

GOODS & SERVICES TAX / IDT UPDATE – 69

Exemption from obtaining registration w.e.f April 1, 2019

The Central Government vide [Notification No. 10/2019-Central Tax dated 07th March, 2019](#) exempted under section 23 of CGST Act, category of persons those are **engaged in exclusive supply of goods** and whose aggregate turnover in the financial year does not exceed **Rs. 40 lakh**, except in case of, -

- i. Persons compulsorily required to be registered under section 24 of the said Act;
- ii. Persons engaged in making supplies of the following goods:

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description
1.	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2.	2106 90 20	Pan masala
3.	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

- iii. Persons engaged in making intra-State supplies in following 10 States/ Union Territories:-

- ❖ **Northeastern States:** Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Uttarakhand
- ❖ **Southern States:** Telangana
- ❖ **Union Territory:** Puducherry

- iv. Persons opting for voluntary registration under section 25(3) or such registered persons who intend to continue with their registration under the said Act

***Comment:** Previously, 5/2017 was issued under section 23(2) which exempted those who are entirely supplying exempted goods or services but are liable to registration only due to their liability to tax under 9(3). But now, this exemption appears to override section 22 even though there is no such non-obstante clause in section 23(2). However, since this is a beneficial notification, the exemption from registration is welcome. It is to be noted that where aggregate turnover includes income by way of interest or discount on loans and advances the benefit of this exemption notification cannot be taken. 'Exclusively engaged in supply of goods' is a condition of the notification and section 22 can be invoked if this condition is violated on any day in the year and tax from Rs.20 lacs upto the date when this*

condition stands breached may become due without any availability of input tax credit.

[[Notification No. 10/2019-Central Tax dated 07th March, 2019](#)]

Due dates for furnishing FORM GSTR-1 for the months of April, May and June, 2019

The Central Government vide [Notification No. 11/2019 – Central Tax dated 07th March, 2019](#) notified the due dates for furnishing the details of outward supply of goods or services or both in **FORM GSTR-1 for the period April to June, 2019 as 31st July, 2019** by such class of registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year.

Further, Central Government vide [Notification No. 12/2019 – Central Tax dated 07th March, 2019](#) notified extension in the time limits for furnishing the details of outward supplies in FORM GSTR-1 for each of the months from **April, 2019 to June, 2019 till 11th day of the month succeeding such month** by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year.

[[Notification No. 11/2019 – Central Tax](#) and [Notification No. 12/2019 – Central Tax dated 07th March, 2019](#)]

Due dates for furnishing of FORM GSTR-3B for the months of April, May and June, 2019

The Central Government vide [Notification No. 13/2019 – Central Tax dated 07th March, 2019](#) specified that the due date for filing the return in **FORM GSTR-3B** for each of the months from April, 2019 to June, 2019 shall be 20th day of the month succeeding such month.

Further, the liability towards tax, interest, penalty, fees or any other amount payable under the said Act shall be discharged not later than the last date on which he is required to furnish the said return as specified above.

[[Notification No. 13/2019 – Central Tax dated 07th March, 2019](#)]

Extension in the limit of threshold of aggregate turnover for availing Composition Scheme to Rs. 1.5 crores

The Central Government vide [Notification No. 14/2019 – Central Tax dated 07th March, 2019](#) notified that an eligible registered person, whose aggregate turnover in the preceding

financial year **did not exceed Rs. 1.5 Crores**, may opt to pay tax under Composition scheme. However, the said aggregate turnover shall be **Rs. 75 lakh** in case of persons registered under following States:-

- ❖ Arunachal Pradesh
- ❖ Manipur
- ❖ Meghalaya
- ❖ Mizoram
- ❖ Nagaland
- ❖ Sikkim
- ❖ Tripura
- ❖ Uttarakhand

Further, the option of composition scheme under Section 10 of the CGST Act shall be restricted in case of such person who is a manufacturer of the goods, the description of which is specified below:

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description
1.	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2.	2106 90 20	Pan masala
3.	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

Comment: Amendment to section 10 increasing the threshold is now implemented.

[Notification No. 14/2019 – Central Tax dated 07th March, 2019]

**New scheme for supplier of services with a tax rate of 6%
w.e.f April 1, 2019**

The Central Government vide *Notification No. 2/2019-Central Tax (Rate) dated 07th March, 2019* notified Composition scheme in case of **intra-State supply** of goods or services or both, at the rate along with the conditions specified below:

Description of supply	Rate (per cent)	Conditions
First supplies of goods or services or both up to an aggregate turnover of Rs. 50 lakhs made on or after the 1st day of April in any financial year, by a registered person.	3	1. Supplies are made by a registered person, - (i) whose aggregate turnover in the preceding financial year was Rs. 50 lakh or below; (ii) who is not eligible to pay tax under sub-section (1) of section 10; (iii) who is not engaged in making any supply which is not leviable to tax ; (iv) who is not engaged in making any inter-State outward supply; (v) who is neither a casual taxable person nor a

non-resident taxable person;
(vi) who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and
(vii) who is not engaged in making supplies of:
a. Ice cream and other edible ice, whether or not containing cocoa.
b. Pan masala
c. Tobacco and manufactured tobacco substitutes

2. Where more than one registered persons are having same PAN, central tax on supplies by all such registered persons is paid at the given rate.

3. The registered person **shall not collect any tax** from the recipient nor shall he be entitled to any credit of input tax.

4. The registered person shall issue, instead of tax invoice, a bill of supply.

5. The registered person shall mention the following words at the top of the bill of supply, namely: -
'Taxable person paying tax in terms of Notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies'.

6. Liability to pay central tax at the rate of 3% on all outward supplies **notwithstanding any other notification issued** under section 9 or section 11 of said Act.

7. Liability to pay central tax on inward supplies on reverse charge under sub-section (3) or sub-section (4) of section 9 of said Act.

Explanation: For the purposes of this notification, the expression "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 the first day of April of a financial year 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.
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It may be noted that while computing aggregate turnover in order to determine eligibility of a registered person to pay central tax at the rate of 3%, 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.

Comment: Another welcome relief to Service Providers that is modelled on the SSI-scheme under Central Excise laws. Exemption runs from April 2019 till Turnover reaches Rs.50 lacs.

This is an optional facility through a rate notification that is 'notwithstanding' any other rate notification issued. That is, this notification overrides 11/2017-CT(R). As it is optional, registered person should carefully consider the conditions before opting for the same.

This facility and composition under section 10 operate as mutually exclusive. Thus, traders and manufacturers of goods and restaurant service providers who are eligible for composition (even if not opted) will not enter this facility.

Relief in case of interest income is welcome but the condition of liability to pay tax under 9(4) is a sure surprise. And it seems to give a clue that 9(4) in its amended form might get notified before April 1, 2019 so as to maintain harmony with this notification.

[\[Notification No. 2/2019-Central Tax \(Rate\) dated 07th March, 2019\]](#)

Clarification related to treatment of sales promotion scheme under GST

The Central Government vide [Circular No. 92/11/2019-GST dated 07th March, 2019](#) clarified the following issues raised with respect to tax treatment of sales promotion schemes under GST :-

1. Free samples and gifts

Since the consideration is an important element of the definition supply, therefore the 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 said Act.

Further, clause (h) of sub-section (5) of section 17 of the said Act clarified that input tax credit 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. However, where the activity of distribution of gifts or free samples falls within the scope of "supply" as per Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

2. Buy one get one free offer

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.

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 section 8 of the said Act. And, ITC shall be available to the supplier in relation to such supply.

3. Discounts including ‘Buy more, save more’ offers

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 said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount. Further, the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply.

4. Secondary Discounts

Value of supply shall not include any discount by way of issuance of credit note(s), except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied. There is no impact on availability or otherwise of ITC in the hands of supplier.

Comment: This is a much needed clarification that is issued before filing Annual Returns. Financial / commercial credit notes are now well understood and permitted except that output tax adjustment is clearly barred if the conditions of 15(3) are not satisfied. Although credit to Supplier is not restricted, there seems to be no mention of effect under rule 37 to Recipient when such financial / commercial credit notes are issued.

Another important aspect that does not find a mention here, is that where consideration takes ‘non-monetary form’ whether those samples would be free from tax. Care must be taken to the ominously repeated expression ‘except when liable under schedule I’. Please consider which para might cover disposal of samples and gifts under schedule I. Here, even permanent transfer or disposal of business assets is also covered. And ‘business assets’ is not an expression that is restricted to ‘fixed assets’, it can include ‘inventory’ also. So, a view may be taken that even inventory disposed off as a sample may be covered under Schedule I and may not require reversal of ITC.

And where credit is reversed on gifts given, very subtly a mention is made that credit reversal required includes capital goods credit also, this is a new one as complexity in computing rule 43 in relation to gifts may be a challenge.

Complete bar on tax adjustment in case of ‘secondary discounts’ removes ambiguity especially for dealers who are unable to impress upon OEMs.

[Circular No. 92/11/2019-GST dated 07th March, 2019]

TCS would not be includible in the value of supply under GST

The Central Government vide [Corrigendum to Circular No. 76/50/2018-GST dated 31st December, 2018](#) has clarified that Tax collection at source (TCS) is not a tax on goods but an interim levy on the possible "income" arising from the sale of goods by the buyer and to be adjusted against the final income- tax liability of the buyer. Accordingly, 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.

Comment: It is a welcome relief that Government has issued this Corrigendum that 'taxable value' under section 15 will not include TCS imposed under Income-tax Act. With TCS having been introduced on certain new articles like motor cars, the previous circular had caused lot of distress to industry.

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