

# GOODS & SERVICES TAX UPDATE – 9

## GOODS & SERVICES TAX (GST) - Clarifications

### Provisions related to registration under GST regime

As per the GST laws, one is required to take registration on or before 30<sup>th</sup> July 2017. All traders are requested to register now without waiting for the last date. If one is carrying-out any business and have an Annual Aggregate turnover in the preceding Financial Year exceeding Rs. 20 lakh (Rs. 10 lakh in Special Category States), you need to register in all the States/Union Territories from where you are making taxable supplies. However, one need not register if one is engaged exclusively in the supply of exempted goods or services or both. The timelines for applying for registration are as follows: -

<b>Registered under any of the existing law</b>	<b>Migrated</b>	<b>Liable for registration in GST regime</b>	<b>Provisional Ids issued need to be converted to GSTIN by submitting necessary documents in 3 months (i.e. by 22<sup>nd</sup> September 2017)</b>
		Not liable for registration in GST regime	Need to apply for cancellation in 30 days (i.e. by 22 <sup>nd</sup> July 2017)
	<b>Not-Migrated</b>	Liable for registration in GST regime	Need to apply for registration within 30 days (i.e. by 22 <sup>nd</sup> July 2017)
<b>Not registered under any of existing law</b>	Liable for registration in GST regime	Become liable from 01/07/2017	Need to apply for registration within 30 days (i.e. by 30 <sup>th</sup> July, 2017)
		Become liable after 01/07/2017	Need to apply for registration within 30 days from becoming liable for registration

Taking registration in GST is a very simple process, and the comfort of the taxpayer has been kept in mind while designing the procedure. You can take registration from the comfort of your home by filing an online application on the common portal <https://www.gst.gov.in>. All one need is a valid PAN, email id and a mobile number. Once these 3 details are verified, one will be required to furnish other details relating to his/her business. There is no need to submit any physical documents (unless a query is raised and documents asked for) and all necessary documents can be scanned and uploaded. If there are no queries, one will receive his/her registration online within 3 working days from submission of online application.

It's simple. But what will happen if one doesn't get registered?

More than anything, getting registered is for one's own benefit. If one is liable to take registration but don't get registered, one will not be able to enjoy the benefit of input tax credit. Not only he/she, but any registered person, purchasing from him/her may not be able to get the input tax credit. Not

obtaining registration, though liable to do so, would also attract penalty.

Getting registered would lead to growth in one's business. Prospective buyers, who are registered under GST, will prefer to buy from suppliers who are also registered under GST, as this would entitle them to the input tax credit. This also means that one is contributing his bit towards nation building, by ensuring that appropriate taxes are collected and paid to the Government. Therefore, traders are requested to register under GST immediately without wasting any more time.

***Position regarding applicability of GST on Legal Services provided by individual Advocates including Senior Advocates and a Firm of Advocates***

There are points being raised about the applicability of GST on legal services provided by advocates – whether it is in forward charge or reverse charge. It may be mentioned that there is no change made in taxation of legal services in the GST era.

In this context, it is further clarified that legal service has been defined to mean any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.

It is further clarified that *Notification No. 13/2017-Central Tax (Rate) dated 28.6.2017* specifies, inter alia, the following service under reverse charge mechanism, -

“Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.”

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. Legal services provided by either of them are liable for payment of GST under reverse charge by the business entity. 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.

[\[http://pib.nic.in/newsite/PrintRelease.aspx\]](http://pib.nic.in/newsite/PrintRelease.aspx)

***Applicability of the Margin Scheme under GST for dealers in second hand goods in general and for dealers in old and used empty bottles in particular***

Rule 32(5) of the Central Goods and Services Tax (CGST) Rules, 2017 provides that 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. This is known as the margin scheme.

Further, 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.

Thus, Margin Scheme can be availed of by any registered person dealing in buying and selling of second hand goods [including old and used empty bottles] and who satisfies the conditions as laid down in Rule 32(5) of the Central Goods and Services Tax Rules, 2017.

[\[http://pib.nic.in/newsite/erelease.aspx\]](http://pib.nic.in/newsite/erelease.aspx)

Source: [www.cbec.gov.in](http://www.cbec.gov.in), [www.pib.nic.in](http://www.pib.nic.in)

#### Disclaimer

*Information published in the update are taken from publicly available sources and believed to be accurate. The Indirect Taxes Committee of ICAI takes no responsibility of accuracy and reliability of information published in the newsletter. No part of this update may be reproduced, stored in a retrieval system, or transmitted in any form or by any means – electronic, mechanical, photocopying, recording, or otherwise without the permission of Indirect Taxes Committee of ICAI.*

#### ICAI Feedback

*The GST Update is an endeavour of the Indirect Taxes Committee to apprise the readers about the amendments made in various central indirect tax laws vide significant notifications, circulars etc. We welcome your feedback on the Update and its contents. Please email at [itdc@icai.in](mailto:itdc@icai.in) for feedback.*

*You can also write to:*

*Secretary*

*Indirect Taxes Committee*

*The Institute of Chartered Accountants of India*

*ICAI Bhawan A-29, Sector -62,*

*NOIDA (U.P.) India*

*Website: [www.idtc.icai.org](http://www.idtc.icai.org)*