

CENTRAL GOODS & SERVICES TAX

No RCM on procurements made from unregistered person till March 31, 2018

The Central Government vide *Notification No. 38/2017 – Central Tax (Rate) dated 13th October, 2017*, has amended Notification No. 8/2017 – Central Tax (Rate) dated 28th June, 2017 by omitting proviso under Paragraph 1 which deals with the exemption limit of Rs. 5000 per day available to the registered person on intra-State procurement of goods or services from any or all unregistered suppliers. Now, exemption shall be available to all the registered persons till March 31, 2018 without any limit in case of supply procured from unregistered supplier. Inter-State supplies received from unregistered supplier is also exempt under corresponding notification issued under IGST Act.

Therefore, any registered person procuring taxable goods/services from unregistered suppliers, shall not be required to pay CGST under reverse charge mechanism U/s 9(4) of CGST Act, 2017 till March 31, 2018 with effect from 13th Oct, 2017.

In case of **goods**, where tax is payable on reverse charge basis, the time of supply shall be the earliest of the following :

- Date of Receipt of Goods
- Date of payment to unregistered supplier
- Immediately following 30 days from the date of issue of invoice or any other document

Example: if goods were received prior to 13th Oct, 2017 then liability to pay reverse charges u/s9(4) arises.

In case of **services**, where tax is payable on reverse charge basis, the time of supply shall be the earliest of the following :

- Date of payment to unregistered supplier
- Immediately following 60 days from the date of issue of invoice or any other document

Example: if service was obtained in the month of September for which invoice was issued on 10th Sep, 2017 and payment to an unregistered supplier is not made till 13th Oct, 2017 then there would not be any reverse charge liability on such transactions.

Liability u/s 9(3) is not affected by this notification and the same must continue to be discharged.

Similar notification is issued under the IGST Act vide *Notification No. 32/2017 – Integrated tax (Rate) dated 13th October, 2017* and under the UTGST Act vide *Notification No. 38/2017 – Union Territory tax (Rate) dated 13th October, 2017*.

[*Notification No. 38/2017 – Central Tax (Rate) dated 13th October, 2017; Notification No. 32/2017 – Integrated tax (Rate) dated 13th October, 2017; Notification No. 38/2017 – Union Territory tax (Rate) dated 13th October, 2017*]

Comment: ICAI had submitted a suggestion on this which has been accepted by the Government. Further, there are views expressed that the notification 38/2017-C makes an ‘omission’ and not a

'repeal' of the relevant proviso in notification 8/2017-C. As per section 6 of the General Clauses Act, repeal does not frustrate actions taken under the unamended provision as rights, liabilities and obligations accrued prior to the repeal are 'saved' but not in case of 'omission'. Giving retrospective effect due to this manner of effecting amendment must be considered with caution and after seeking expert advice.

Exemption from obtaining compulsory registration U/s 24 of CGST Act, 2017 in case of Inter State Supply of Services

Central Government vide *Notification No. 10/2017 – Integrated Tax dated 13th October,2017* has exempted the persons making inter-State supplies of taxable services and having an aggregate turnover not exceeding an amount of Rs. 20 lakhs in a financial year from obtaining registration.

However, for the following States aggregate turnover limit should not exceed Rs. 10 lakhs for availing exemption from registration for the States specified in Article 279A (4) (g) of the Constitution:

| | |
|-------------------|-------------|
| Arunachal Pradesh | Assam |
| Manipur | Meghalaya |
| Mizoram | Nagaland |
| Sikkim | Tripura |
| Himachal Pradesh | Uttarakhand |

It may be noted that State of Jammu &Kashmir has opted for Rs. 20 Lacs threshold limit for exemption.

[*Notification No. 10/2017 – Integrated Tax dated 13th October,2017*]

Comment : ICAI had submitted a suggestion on this which has been accepted by the Government.

Turnover Limit for Composition Levy for CGST revised

Central Government vide *Notification No. 46/2017- Central Tax dated 13th October,2017* has revised the turnover limit for Composition Levy from Rs. 75 lakhs to Rs. 1 crore. Thus, an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed Rs.1 crore, may opt to pay tax under composition levy at prescribed rates i.e. 1%, 2.5%, 0.5% as the case may be under respective Acts.

However, for the following States turnover limit for composition levy is revised from 50 lakhs to 75 lakhs in the case of an eligible registered person:

| | |
|-------------------|-----------|
| Arunachal Pradesh | Assam |
| Manipur | Meghalaya |
| Mizoram | Nagaland |
| Sikkim | Tripura |
| Himachal Pradesh | |

It may be noted that State of J&K and Uttarakhand have opted for Rs.1 Crore Turnover limit instead of Rs.75 Lacs.

Comment: The upward revision of turnover limit for composition levy to Rs. 1 crore will work in favour of small assesseees who may now get covered in the prescribed limit and avail the benefit of composition scheme.

Comment : ICAI had submitted a suggestion on this aspect which has been accepted by the Government.

[Notification No. 46/2017- Central Tax dated 13th October,2017]

No GST on advance received against supply of *GOODS* for assesseees having aggregate turnover up to Rs. 1.5 crore

Central Government vide *Notification No. 40/2017 – Central Tax dated 13th October,2017* has provided that the registered person whose aggregate turnover in the preceding financial year did not exceed Rs. 1.5 crores or the registered person whose aggregate turnover in the year in which such person has obtained registration is likely to be less than Rs. 1.5 crores and who did not opt for the composition levy under section 10 of the CGST Act,2017 as the class of persons who shall pay the central tax on the outward supply of goods at the time of issue of invoice by the supplier or the last date on which supplier is required under section 31(1) to issue the invoice with respect to the supply and shall accordingly furnish the details and returns.

Therefore, such persons shall not be required to pay tax on advance received against future supplies of goods.

This notification will have prospective effect. This notification will only apply to ‘goods’ and not to ‘services’ or transactions involving goods which are ‘treated as’ services like leasing or works contract.

[Notification No. 40/2017 – Central Tax dated 13th October,2017]

Amendment in CGST Rules, 2017

Central Government vide *Notification No. 45/2017- Central Tax dated 13th October,2017* has made following amendments in the CGST Rules,2017:

1. **Sub- rule 3(A) in Rule – 3 is substituted** - A person who has been granted registration on a provisional basis under Rule 24 or who has been granted certificate of registration under sub-rule (1) of Rule 10 may opt to pay tax under Section 10 (i.e. under composition scheme) **with effect from the first day of the month immediately succeeding the month** in which he files an intimation in **FORM GST CMP-02**, on the common portal either directly or through a Facilitation Centre notified by the Commissioner, on or before the **31st day of March, 2018**, and shall furnish the statement in **FORM GST ITC-03** within a period of ninety days from the day on which such person commences to pay tax under Section 10.

Provided that the said persons shall not be allowed to furnish the declaration in FORM GST TRAN-1 after the statement in FORM GST ITC- 03 has been furnished.

2. **Insertion of new Rule 46A** - Registered person supplying taxable as well as exempted goods/ services to an unregistered person can issue single **“invoice-cum-bill of supply”**.
3. **Amendment under Rule 54(2)** – Insurance or a banking company or a financial institution,

including a non-banking financial company shall raise 'consolidated tax invoice' in lieu of 'tax invoice' for the supply of services made during a month at the end of the month.

4. **Proviso inserted under Rule 62(1)** -Registered person opting to pay tax under composition scheme with effect from first day of a month which is not the first month of a quarter shall furnish the return in **FORM GSTR-4** for that period of the quarter for which he has paid tax under composition scheme and shall furnish the returns as applicable to him for the period of the quarter prior to opting to pay tax under Section 10.
4. **Amendment in Form GSTR – 1 & 1 A**– Column titled “Cess” are inserted in the return forms.
5. **Insertion of new instruction for Form GSTR – 4** - i.e. “For the Tax periods July 2017 to September 2017 and October 2017 to December 2017, serial 4A of Table 4 shall not be furnished.” serial No. 4A of Table 4 deals with inward supplies received from a registered supplier (other than supplies attracting reverse charge).

[Notification No. 45/2017- Central Tax dated 13th October, 2017]

**Liability to pay Tax under RCM by RBI in case of services procured from Member of
Overseeing Committee**

The Central Government vide *Notification No. 33/2017- Central Tax (Rate) dated October 13, 2017* has inserted new entry no. 10 in the list of services under RCM Notification, to provide that supply of services by the members of Overseeing Committee constituted by the Reserve Bank of India (RBI) to the RBI, shall be covered under RCM i.e. Tax thereon shall be paid by RBI under RCM.

Similar notification is issued under the IGST Act vide *Notification No. 34/2017- Integrated Tax (Rate) dated 13th October, 2017* and under the UTGST Act vide *Notification No. 33/2017 – Union Territory tax (Rate) dated 13th October, 2017*.

Comment : Services of such members who are non-executive attracting GST is an indicator that services of non-executive members of various committees in organizations are not free from tax. This notification opens new questions that must be considered by organizations that have committees which may have been considered outside the scope of GST as not being 'supply' at all.

Registered person is liable to pay GST under RCM in specified cases

The Central Government vide *Notification No. 36/2017-Central Tax (Rate) dated October 13, 2017* has inserted new entry no. 6 in the list of goods under RCM Notification, to provide that 'used vehicles, seized and confiscated goods, old and used goods, waste and scrap' supplied by CG, SG, Union Territory or Local Authority to any registered person, shall be covered under RCM i.e. tax thereon shall be paid by such registered person under RCM.

Similar notification is issued under the IGST Act vide *Notification No. 37/2017- Integrated Tax (Rate) dated 13th October, 2017* and under the UTGST Act vide *Notification No. 36/2017 – Union Territory tax (Rate) dated 13th October, 2017*.

Comment : Four classes of goods have been listed in this notification attracting RCM. It is important to understand the scope of each of these classes of goods where proper inquiry is required to identify if they

fall within this notification so as to avoid being overlooked inadvertently as the descriptions are not free from ambiguity and can be misapplied. Caution is advised while making inward supplies from these Governments.

State Tax officers can process refund under CGST Act, 2017

Central Government vide *Notification No. 39/2017 – Central Tax dated 13th October, 2017*, has specified that the proper officers appointed under the respective SGST Act, 2017 or UTGST Act, 2017 to act as proper officers to process refund under Section 54 or Section 55 of the CGST Act, 2017 in respect of a registered person who applies for the sanction of refund and located in the territorial jurisdiction of such officers.

[Notification No. 39/2017 – Central Tax dated 13th October, 2017]

Extension of time limits for filing GSTR 4, GSTR 5A, GSTR 6 and Form GST ITC-01

The Central Government has extended the time limit for filing the following forms:

| <u>FORM</u> | <u>Description</u> | <u>DUE DATE PRIOR TO THIS NOTIFICATION</u> | <u>EXTENDED DATE</u> |
|--|--|---|--------------------------------|
| GSTR 4 for the quarter July to September,2017 | Form for submission of return by compounding Tax payer | 18 th October,2017 | 15 th November,2017 |
| GSTR 5A for the month of July, August & September,2017 | Form for submission of return by persons providing online information and database access or retrieval services from a place outside India to unregistered person in India | July: 15 th Sep, 2017 August: 20 th Sep,2017 Sep:20 th Oct,2017 | 20 th November,2017 |
| GSTR 6 for the month of July, August & September,2017 | Form for submission of return by input service distributor | July: 8 th August,2017 August: 23 rd Sep,2017 Sep: 13 th Oc,2017 | 15 th November,2017 |
| GSTR ITC-01 | Form to be filed by registered person after taking registration to the effect that he is eligible to avail the | 30 days from the date person becoming eligible to avail ITC | 31 st October,2017 |

| | | | |
|--|------------------|--|--|
| | input tax credit | | |
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[Notification No. 41/2017– Central Tax dated 13th October,2017;Notification No. 42/2017 – Central Tax dated 13th October,2017,Notification No. 43/2017 –Central Tax dated 13th October,2017;Notification No. 44/2017 – Central Tax dated 13th October,2017]

Order for removal of difficulties in implementation of Composition Scheme

The Central Government vide *Order No. 01/2017-Central Tax dated October 13, 2017* has issued Central Goods and Services Tax (Removal of difficulties) Order, 2017, to clarify the following in relation to composition scheme:

No denial for availing composition benefit by Supplier of food even if exempt services are also provided

If a person supplies goods/services referred to in clause (b) of paragraph 6 of Schedule II of the CGST Act, 2017 [i.e. Supply of food & beverages with services] and also supplies any exempt services, including services by way of extending deposits, loans or advances in so far as the consideration is in form of interest or discount, the said person shall be eligible for the composition scheme under Section 10 of the CGST Act, 2017, subject to the fulfilment of all other conditions specified therein.

Value of exempt services are not includible for calculating aggregate turnover:

Further, for computing aggregate turnover in order to determine eligibility for composition scheme, value of supply of such exempt services shall not be taken into account.

[Order No. 01/2017-Central Tax dated October 13, 2017]

Comment: ICAI had submitted a suggestion on this which has been accepted by the Government. Further, the order is issued under section 172 which must be placed before Parliament without requirement for any ‘affirmative action’ but mere ‘placing’. Such orders may be considered to be ‘consistent’ with the provisions of the law as interpreted by the Government. If this Order is ‘not inconsistent’ with the law, then there can be other applications of the interpretation supplied by the Government vide this Order.

Leasing of vehicles purchased and leased prior to 1st July, 2017 would attract GST at a rate equal to 65% of the applicable GST rate (including Compensation Cess).

In order to provide relief to old/existing leases of motor vehicles purchased and leased prior to 1st July, 2017. The changes are as given below:-

- a) Leasing of vehicles purchased and leased prior to 1st July, 2017 would attract GST at a rate equal to 65% of the applicable GST rate (including Compensation Cess).
- b) Such vehicles when sold shall attract GST of 65% of the applicable GST rate (including

Compensation Cess).

c) Sale of vehicles by a registered person who had procured the vehicle prior to 1st July, 2017 and has not availed any Input Tax Credits of Central Excise duty, VAT or any other taxes paid on such motor vehicles, would also be subject to 65% of applicable GST rate (including Compensation Cess).

This notification would be valid till 1st July, 2020.

CGST [Notification No. 37/2017-Central Tax \(Rate\)](#) may be referred for the details.

CUSTOMS

Exemption from IGST and Compensation cess on goods imported by EOU's

Central Government had previously issued *Notification No. 52/2003 – Customs dated 31st March, 2003* to provide that specified goods when imported by EOU's are exempt from the whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 and the additional duty, if any, leviable thereon under section 3 of the Customs Tariff Act.

Further to aforesaid Notification, the Central Government vide *Notification No.78/2017 dated 13th October ,2017- Customs* has now prescribed that goods when imported by EOU's are exempt from integrated tax and compensation cess as well leviable thereon under subsections (7) and (9), respectively of section 3 of the Customs Tariff Act.

However, such exemption from integrated tax and compensation cess shall apply upto 31st March , 2018. This notification will apply prospectively in respect of bill of entry for home consumption or ex-bond bill of entry filed on or after the said date.

[\[Notification No.78/2017 dated 13th October ,2017 – Customs\]](#)

Comment: The date for the rate of duty being determined u/s 15 of the Customs Act, this exemption will only apply to bill of entry for home consumption or ex-bond bill of entry filed on or after the date of this notification. And this notification will need to be 'repealed with saving' clause on 1st April, 2017 so as to continue the exemption otherwise allowed by the original notification as the relevant para is being substituted now.

Exemption from IGST and Compensation cess on goods imported by importers covered under various schemes.

Central Government vide *Notification No. 79/2017 - Customs dated 13th October ,2017* has amended various notifications to provide that goods when imported by importers under following schemes are exempt from integrated tax and compensation cess etc. leviable thereon:

- Export Promotion Capital Goods (EPCG) Scheme
- Advance Authorisation scheme
- Advance Authorisation Scheme for annual requirement
- Advance Authorisation Scheme for deemed export
- Advance Authorisation Scheme for export of prohibited goods

However, such exemption from integrated tax and compensation cess shall apply upto 31st March 2018 only.

[[Notification No. 79/2017 - Customs dated 13th October ,2017](#)]

All Industry Rates of Duty Drawback revised

Central Government vide [Notification No. 89/2017-Cus \(NT\),dt. 21.09.2017](#) has revised the All Industry Rates (AIRs) of Drawback and made certain changes in customs and central excise duty drawback rules ,2017 which takes effect from 1.10.2017. Major changes include:

- i) Definition of Drawback has been amended to provide for drawback of Customs and Central Excise duties excluding integrated tax leviable under sub-section (7) and compensation cess leviable under sub-section (9) respectively of section 3 of the Customs Tariff Act, 1975 chargeable on any imported materials or excisable materials used in the manufacture of goods exported
- ii) For fixation of Brand Rate, Circular no. 23/2017-Customs dated 30.6.2017 may be referred. The brand rate facilitation would continue and there should be no delay by Customs formations in finalizing applications for fixation of brand rate;
- iii) In respect of export product, NIL rate or no rate of drawback is provided in AIR Schedule, it shall be treated as a case covered by Rule 6 (Dbk not determined) and not one covered by Rule 7 (Dbk fixed is low) as such an application for fixation of Brand Rate under Rule 7 of the Drawback Rules, 2017 shall not be admissible. In such situation, application for fixation of Brand Rate may be filed under Rule 6 of the Drawback Rules, 2017;
- iv) In terms of Rule 20 of the Drawback Rules, 2017, brand rates of drawback already fixed will not apply for exports with Let export date 1.10.2017 onwards. Thus, exporters will be required to apply fresh for fixation of Brand Rate under Rule 6 or Rule 7 for such exports;

Further, to facilitate trade, tenure of the Drawback Committee constituted by the Central Government has been extended to 31.12.2017 to expeditiously look into issues arising from the changes made. Exporters may send representations with supporting data and documents, if any, for higher rates than rates provided for the consideration of the committee;

[[Notification No. 89/2017-Cus \(NT\),dt. 21.09.2017](#) and *Circular No. 38/2017 - Customs dated: 22nd September, 2017*]

Comment: Kindly refer to Customs and Central Excise Duty Drawback Rules, 2017 dated 21st September, 2017 which are the new rules on drawback. As such, GST paid on goods and services used in the export goods will continue to be neutralized only through the zero-rating mechanism and not drawback.

Clarification in Custom Valuation Rules

Central Government vide [Notification No. 91/2017-Cus \(NT\),dt. 26.09.2017](#) has amended the following

in relation to Customs Valuation Rules, 2017 :

- i) Definition of term place of importation “Place of Importation” means the customs station where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse therefore costs incurred up to the place of importation is includible in the transaction value.
- ii) In consequence of the decision taken in the case of *M/s Wipro Ltd. Vs Assistant Collector of Customs-2015* the loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation, shall no longer be added to the CIF value of the goods.
- iii) The cost of transport of the imported goods to the port or place of importation are treated as loading, unloading and handling charges Thus, only charges incurred for delivery of goods “to” the place of importation (such as the loading and handling charges incurred at the load port) shall now be includible in the transaction value.
- iv) By virtue of the 6th proviso to Rule 10 (2), costs related to transshipment of goods (from ports to ICDs; port to port, port to CFS, Airport to Airport etc.) within India will be excluded, providing uniform treatment to different modes of transshipment. But, demurrages, lighterage or barge charges are included in cost of transportation.

For further details aforesaid notification may be referred.

[[Notification No. 91/2017-Cus \(NT\),dt. 26.09.2017](#)]

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Publication on UAE VAT may be ordered online at <https://icai-cds.org/> and soft copy of the same is available at the aforesaid link.

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ICAI Bhawan A-29, Sector -62,

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Website: www.itdc.icai.org