) of CGST Act in relation to the time expired goods returned by the wholesaler or retailer. The retailer/ wholesaler may return the time expired goods by issuing a delivery challan. There is no time limit for the issuance of a credit note in the law except with regard to the adjustment of the tax liability in case of the credit notes issued prior to the month of September following the end of the financial year and those issued after it.

b) if the credit note is issued within the time limit specified in section 34(2)(2) of the CGST Act, the tax liability may be adjusted by the supplier, subject to the condition that the person returning the time expired goods has either not availed the ITC or if availed has reversed the ITC so availed against the goods being returned.

c) if the time limit specified in section 34(2) of the CGST Act has lapsed, a credit note may still be issued by the supplier for such return of goods but the tax liability cannot be adjusted by him in his hands.

d) in case time expired goods are returned beyond the time period specified in section 34(2) of the CGST Act and a credit note is issued consequently, there
is no requirement to declare such credit note on the common portal by the supplier (i.e. by the person who has issued the credit note) as tax liability cannot be adjusted in this case.

e) where the time expired goods, which have been returned by the retailer/wholesaler, are destroyed by the manufacturer, he/she is required to reverse the ITC attributable to the manufacture of such goods, in terms of the provisions of section 17(5)(h) of the CGST Act.

This has been illustrated in table below:

<table>
<thead>
<tr>
<th>Date of Supply</th>
<th>Date of return</th>
<th>Treatment in terms of tax liability &amp; credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>01.07.2017</td>
<td>20.09.2018</td>
<td>Credit note will be issued by supplier (manufacturer/ wholesaler) and the same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC.</td>
</tr>
<tr>
<td>01.07.2017</td>
<td>20.10.2018</td>
<td>Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.</td>
</tr>
</tbody>
</table>

* of goods from manufacturer/ wholesaler to wholesaler/ retailer

**of time expired goods from retailer/ wholesaler to wholesaler / manufacturer

The clarification may also be applicable to return of goods for reasons other than being time expired.

[Circular No. 72/46/2018 GST dated 26.10.2018]
Amendments made by the CGST (Amendment) Act, 2018 – Effective from 01.02.2019, unless otherwise specified

1. Amendments in the threshold limit for registration

As per section 22, the threshold limit for registration - for States other than Special Category States is ₹ 20 lakh and for Special Category States is ₹ 10 lakh. 11 Special Category States are specified in Article 279A(4)(g) of the Constitution namely, States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

However, earlier explanation (iii) to section 22 defined Special Category States for the purpose of said section as States as specified in article 279A(4)(g) of the Constitution except the State of Jammu and Kashmir. Thus, Jammu and Kashmir was not a Special Category State for the purpose of section 22. Remaining other States were Special Category States.

The definition of Special Category States as contained in said explanation has been amended. As a result of the amendment, now, only Mizoram, Tripura, Manipur and Nagaland are Special Category States for the purpose of section 22. Arunachal Pradesh, Assam, Jammu and Kashmir, Meghalaya, Sikkim, Himachal Pradesh and Uttarakhand are not the Special Category States for said purpose.

Following notifications grant the exemption from registration to persons making supplies of services specified therein with aggregate turnover up to ₹ 20 lakh [₹ 10 lakh in Special Category States as defined in section 22]. In order to bring into effect the above amendment in definition of Special Category States in explanation (iii) of section 22, these notifications have also been appositely amended:

(a) Persons making supplies of services through an ECO (other than supplies specified under section 9(5) of the CGST Act) [Notification No. 65/2017 CT dated 15.11.2017]15.


15 amended vide Notification No.06/2019 CT dated 29.01.2019
16 amended vide Notification No.03/2019 IT dated 29.01.2019
Further, a proviso has been inserted in section 22(1) which provides that the Government may, at the request of a Special Category State and on the recommendations of the Council, enhance the threshold limit for Special Category States from ₹ 10 lakh to such amount, not exceeding ₹ 20 lakh and subject to such conditions and limitations, as may be so notified. However, this power has not yet been exercised.

Subsequently, with effect from 01.04.2019, Notification No. 10/2019 CT dated 07.03.2019 is issued which exempts any person who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed ₹ 40 lakh. Exceptions to this exemption are as follows:

(a) persons required to take compulsory registration under section 24 of the CGST Act.

(b) persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa [2105 00 00], Pan masala [2106 90 20] and all goods of Chapter 24, i.e. Tobacco and manufactured tobacco substitutes.

(c) Persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand. Inter-State supplies of goods are nevertheless liable to compulsory registration and are thus covered in exception (i) above.

(d) Person who has opted for voluntary registration or such registered persons who intend to continue with their registration under the CGST Act.

The above discussion can be summarised as follows:

**Position prior to amendment**

<table>
<thead>
<tr>
<th>States other than Special Category States</th>
<th>Threshold limit for persons engaged exclusively in supply of goods</th>
<th>in supply of services/ both goods and services</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>₹ 20 lakh</td>
<td>₹ 20 Lakh</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Special Category States as per Constitution</th>
<th>Special Category States as per section 22</th>
<th>Threshold limit for persons engaged</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manipur</td>
<td>₹ 10 lakh</td>
<td>₹ 10 Lakh</td>
</tr>
<tr>
<td>Mizoram</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nagaland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tripura</td>
<td></td>
<td></td>
</tr>
<tr>
<td>States other than Special Category States</td>
<td>States other than Special Category States</td>
<td>Threshold limit for persons engaged</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>------------------------------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>exclusively in supply of goods</td>
</tr>
<tr>
<td>Puducherry</td>
<td></td>
<td>₹ 20 lakh</td>
</tr>
<tr>
<td>Telangana</td>
<td></td>
<td>₹ 20 lakh</td>
</tr>
<tr>
<td>Others</td>
<td></td>
<td>₹ 40 lakh</td>
</tr>
<tr>
<td>Special Category States as per Constitution</td>
<td>Special Category States as per section 22</td>
<td>Manipur</td>
</tr>
<tr>
<td></td>
<td></td>
<td>₹ 10 lakh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mizoram</td>
</tr>
<tr>
<td></td>
<td></td>
<td>₹ 10 lakh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nagaland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>₹ 10 lakh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tripura</td>
</tr>
<tr>
<td></td>
<td></td>
<td>₹ 10 lakh</td>
</tr>
<tr>
<td>Others</td>
<td></td>
<td>Jammu and Kashmir</td>
</tr>
<tr>
<td></td>
<td></td>
<td>₹ 40 lakh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Assam</td>
</tr>
<tr>
<td></td>
<td></td>
<td>₹ 40 lakh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Himachal Pradesh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>₹ 40 lakh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Arunachal Pradesh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>₹ 20 Lakh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Meghalaya</td>
</tr>
<tr>
<td></td>
<td></td>
<td>₹ 20 Lakh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sikkim</td>
</tr>
<tr>
<td></td>
<td></td>
<td>₹ 20 Lakh</td>
</tr>
</tbody>
</table>
**Persons engaged exclusively in supply of goods**

**Examples:**

<table>
<thead>
<tr>
<th>Supplier</th>
<th>Aggregate turnover</th>
<th>Applicable threshold limit for registration</th>
<th>Whether liable to obtain registration?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prithiviraj of Assam</td>
<td>₹22 lakh</td>
<td>₹40 lakh</td>
<td>✗</td>
</tr>
<tr>
<td>exclusively in supply of shoes</td>
<td>₹22 lakh</td>
<td>₹20 lakh</td>
<td>✓</td>
</tr>
<tr>
<td>exclusively in supply of pan masala</td>
<td>₹22 lakh</td>
<td>₹20 lakh</td>
<td>✓</td>
</tr>
<tr>
<td>Shivaji of Telangana</td>
<td>₹22 lakh</td>
<td>₹20 lakh</td>
<td>✓</td>
</tr>
</tbody>
</table>

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2. **Compulsory registration for e-commerce operator who is required to collect tax at source [Section 24(x) of CGST Act]**

Section 24 of the CGST Act, 2017 enlists the categories of persons who are compulsorily required to obtain registration. In terms of clause (x) of said section, an e-commerce operator was earlier required to take compulsory registration irrespective of his turnover limit.

Said clause has been amended to provide that those e-commerce operators who are required to collect tax at source under section 52 of the CGST Act would only be required to obtain compulsory registration.

This is a taxpayer-friendly measure. Small e-commerce operators who are not required to collect tax at source under section 52 would now be eligible for availing the threshold exemption limit benefit for registration purposes.

3. **Separate registration for a person having multiple place of business in a State**

A person seeking registration under the GST law is granted a single registration in a State or Union territory. Separate GST registrations within the same State/UT were permitted only for separate business verticals. Accordingly, proviso to section 25(2) provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to prescribed conditions.
The requirement of having multiple business verticals to obtain separate registrations in a State has been dispensed with. Therefore, now a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.

Consequently, the definition of ‘business vertical’ as contained in section 2(18) of the CGST Act has also been omitted. Another consequential amendment has also been carried out in clause (iii) of Explanation 1 of section 8(2) of the IGST Act, 2017 by omitting the reference of business vertical in the same.

Example: Meethalal & Sons - a supplier in Delhi has three branches – two engaged in supply of garments and one engaged in supply of shoes. While as per the erstwhile provisions, Meethalal & Sons could obtain only registrations – one for business vertical of garments and another for business vertical of shoes, now it can obtain separate GST registration for each three branches.

Further, rule 11 enumerating the conditions for separate registration for multiple business verticals within a State/UT has also been subsequently substituted vide Notification No. 03/2019 CT dated 29.01.2019 with a new rule 11.

New rule stipulates that any person having multiple places of business within a State/UT, requiring a separate registration for any such place of business shall be granted separate registration in respect of each such place of business subject to the following conditions, namely:-

(a) such person has more than one place of business as defined in section 2(85);

(b) such person shall not pay tax under composition levy for any of his places of business if he is paying tax under normal scheme for any other place of business.

Where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax under composition scheme, all other registered places of business of the said person shall become ineligible to pay tax under said scheme.

(c) all separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

A registered person opting to obtain separate registration for a place of business shall submit a separate application in prescribed form in respect of such place of business.

The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.

4. Separate registration for SEZ unit or SEZ developer

Earlier, first proviso to rule 8(1) of the CGST Rules provided that a person having unit in SEZ or an SEZ developer will make a separate application for registration as a

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business vertical distinct from his other units located outside SEZ. Thus, in case where two units of a tax payer were located in same State - one in SEZ and another outside SEZ, separate registrations were required to be obtained for each of the two units as separate business vertical.

With the dispensation of the requirement of having multiple business verticals to obtain separate registrations in a State/UT, the aforesaid provision has been accordingly modified with effect from 01.02.2019. Modified provision states that a person having a unit in SEZ or being a SEZ developer shall have to apply for a separate registration, as distinct from his place of business located outside the SEZ in the same State or Union territory.

This modified provision has been incorporated as second proviso to section 25(1) and simultaneously, first proviso to rule 8(1) has been omitted17.

5. Cancellation or suspension of registration [Section 29 of CGST Act and rule 21A of the CGST Rules]

Under section 29, the cancellation of the registration can either be initiated by the Department on their own motion or the registered person can apply for cancellation of their registration.

A proviso to section 29(1) has been inserted to provide that once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, the proper officer may suspend his registration during pendency of the proceedings relating to cancellation of registration filed by such registered person, for such period and in such manner as may be prescribed**.

The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST law during the pendency of the proceedings related to cancellation of registration.

Consequently, heading of the section has also been changed to ‘Cancellation or suspension of registration’.

**Period and manner of suspension of registration

Further, with effect from 01.02.2019, new rule 21A of the CGST Rules, 2017 has been inserted vide Notification No. 03/2019 CT dated 29.01.2019 which lays down the period and manner of suspension of registration as follows:

1. Where registered person has applied for cancellation of registration:

Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from:

(a) the date of submission of the application

or

(b) the date from which the cancellation is sought,

17 vide Notification No. 03/2019 CT dated 29.01.2019
whichever is later,

pending the completion of proceedings for cancellation of registration.

2. **Where cancellation of the registration has been initiated by the Department on their own motion:** Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration of such person **with effect from a date to be determined by him**, pending the completion of the proceedings for cancellation of registration.

3. A registered person, whose registration has been suspended as above:
   - shall not make any taxable supply during the period of suspension and
   - shall not be required to furnish any return under section 39.

4. The suspension of registration shall be deemed to be revoked upon completion of the cancellation proceedings by the proper officer. Such revocation shall be effective from the date on which the suspension had come into effect.

II. **Significant Notifications/ Circulars/ Orders**

1. **Pending returns to be filed before revocation of cancellation of registration [Rule 23 of the CGST Rules, 2017]**

Rule 23 of the CGST Rules, 2017 provides the procedure for revocation of cancellation of registration. First proviso to section 23(1) provided that if the registration has been cancelled on account of failure of the registered person to furnish returns, no application for revocation of cancellation of registration shall be filed, unless such returns are furnished and any amount in terms of such returns is paid.

Two newly inserted provisos provide as follows:

All returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of 30 days from the date of order of revocation of cancellation of registration:

However, where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of 30 days from the date of order of revocation of cancellation of registration.

From the combined reading of aforesaid provisions, it can be inferred that where the registration has been cancelled **with effect from the date of order of cancellation of registration**, (i) all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed and (ii) all returns required to be furnished in respect of the period from the date of order of cancellation till the
date of order of revocation of cancellation of registration have to be furnished within a period of 30 days from the date of the order of revocation.

However, where the registration has been cancelled with retrospective effect, the application for revocation of cancellation of registration can be filed, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration.


2. **Persons making inter-State taxable supplies of notified goods up to ` 20,00,000 exempted from obtaining compulsory registration**

As per section 24 read with Notification No. 10/2017 IT dated 13.10.2017, a person making inter-State supplies of goods is liable to be registered compulsorily under GST irrespective of the threshold limit.

However, following categories of persons have been exempted from obtaining registration:

(a) Persons making inter-State taxable supplies of **handicraft goods**\(^*\) notified under Notification No. 21/2018 CT (R) dated 26.07.2018.

(b) Persons making inter-State taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process.

*Handicraft goods means goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility.

**Conditions to be fulfilled:**

1*. The aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ₹ 20 lakh [₹ 10 lakh in case of Special Category States other than the State of Jammu and Kashmir] in a FY.

2*. Such persons have obtained a PAN and have generated an e-way bill

[Notification No. 3/2018 IT dated 22.10.2018]

3. **Casual Taxable Persons (CTP) making inter-State taxable supplies of notified goods up to ₹ 20,00,000**

As we have seen earlier that as per section 24, a CTP is liable to be registered compulsorily under GST irrespective of the threshold limit.
However, following categories of CTPs have been exempted from obtaining registration:

(a) CTPs making inter-State taxable supplies of handicraft goods* notified under Notification No. 21/2018 CT (R) dated 26.07.2018.

(b) CTPs making inter-State taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process.

*Handicraft goods means goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility.

Conditions to be fulfilled:

1. CTPs are availing benefit of Notification No. 03/2018 IT dated 22.10.2018

2. The aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ₹ 20 lakh [₹ 10 lakh in case of Special Category States other than the State of Jammu and Kashmir] in a FY.

3. Such persons have obtained a PAN and have generated an e-way bill [Notification No. 56/2018 CT dated 23.10.2018]

4. Clarification that transfer/change in the ownership of business to include the transfer/change in the ownership of business due to death of the sole proprietor

Section 29(1)(a) of the CGST Act provides that reason of transfer of business includes “death of the proprietor”.

Similarly, for uniformity and for the purpose of section 22(3) of the said Act, it is clarified that transfer or change in the ownership of business under said section will include transfer/change in the ownership of business due to death of the sole proprietor.

[Circular No. 96/15/2019 GST dated 28.03.2019]
I. Amendments made by the CGST (Amendment) Act, 2018 – Effective from 01.02.2019

1. One or more credit/ debit notes can be issued for multiple invoices [Subsections (1) and (3) of section 34 of the CGST Act]

   Earlier, a credit/debit note, which is issued by the registered person under section 34, was required to be issued invoice-wise. This used to cause avoidable compliance burden for taxpayers.

   The CGST (Amendment) Act, 2018 has amended sub-section (1) of section 34 to allow the registered person to issue one (consolidated) or more credit notes in respect of multiple invoices issued in a financial year without linking the same to individual invoices.

   Similarly, sub-section (3) of section 34 has been amended to allow the registered person to issue one (consolidated) or more debit notes in respect of multiple invoices issued in a financial year without linking the same to individual invoices.

II. Significant Notifications/ Circulars/ Orders

1. Signature/ digital signature of the supplier/ his authorised representative not required on (i) electronic tax invoice, (ii) electronic bill of supply, (iii) electronic consolidated tax invoice in case of banking companies etc. and (iv) electronic ticket for passenger transportation service [Rules 46, 49 and 54 of the CGST Rules, 2017]

   As per rule 46 of the CGST Rules, 2017, a tax invoice should contain signature or digital signature of the supplier or his authorised representative. A proviso has been inserted in the said rule to lay down that such signature would not be required in the case of an electronic invoice.

   Rule 49 of the CGST Rules, 2017 – which prescribes the provisions for bill of supply - has also been amended to provide that signature or digital signature of the supplier or his authorised representative would not be required in the case of an electronic bill of supply.

   The electronic tax invoice and electronic bill of supply need to be issued in accordance with the provisions of the Information Technology Act, 2000.
Similarly rule 54(2) – which enables issuance of a monthly consolidated tax invoice or any other document in lieu thereof, in case of insurance company/banking company/financial institutions including NBFCs - has been amended to provide that signature or digital signature of the supplier or his authorised representative would not be required in the case of consolidated invoice or any other document in lieu thereof issued in accordance with the provisions of the Information Technology Act, 2000 (electronic consolidated invoice).

Similarly rule 54(4) – which enables a ticket issued for passenger transportation service to be considered as a tax invoice - has been amended to provide that signature or digital signature of the supplier or his authorised representative would not be required in the case of ticket issued in accordance with the provisions of the Information Technology Act, 2000 (electronic ticket).

### Signature or digital signature of supplier/ authorised representative not required on following documents

- Electronic tax invoice
- Electronic bill of supply
- Electronic consolidated tax invoice in case of Insurance/Banking companies, financial institutions including NBFCs
- Electronic ticket issued for passenger transportation service

**[Notification No. 74/2018 CT dated 31.12.2018]**

2. **New contents prescribed for credit and debit notes**

Prior to amendment, sub-rule (1) of rule 53 of the CGST Rules, 2017 prescribed the contents of revised tax invoice as well as credit or debit notes.

A new sub-rule (1A) has been inserted in rule 53 to provide the contents of debit and credit notes separately. Consequently, sub-rule (1) now provides the contents of only the revised tax invoice.

Further, information relating to -
- nature of document,
- value of taxable supply of goods or services, rate of tax and the amount of the tax credited or debited to the recipient

is no longer required to be mentioned on the revised tax invoice.

The new sub-rule (1A) sets out the contents of credit and debit note as under-

(a) name, address and GSTIN of the supplier;
(b) nature of the document;

(c) a consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;

(d) date of issue of the document;

(e) name, address and GSTIN or UIN, if registered, of the recipient;

(f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;

(g) serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;

(h) value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and

(i) signature or digital signature of the supplier or his authorised representative.

The above amendments have become effective from 01.02.2019.

[Notification No. 03/2019 CT dated 29.01.2019]
I. Amendments made by the CGST (Amendment) Act, 2018 – Effective from 01.02.2019

1. SGST/ UTGST to be used for payment of IGST only when credit of CGST is not available [Section 49(5) of the CGST Act]
   
   Refer Chapter 6: Input Tax Credit for discussion on this amendment.

2. ITC of IGST to be fully utilised first [Section 49A of the CGST Act]
   
   Refer Chapter 6: Input Tax Credit for discussion on this amendment.

3. Order of utilisation of ITC [Section 49B of the CGST Act]
   
   Refer Chapter 6: Input Tax Credit for discussion on this amendment.

II. Significant Notifications/ Circulars/ Orders

1. Payment of liability to be made in accordance with the provisions of sections 49, 49A and 49B of the CGST Act, 2017

   Earlier, rule 85(3) of the CGST Rules, 2017 provided that payment of every liability by a registered person as per his return should be made by debiting the electronic credit ledger or the electronic cash ledger in accordance with section 49 of the CGST Act, 2017. Further, rule 86(2) of the CGST Rules, 2017 provided that the electronic credit ledger would be debited to the extent of discharge of any liability in accordance with the provisions of section 49 of the CGST Act, 2017.

   Due to the introduction of new sections 49A and 49B, rule 85(3) and rule 86(2) have been amended to include therein the reference of section 49A and section 49B along with section 49. The said amendments have become effective from 01.02.2019.

   [Notification No. 03/2019 CT dated 29.01.2019]

2. New mechanism prescribed for order of utilisation of ITC [New rule 88A inserted in the CGST Rules, 2017]

   Refer Chapter 6: Input Tax Credit for discussion on this amendment
I. Amendments made by the CGST (Amendment) Act, 2018 – Effective from 01.02.2019

1. **GST Practitioner enabled to perform other prescribed functions as well [Section 48(2) of the CGST Act]**

   Earlier, as per section 48(2) of the CGST Act, 2017, a registered person could authorise a Goods and Services Tax Practitioner (GSTP) to furnish its details of outward supplies, inward supplies and returns.

   The CGST (Amendment) Act, 2018 has amended section 48(2) to provide as under:

   “A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 and to perform such other functions in such manner as may be prescribed.”

II. Significant Notifications/ Circulars/ Orders

1. **Books of accounts of Central/State Government or local authority which are subject to audit by CAG or an auditor appointed for auditing the accounts of local authorities are not subject to audit by a Chartered Accountant/Cost Accountant [Rule 80(3) of the CGST Rules, 2017]**

   Earlier, rule 80(3) of CGST Rules, 2017 provided that every registered person whose aggregate turnover during a financial year exceeds Rs. 2 crore shall get his accounts audited by a Chartered accountant or a Cost Accountant and furnish a copy of audited annual accounts and a duly certified reconciliation Statement along with the Annual Return.

   The said sub-rule has been amended to exempt the department of the Central/State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force, from the requirement of getting its accounts audited and furnishing the copy of audited annual accounts and a duly certified reconciliation Statement along with the Annual Return.\(^\text{18}\)

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\(^{18}\) This amendment has been made as a consequence of the amendment made by the CGST (Amendment) Act, 2018 in section 35 of the CGST Act, 2017. Section 35 contains the provisions relating to Accounts and Records which are covered in the syllabus of Final Paper 8: Indirect Tax Laws.
The said amendment has become effective from 01.02.2019.

[Notification No. 03/2019 CT dated 29.01.2019]

2. Time period available to a sales tax practitioner/ tax return preparer enrolled as a GSTP to pass the examination conducted by NACIN increased from 18 months to 30 months

As per rule 83(3) of the CGST Rules, 2017, any person who has been enrolled as GSTP by virtue of being enrolled as a Sales Tax Practitioner or Tax Return Preparer under the earlier indirect tax laws could remain enrolled as a GSTP only for a period of 18 months from the appointed date unless he passed the examination conducted by NACIN (National Academy of Customs, Indirect Taxes and Narcotics) within the said period of 18 months.

With effect from 01.02.2019, the said sub-rule has been amended to provide that a sales tax practitioner and a tax return preparer shall be eligible to remain enrolled as GSTP only if he passes the said examination within 30 months from the appointed date.

[Notification No. 03/2019 CT dated 29.01.2019]

3. Scope of activities that can be undertaken by a GSTP enhanced

As per rule 83(8) of the CGST Rules, 2017, a GSTP could undertake any or all of the following activities on behalf of a registered person, if so authorised by him to-

(a) furnish the details of outward and inward supplies;
(b) furnish monthly, quarterly, annual or final return;
(c) make deposit for credit into the electronic cash ledger;
(d) file a claim for refund; and
(e) file an application for amendment or cancellation of registration.

Under the amended position, apart from the above-mentioned activities, a GSTP could also undertake the following activities on behalf of the registered person:

(i) furnish information for generation of e-way bill;
(ii) furnish details of challan in the prescribed form;
(iii) file an application for amendment or cancellation of enrolment under rule 58\textsuperscript{19};

\textsuperscript{19} As per section 35(2) of the CGST Act, 2017 read with rule 58 of the CGST Rules, 2017, every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consignor, consignee and other relevant details of the goods in such manner as may be prescribed. If such persons are not already registered, they shall obtain a unique enrollment number by applying electronically at the GST Common Portal. These provisions are discussed in Chapter VIII: Accounts and Records and are covered in the syllabus of Final Paper 8: Indirect Tax Laws.
(iv) file an intimation to pay tax under the composition scheme or withdraw from the said scheme.

The said amendment has become effective from 01.02.2019.

[Notification No. 03/2019 CT dated 29.01.2019]

4. Composition taxpayers and tax payers paying tax under Notification No. 2/2019 CT dated 01.03.2019 to file return annually and make payment quarterly

A special procedure for furnishing of return and payment of tax has been prescribed for the following persons:

(i) registered persons paying composition tax

(ii) registered person paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019.

Such persons will:

(i) furnish a statement in the prescribed form containing details of payment of self-assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter.

(ii) furnish a return (GSTR 4) for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year.

The registered persons paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019 will be deemed to have complied with the provisions of section 37 and section 39 of the CGST Act, 2017 if they have furnished the prescribed statement and GSTR 4 as mentioned above.

[Notification No. 21/2019 CT dated 23.04.2019]

In view of the above-mentioned special procedure, rule 62 of CGST Rules, 2017 which prescribed the provisions for quarterly return by the composition supplier has also been amended. The amended rule 62 whose heading has been changed to “Form and manner of submission of statement and return” provides as under:

(i) Every registered person paying tax under section 10 or paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019 shall electronically furnish -

(a) a statement in the prescribed form containing details of payment of self-assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter; and

(b) a return (GSTR 4) for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year.

(ii) Every registered person furnishing the statement under sub-rule (1) shall discharge his liability towards tax or interest payable by debiting the electronic cash ledger.
(iii) The return furnished under sub-rule (1) shall include the- (a) invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons; and (b) consolidated details of outward supplies made.

(iv) A registered person who has opted to pay tax under section 10 or by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019 from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rules 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.

Here, the person shall not be eligible to avail ITC on receipt of invoices or debit notes from the supplier for the period prior to his opting for the composition scheme or paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019.

(v) A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, furnish a statement in the prescribed form for the period for which he has paid tax under the composition scheme till the 18th day of the month succeeding the quarter in which the date of withdrawal falls and furnish GSTR 4 for the said period till the 30th day of April following the end of the financial year during which such withdrawal falls.

(vi) A registered person who ceases to avail the benefit of Notification No. 02/2019 CT (R) dated 7.03.2019, shall, where required, furnish a statement in the prescribed form for the period for which he has paid tax by availing the benefit under the said notification till the 18th day of the month succeeding the quarter in which the date of cessation takes place and furnish GSTR 4 for the said period till the 30th day of April following the end of the financial year during which such cessation happens.

[Notification No. 20/2019 CT dated 23.04.2019]