

GST Update

Recent Changes in GST
Updated as on 15.07.2017

- This Presentation covers the GST changes / observations/ press releases since the last update on 07.07.2017. It supplements the earlier GST Update.
- This presentation is based on CGST Act/Rules/ Notifications. Similar parallel provisions in State Laws may be referred to as required

- <http://www.cbec.gov.in/resources//htdocs-cbec/press-release/registrtn-gst-regime.pdf> dt 15th July, 2017
- As per the GST laws, one is required to take registration on or before **30th July, 2017**.
- Those liable for registration in GST regime and migrated
 - Provisional Ids issued need to be converted to GSTIN by submitting necessary documents in 3 months (i.e. by 22nd September 2017)
- Those not liable for registration in GST regime and migrated
 - Need to apply for cancellation in 30 days (i.e. by 22nd July, 2017)

Registration

- Liable for fresh registration in GST regime
- If becoming liable from 01/07/2017
 - Need to apply for registration by 30th July, 2017 (within 30 days)
- If becoming liable after 01/07/2017
 - Need to apply for registration within 30 days from becoming liable for registration

- Instruction No. 10/2017- Customs and Section 23 of CGST Act, 2017
- Persons engaged exclusively in the supply of goods (import and export) that is either not liable to tax or is wholly exempt from tax under the CGST or IGST Acts are not required to obtain registration.

- Instruction 9/2017-Customs
- Import of gifts (HSN 9804) through courier eligible for concessional rate of duty of 10% Basic Customs Duty (Serial Number 608 of Notification No. 50/2017-Customs) provided the goods are for personal use and not prohibited as per FTDR (Act)
- Policy conditions under 9804 of ITC HS not applicable to imports by courier

- <http://www.cbec.gov.in/resources//htdocs-cbec/press-release/Press-Release-Reverse-Charge.pdf> dt 13th July, 2017
- GST on purchase of old gold jewellery by a jeweller from a consumer
- Section 9(4) of the CGST Act, 2017 has to be read in conjunction with section 2(105) read with section 7 of the said Act. Section 2 (105) defines supplier as a person supplying the goods or services. Section 7 provides that a supply is a transaction for a consideration by a person in the course or furtherance of business.

Purchases from consumer(Contd)

- Even though the sale of old gold by an individual is for a consideration, it cannot be said to be in the course or furtherance of his business (as selling old gold jewellery is not the business of the said individual), and hence does not qualify to be a supply per se.
- Thus, sale of old jewellery by an individual to a jeweller will not attract the provisions of Section 9(4) and jeweller will not be liable to pay tax under reverse charge mechanism on such purchases.
- However supply from an unregistered supplier of gold ornaments to registered supplier, will be taxable under RCM.

Services provided by the Housing Society Resident Welfare Association (RWA)

- <http://www.cbec.gov.in/resources//htdocs-cbec/press-release/press-rls-rwa-services.pdf> dt 13th July, 2017
- Supply of service by RWA (unincorporated body or a registered non-profit entity) to its own members by way of reimbursement of charges or share of contribution up to an amount of Rs. 5000/- per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.

Services provided by the Housing Society (RWA) Contd.

- If the aggregate turnover of such RWA is up to Rs.20 Lakh in a financial year, then such supplies would be exempted from GST even if charges per member are more than Rs. five thousand.
- RWA shall be required to pay GST if subscription is more than Rs. 5000 per member and the annual turnover of RWA by way of supplying of services and goods is also Rs. 20 lakhs or more.

- <http://www.cbec.gov.in/resources//htdocs-cbec/press-release/pres-rls-gst-gift-dt10july.pdf> dated 10th July, 2017
- Gifts upto a value of Rs 50,000/- per year by an employer to his employee are outside the ambit of GST
- Gifts of value more than Rs 50,000/- made without consideration are subject to GST, when made in the course or furtherance of business
- Gift has not been defined in the GST law. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

Perquisites

- Services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services).
- Free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C)
 - Not subjected to GST
- Membership of a club, health and fitness centre [section 17 (5) (b) (ii)], provided free of charge to all the employees by the employer
 - Not subjected to GST,
 - Input Tax Credit (ITC) Scheme does not allow ITC in such cases {17 (5) (b) (ii)}

Legal Services by Advocates including Senior advocates

- <http://www.cbec.gov.in/resources//htdocs-cbec/press-release/legal-services-15072017.pdf> dt 15th July, 2017
- The words “by way of legal services” are preceded and succeeded by comma. Therefore, the said words apply to an individual advocate including a senior advocate and a firm of advocates. The words “by way of representational services before any court, tribunal or authority....” appear in conjunction with senior advocate without a comma and merely describe the nature and mode of representational services provided by a senior advocate to a business entity. It, therefore, follows that legal services, which includes representational services, provided by advocates are under reverse charge.

Margin Scheme

- <http://www.cbec.gov.in/resources//htdocs-cbec/press-release/old-used-bottles-15072017.pdf> dt 15th July, 2017
- Rule 32(5) of the CGST Rules, 2017
 - where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods,
 - the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored.

Margin Scheme (Contd)

- Notification No.10/2017-Central Tax (Rate), dated 28.06.2017 exempts central tax leviable on intra-State supplies of second hand goods received by a registered person, dealing in buying and selling of second hand goods [who pays the central tax on the value of outward supply of such second hand goods as determined under sub-rule (5)] from any supplier, who is not registered.
- This has been done to avoid double taxation on the outward supplies made by such registered person, since such person operating under the margin scheme cannot avail input tax credit on the purchase of second hand goods

TDS /TCS Provisions

- The TDS / TCS Provisions deferred
- Registration of TDS/TCS slated to begin from **25th July, 2017**
- All DDOs to be registered
- PAN not required for TDS Deductor; TAN Number sufficient
- Resources on TDS
 - Assessee User Manual (AUM) on TDS prepared by NACIN
 - Flier on TDS

Tax Deducted at Source (TDS)

- Tax Deducted at Source (TDS): As per section 51, this provision is meant for Government and Government undertakings and other notified entities making contractual payments where total value of such supply under a contract exceeds Rs. 2.5 Lakhs to suppliers.
- While making any payments under such contracts, the concerned Government/authority shall deduct 2% of the total payment made (1% under each Act and 2% in case of IGST) and remit it into the appropriate GST account.

TDS Deductor

- TDS Deductor needs to get compulsorily registered under section 24 of the CGST/SGST Act.
- They need to remit such TDS collected by the 10th day of the month succeeding the month in which TDS was collected and reported in GSTR 7.
- The amount deposited as TDS will be reflected in the electronic cash ledger of the supplier.
- They need to issue certificate of such TDS to the deductee within 5 days of crediting the TDS to the govt a/c, failing which fees of Rs. 100 per day subject to maximum of Rs. 5000/- will be payable by such deductor.

Returns by TDS Deductor

- A person required to deduct tax (TDS) and persons required to collect tax (TCS) will also have to file monthly returns showing the amount deducted/collected **and other specified details.**
- Deductee wise details of all the deductions made by deductor in his return in Form GSTR-7 to be filed by 10th of the month next to the month in which deductions were made.
- The details of the deductions as uploaded by the deductor shall be auto populated in the table 9 of the GSTR-2 of the deductee. The taxpayer shall be required to confirm these details in his GSTR-2 to avail the credit for deductions made on his behalf.

Bond/LUT for Exports

- Export without payment of IGST on LUT/Bond
- LUT/Bond in form GST RFD-11 on common portal;
- To be submitted manually to the jurisdictional Deputy/ Assistant Commissioner in the format specified in FORM RFD-11 till the module for furnishing of FORM RFD-11 is available on the common portal. (Circular No. 02/2017-GST)
- Rule 96A of CGST Rules, 2017
 - Notification No. 16/2017-Central Tax dated 7.07.2017

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- LUT to be submitted by
 - a status holder as specified in paragraph 5 of the Foreign Trade Policy 2015- 2020; or
 - who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year,
- All those not eligible for LUT need to submit Bond

Bond/LUT for Exports (Contd)

- Circular No. 04/2017-GST dated 07.07.2017
 - Running Bond on estimated tax liability as assessed by the exporter himself
 - Bank Guarantee - to be decided by jurisdictional Commissioner; not to exceed 15%;
 - Existing Bonds/LUTs to be allowed till 31st July, 2017

Exports against LUT/Bond

- Refund , in case of exports under Bond/LUT , as per the formula :
- Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover
- Where, "Refund amount" means the maximum refund that is admissible;
- "Net ITC" means input tax credit availed on inputs and input services during the relevant period;
- "Adjusted Total turnover" means the turnover in a State or a Union territory, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period

Example

- Turnover of company A in Maharashtra in July 2017 : Rs 10,00,000
- Turnover of Exports , without payment of tax in July 2017 : Rs 6,00,000
- Turnover of exempt supply in July 2017 : Rs 1,00,000
- ITC availed in July 2017 : 1,50,000
- Refund amount = $(Rs\ 6,00,000) \times (Rs\ 1,50,000) / (Rs\ 10,00,000 - Rs\ 1,00,000)$
- = Rs 1,00,000

- Return of State Levies (ROSL)
 - Circular No. 28 of 2017-Customs
 - <http://www.cbec.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2017/circ28-2017cs.pdf>
 - Notification No.14/26/2016-IT dated 27.06.2017 of Ministry of Textiles
 - 0.39% and 0.23% (Advance Authorisation +AIR combination)
 - Let Export Order (LEO) after 1st July, 2017

- <http://www.cbec.gov.in/resources//htdocs-cbec/press-release/jammu-kashmir-joins-gst-08.07.2017.pdf>
- Constitution (Application to Jammu and Kashmir) Amendment Order, 2017
- One Hundred and First Amendment Act, 2016 to the Constitution of India that paved the way for introduction of GST, became applicable to the State of Jammu and Kashmir also
- Jammu and Kashmir GST Bill, 2017 was passed by the State legislature, empowering the State to levy State GST on intra-state supplies with effect from 8th July, 2017

GST in J&K (Contd)



- President of India has promulgated two ordinances, namely, the CGST (Extension to Jammu and Kashmir) Ordinance, 2017 and the IGST (Extension to Jammu and Kashmir) Ordinance, 2017 extending the domain of Central GST Act and the Integrated GST Act to the State of Jammu and Kashmir, with effect from 8th July, 2017

Any ISSUES/ queries? What to Do?

- Twitter Handles
- For General Questions
- https://twitter.com/askGST_GoI
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- <https://twitter.com/GSTNACIN>

THANK YOU