

Handbook on Reverse Charge under GST



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi



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First Edition : May, 2020

Committee/Department : GST & Indirect Taxes Committee

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Website : <http://www.icai.org>; <http://www.idtc.icai.org>

Price : ₹ 60/-

ISBN : 978-81-8441-

Published by : The Publication Department on behalf of the
Institute of Chartered Accountants of India,
ICAI Bhawan, Post Box No. 7100,
Indraprastha Marg, New Delhi - 110 002.

Printed by : Sahitya Bhawan Publications, Hospital
Road, Agra - 282 003.

Foreword

The introduction of Goods & Service Tax (GST) in India is one of the biggest indirect tax reforms since Independence. The reform that took more than a decade of mutual co-operation, continuous discussion and intense debate between Central and State Governments about implementation methodology, was finally implemented with effect from 1st July 2017, subsuming almost all indirect taxes at the Central and State levels. As the journey of GST Implementation progressed in India, the authorities have been quick to address the various challenges faced by the Industry and public concerns by issuing a series of notifications, clarifications, press releases and FAQs, to resolve a wide range of concerns.

The GST alongwith its challenges has brought in various benefits also like creation of National market by bringing down fiscal barriers amongst the States and has mitigated the cascading effect of taxes by allowing seamless credit of Input Tax across goods & services. The Institute of Chartered Accountants of India (ICAI) through its GST & Indirect Taxes Committee has been playing a vital role in implementation of GST in India by providing suggestions to the Government at each stage of development of GST. Further, the Institute has been playing proactive role and is a catalyst in dissemination of knowledge and awareness through technical publications, newsletters, E-learning and organizing various programmes, Certificate courses, webcasts etc. for all stakeholders.

I am happy to note that the GST & Indirect Taxes Committee of ICAI has now taken an initiative to issue a series of Handbooks covering various procedural aspects of GST and in that series is bringing out **Handbook on Reverse Charge under GST** with an objective to provide a basic understanding of the topic. The handbook explains the concepts / procedures relating to Reverse Charge under GST in an easy to understand lucid language and it aimed at updating the knowledge base of members in a simple and concise manner.

I congratulate CA. Rajendra Kumar P, Chairman, CA. Sushil Kumar Goyal, Vice Chairman and other members of GST & Indirect Taxes Committee for coming out with this Handbook and for taking active steps in providing regular guidance to the members and other stakeholders at large.

I am sure that the members will find this publication very useful in discharging the statutory functions and responsibilities in an efficient and effective manner.

CA. Atul Kumar Gupta
President, ICAI

Date: 05.05.2020

Place: New Delhi

Preface

Goods and Services Tax (GST) was introduced in India from 1st July, 2017. It is one of the major tax reforms since independence in the area of indirect taxation. It was introduced with the objective to mitigate the cascading effect of taxes by allowing seamless credit across goods and services, facilitate free flow of goods and services across India and boosting tax revenue from better compliance and widening the tax base. A remarkable feature of GST implementation is that all the States in India came together with the Centre to form a unique federal body called GST Council, which is entrusted with the objective of recommending policies and procedural matter in the formation and implementation of GST legislation. The spirit of co-operative federalism took deep roots there by ensuring that large federal countries like India implement the GST Law.

In order to facilitate in understanding various compliance under GST, GST & Indirect Taxes Committee of ICAI has taken an initiative to prepare Handbook on procedural aspects like registration, refund, return, Invoice etc. One of the result of such initiative is **Handbook on Reverse Charge under GST**. An attempt has been made to cover all aspects related to Reverse Charge at one place and is intended to give general guidance to all stakeholders and also help them in resolving issue that they may face during the course of their compliance aspect in GST. This Handbook on Reverse Charge under GST is comprehensive containing analysis of the entire provisions under the law including notifications, circulars or orders upto 31st March, 2020 issued by the Government from time to time along with few FAQ's, MCQ's, Flowcharts, Diagrams and Illustrations etc. to make the reading and understanding easier.

We stand by the Government in our role as “*Partner in GST Knowledge Dissemination*” and have always been supporting Government with our intellectual resources, expertise and efforts to make GST error-free.

We sincerely thank CA. Atul Kumar Gupta, President and CA. Nihar Niranjana Jambusaria, Vice-President, ICAI for their encouragement to the initiatives of the GST & Indirect Taxes Committee. We express our gratitude for the untiring effort of CA. Pramod Dayal Rungta who has shared his intellectual

expertise and CA. Saurabh Singhal for reviewing this publication. We place on record the services and unstinted support provided by the Secretariat of the Committee.

We trust this Handbook will be of practical use to all the members of the Institute and other stakeholders. We also welcome suggestions at gst@icai.in and request to visit our website <http://www.idtc.icai.org> and provide valuable inputs in our journey to make GST truly a good and simple tax.

CA. Rajendra Kumar P
Chairman
GST & Indirect Taxes Committee

CA. Sushil Kumar Goyal
Vice- Chairman
GST & Indirect Taxes Committee

Date: 05.05.2020

Place: New Delhi

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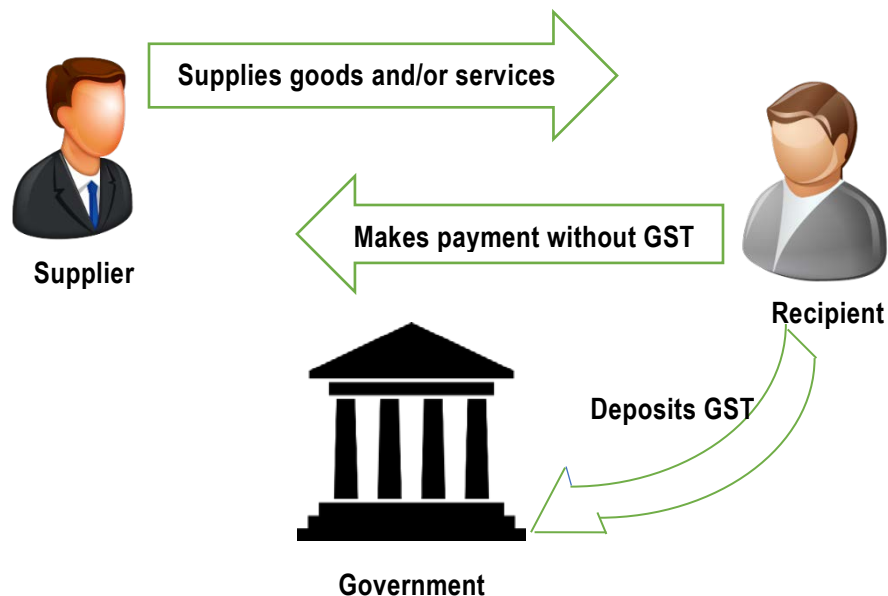
Chapter 1

Introduction

Normally, the supplier of goods or services or both charges and collects the tax from the recipient and deposits the tax with the exchequer. However, under the Reverse Charge Mechanism (“RCM”), the liability to deposit tax shifts from the supplier to the recipient. The chargeability gets reversed and all the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the Act” or “the CGST Act”) would be applicable to such a recipient as if he is the person responsible for paying the tax in relation to the supply of such goods or services or both.

Meaning of Reverse Charge

As per **Section 2(98) of the Act**, “**reverse charge**” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act.



Chapter 2

Procedural Aspects and Legal Provisions

2.1 Legal Provisions-Act, Rules, Notifications, Clarifications, Orders

Applicability of RCM



2.1.1 Specific goods or services notified by Government under RCM

Section 9(3) of the CGST Act¹ and Section 5(3) of the IGST Act - *The Government may, on the recommendations of the Council, **by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient** of such goods or services or both and all the provisions of this Act shall apply to such*

¹ Reference to the CGST Act includes reference to similar section under corresponding State Goods and Services Tax Act and Union Territory Goods and Services Tax Act.

Procedural Aspects and Legal Provisions

recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Supply of Goods notified² for RCM under Section 9(3) of the CGST Act & Section 5(3) of the IGST Act

| S. No. | Tariff item, Sub-heading, Heading or Chapter | Description of Goods | Supplier of Goods | Recipient of Goods |
|-------------------|--|------------------------------------|--|---|
| 1. | 0801 | Cashew nuts, not shelled or peeled | Agriculturist | Any registered person |
| 2. | 1404 90 10 | Bidi wrapper leaves (tendu) | Agriculturist | Any registered Person |
| 3. | 2401 | Tobacco leaves | Agriculturist | Any registered person |
| 4. | 5004 to 5006 | Silk yarn | Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn | Any registered person |
| ³ [4A. | 5201 | Raw cotton | Agriculturist | Any Registered Person] |
| 5. | - | Supply of lottery | State Government, Union Territory or any local authority | Lottery distributor or selling agent. <i>Explanation. -</i> For the |

² Notification No- 04/2017-Central Tax (Rate) & Notification No-04/2017-Integrated Tax (Rate) dated 28-06-2017

³ Inserted vide Notification No- 43/2017 Central Tax (Rate) & Notification No- 45/2017-Integrated Tax (Rate) dated 14-11-2017 w.e.f. 15.11.2017

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| S. No. | Tariff item, Sub-heading, Heading or Chapter | Description of Goods | Supplier of Goods | Recipient of Goods |
|------------------|--|--|--|--|
| | | | | purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under the provisions of sub-section (1) of section 11 of the Lotteries (Regulations) Act, 1998 (17 of 1998). |
| ⁴ [6. | Any Chapter | Used vehicles; seized and confiscated goods, old and used goods, waste and scrap | Central Government, State Government, Union Territory or any local authority | Any registered person] |
| ⁵ [7. | Any Chapter | Priority Sector | Any registered | Any registered |

⁴ Inserted vide Notification No -36/2017 Central Tax (Rate) & Notification No. 37/2017-Integrated Tax (Rate) dated 13-10-2017

⁵ Inserted vide Notification No -11/2018 Central Tax (Rate) & Notification No-12/2018-Integrated Tax (Rate), both dated 28-05-2018

Procedural Aspects and Legal Provisions

| S. No. | Tariff item, Sub-heading, Heading or Chapter | Description of Goods | Supplier of Goods | Recipient of Goods |
|--------|--|----------------------|-------------------|--------------------|
| | | Lending Certificate | person | person] |

Supply of Services notified⁶ for RCM under Section 9(3) of the CGST Act

| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|-------|--|------------------------------|--|
| 1. | <p>Supply of Services by a Goods Transport Agency (GTA) ⁷[who has not paid central tax @ 6%] in respect of transportation of goods by road to –</p> <p>(a) any factory registered under or governed by the Factories Act, 1948; or</p> <p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> | Goods Transport Agency (GTA) | <p>(a) Any factory registered under or governed by the Factories Act, 1948; or</p> <p>(b) Any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) Any co-operative society established by or under any law;</p> <p>(d) Any person registered under CGST/IGST/</p> |

⁶ Notification No- 13/2017 Central Tax (Rate) dated 28-06-2017

⁷ Inserted vide Notification No -22/2017 Central Tax (Rate) dated 22-08-2017

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| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|-------|--|----------------------|--|
| | <p>(d) any person registered under CGST/IGST/SGST/ or UTGST Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p> <p>⁸[Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, –</p> <p>(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies,</p> | | <p>SGST/UTGST Act; or</p> <p>(e) Any body corporate established, by or under any law; or</p> <p>(f) Any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) Any casual taxable person located in the taxable territory.</p> |

⁸ Inserted vide Notification No- 29/2018- Central Tax (Rate) dated 31-12-2018- w.e.f. 1.01.2019

Procedural Aspects and Legal Provisions

| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|-------|---|--|---|
| | which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.] | | |
| 2. | <p>¶[Services provided by an individual Advocate including a Senior Advocate or firm of Advocates by way of legal services, directly or indirectly.</p> <p>Explanation. - "legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational</p> | An individual Advocate including a Senior Advocate or firm of Advocates. | Any business entity located in the taxable territory. |

⁹ Substituted vide Corrigendum to Notification 13/2017-Central Tax (Rate), dated 25-09-2017. Prior to substitution it read: "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."

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| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|-------|---|--|--|
| | services before any court, tribunal or authority.] | | |
| 3. | Services supplied by an Arbitral Tribunal to a business entity. | An Arbitral Tribunal | Any business entity located in the taxable territory. |
| 4. | Services provided by way of sponsorship to any body corporate or partnership firm. | Any person | Any body corporate or partnership firm located in the taxable territory. |
| 5. | Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding the following: (A) renting of immovable property, and (B) services specified below: - (i) services by the Department of posts by way of speed post, life insurance, express parcel post and agency services provided to a person other than Central Government, State Government or | Central Government, State Government, Union territory or Local Authority | Any business entity located in the taxable territory. |

Procedural Aspects and Legal Provisions

| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|---------------------------|---|---|---|
| | Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers. | | |
| ¹⁰ [5A. | Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 | Central Government, State Government, Union territory or Local Authority. | Any person registered under the Central Goods and Services Tax Act, 2017] |
| ¹¹ [5B. | 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. | Any person | Promoter] |
| ¹² [5C. | Long term lease of land | Any person | Promoter] |

¹⁰ Inserted vide Notification No-03/2018-Central Tax (Rate), dated 25-01-2018

¹¹ Inserted vide Notification No-05/2019-Central Tax (Rate), dated 29-03-2019-w.e.f. 1.04.2019

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| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|-------|---|---|--|
| | (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. | | |
| 6. | Services supplied by a director of a company or a body corporate to the said company or the body corporate. | A director of a company or a body corporate | A company or a body corporate located in the taxable territory |
| 7. | Services supplied by an insurance agent to person carrying on insurance business. | An Insurance agent | Any person carrying on insurance business, located in the taxable territory. |
| 8. | Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company. | A recovery agent | Banking company or financial institution or a non-banking financial company, located in the taxable territory. |

¹² Inserted vide Notification No-05/2019-Central Tax (Rate), dated 29-03-2019 - w.e.f. 1.04.2019

Procedural Aspects and Legal Provisions

| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|-------------------|---|--|---|
| ¹³ [9. | Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of Section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like. | Music composer, photographer, artist, or the like. | Music company, producer or the like, located in the taxable territory.] |

¹³ Substituted vide Notification No- 22/2019-Central Tax (Rate) dated 30-09-2019-w.e.f. 1.10.2019.Prior to substitution it read as:

| Sl. No. | Category of Supply of Services | Supplier of service | Recipient of Service |
|---------|---|---|--|
| (1) | (2) | (3) | (4) |
| 9 | Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like. | Author or music composer, photographer, artist, or the like | Publisher, music company, producer or the like, located in the taxable territory.) |

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| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|--------------------|---|----------------------|--|
| ¹⁴ [9A. | Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher. | Author | <p>Publisher located in the taxable territory: -</p> <p>Provided that nothing contained in this entry shall apply where: -</p> <p>(i) the author has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017), and filed a declaration, in form at Annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on the service specified in column (2), under forward charge in accordance with Section 9 (1) of</p> |

¹⁴ Inserted vide Notification No- 22/2019-Central Tax (Rate) dated 30-09-2019 - w.e.f. 1.10.2019

Procedural Aspects and Legal Provisions

| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|--------------|--------------------------------|-----------------------------|--|
| | | | <p>the Central Goods and Service Tax Act, 2017 under forward charge, and to comply with all the provisions of Central Goods and Service Tax Act, 2017 (12 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</p> <p>(ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in FORM GST Inv-I to the publisher.]</p> |

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| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|--------------------|---|---|--|
| ¹⁵ [10. | Supply of services by the members of Overseeing Committee to Reserve Bank of India | Members of Overseeing Committee constituted by the Reserve Bank of India. | Reserve Bank of India] |
| ¹⁶ [11. | Services supplied by individual direct selling agents (DSAs) other than a body corporate partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs) | Individual direct selling agents (DSAs) other than a body corporate, partnership or limited liability partnership firm. | A banking company or a non-banking financial company, located in the taxable territory.] |
| ¹⁷ [12. | Services provided by business facilitator (BF) to a banking company. | Business facilitator (BF) | A banking company, located in the taxable territory.] |
| ¹⁸ [13. | Services provided by an agent of business correspondent (BC) to | An agent of business correspondent | A business correspondent, located in the |

¹⁵ Inserted vide Notification No- 33/2017- Central Tax (Rate) dated 13-10-2017

¹⁶ Inserted vide Notification No- 15/2018- Central Tax (Rate) dated 26-07-2018– w.e.f. 27.07.2018.

¹⁷ Inserted vide Notification No. 29/2018 – Central Tax (Rate) dated 31-12-2018- w.e.f.1.01.2019.

¹⁸ Inserted vide Notification No. 29/2018 – Central Tax (Rate) dated 31-12-2018- w.e.f.1.01.2019.

Procedural Aspects and Legal Provisions

| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|--------------------|--|---|--|
| | business correspondent (BC). | (BC). | taxable territory.] |
| ¹⁹ [14. | <p>Security services (services provided by way of supply of security personnel) provided to a registered person:</p> <p>Provided that nothing contained in the entry shall apply to, -</p> <p>(i)(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Government agencies;</p> <p>which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 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</p> | Any person other than a body corporate. | A registered person, located in the "taxable territory." |

¹⁹ Inserted vide Notification No. 29/2018 – Central Tax (Rate) dated 31-12-2018-w.e.f.1.01.2019.

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| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|--------------------|--|--|---|
| | (ii) a registered person paying tax under Section 10 of the said Act. | | |
| ²⁰ [15. | Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate | Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to the service recipient. | Any body corporate located in the taxable territory.] |

²⁰ Inserted vide Notification No 22/2019-Central Tax (Rate) dated 30-09-2019, amended vide Notification No - 29/2019-Central Tax (Rate) dated 31-12-2019. Prior to this substitution it read as under:

| S. No. | Category of Supply of Services | Supplier of service | Recipient of Service |
|--------|--|--|--|
| (1) | (2) | (3) | (4) |
| 15 | Services provided by way of renting of a motor vehicle provided to a body corporate. | Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business | Any body corporate located in the taxable territory. |

Procedural Aspects and Legal Provisions

| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|--------------------|---|---|--|
| ²¹ [16. | Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended | Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme of SEBI. | Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.)] |

Additional Supply of Services notified²² for RCM under Section 5(3) of IGST Act

| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|-------|---|--|--|
| 1. | Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient. | Any person located in a non-taxable territory. | Any person located in the taxable territory other than non-taxable online recipient. |
| 2. | Services supplied by a person located in non- | A person located in a | Importer, as defined in |

²¹ Inserted vide Notification No. 22/2019- Central Tax (Rate) dated 30-09-2019 – w.e.f. 1.10.2019

²² Notification No-10/2017-Integrated Tax (Rate) dated 28-06-2017

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| S.No. | Description of Services | Supplier of Services | Recipient of Services |
|-------|---|------------------------|--|
| | taxable territory by way of transportation of goods by a vessel from a place outside India up to the Customs Station of clearance in India. | non-taxable territory. | Section 2(26) of the Customs Act, 1962, located in the taxable territory |

2.1.2 Supply of goods or services by an unregistered supplier to registered recipient under RCM

Section 9(4) of the CGST Act & Section 5(4) of the IGST Act - *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, and all the provisions of this 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."*

-Substituted²³

Erstwhile Section 9(4) of the CGST Act & Section 5(4) of the IGST Act - *The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.*

²³ As substituted by the Central Goods and Service Tax (Amendment) Act, 2018 and made effective vide Notification No. 02/2019-Central Tax dated 29-01-2019 from 1-02-2019.

Procedural Aspects and Legal Provisions

An exemption was provided for payment of tax under RCM upto an **aggregate value of such supplies** of goods or services or both received by a registered person from **any or all the unregistered suppliers, where such value did not exceeded five thousand rupees in a day**.²⁴

Thereafter the exemption was provided in respect of any payment of tax liability by registered person on supplies made by an unregistered person.²⁵

The above exemption was rescinded²⁶, when the provision was substituted by the Central Amendment Act, 2018.

Specified Categories of Goods and/or Services and specified class of registered persons as notified²⁷ by Government under section 9(4) on which tax shall be paid by recipient of such goods or services or both, in case of supply by unregistered supplier

| Sl. No | Description of Goods and Services | Recipient of Goods and Services |
|--------|--|---------------------------------|
| 1. | Supply of such goods and services or both [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)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first | Promoter |

²⁴ Vide Notification No- 08/2017- Central Tax (Rate) dated 28-06-2017.

²⁵ Notification No- 38/2017- Central Tax (Rate) dated 13-10-2017, Notification No- 10/2018- Central Tax (Rate) dated 23-03-2018, Notification No- 12/2018- Central Tax (Rate) dated 29-06-2018, Notification No- 22/2018- Central Tax (Rate) dated 06-08-2018

²⁶ Amended vide Notification No- 01/2019-Central Tax (Rate) dated 29-01-2019

²⁷ Inserted vide Notification No- 07/2019- Central Tax (Rate) dated 29-03-2019- w.e.f. 1.04.2019.

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| Sl. No | Description of Goods and Services | Recipient of Goods and Services |
|--------|---|---------------------------------|
| | occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax (Rate), dated 28 th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dated 28 th June, 2017, as amended. | |
| 2. | Cement falling in Chapter Heading 2523 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) ²⁸ | Promoter |
| 3. | Capital goods falling under any Chapter in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, in notification No. 11/ 2017- Central Tax (Rate), dated 28 th June, 2017, published in Gazette of India vide G.S.R. No.690, dated 28 th June, 2017, as amended. | Promoter |

²⁸ Substituted vide Notification No- 24/2019- Central Tax (Rate) dated 30-09-2019- w.e.f. 1.10.2019. Prior to this substitution the entry read as: "Cement falling in Chapter Heading 2523 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dated 28th June, 2017, as amended."

2.2 Registration

As per *Section 24(iii) of the CGST Act*, persons who are required to pay tax under reverse charge shall be required to be registered under GST. There is no threshold limit for registration for a recipient of RCM supplies.

As per *Section 25(1) of the CGST Act*, every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed.

2.3 Time of Supply under Reverse Charge Mechanism



In case of Goods

As per *Section 12(3) of the CGST Act*, in case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely: —

- (a) the date of the receipt of goods; or
- (b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, *in lieu* thereof by the supplier:

Handbook on Reverse Charge under GST

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

- **In case of Services**

As per *Section 13(3) of the CGST Act*, in case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely: –

- (a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

Time of supply under RCM

**In case of Goods:
Earlier of:-**

**Date of
receipt of
goods**

**30 days
from date
of issue of
Invoice**

**Date of
Payment**

**In case of Services:-
Earlier of:-**

**60 days
from date
of issue of
Invoice**

**Date of
Payment**

2.4 Invoicing

2.4.1 For supplier of notified goods or services

As per Section 31 of the CGST Act read with Rule 46(p) of the Central Goods and Services Tax Rules, 2017 (**“the CGST Rules”**), a registered person making supply of goods or services notified under Section 9(3) of the CGST Act / Section 5(3) of the IGST Act shall issue tax invoice containing the specified particulars including ‘whether the tax is payable on reverse charge basis’ by the recipient.

Since an unregistered person does not come within the ambit of GST Law, he is not required to issue any document in respect of supply of goods or services notified under Section 9(3) or 9(4) of the CGST Act/ Section 5(3) or 5(4) of the IGST Act.

2.4.2 For recipient of goods or services under RCM

As per section 31(3)(f) of the CGST Act, a registered person who is liable to pay tax under section 9(3) or section 9(4) shall issue an invoice in respect of goods or services or both received by him from the supplier who is *not registered* on the date of receipt of goods or services or both;

As per Second Proviso to Rule 46 of the CGST Rules, where an invoice is required to be issued under section 31(3)(f), a registered person may issue a consolidated invoice at the end of a month for supplies covered under sub-section (4) of section 9, the aggregate value of such supplies exceeds rupees five thousand in a day from any or all the suppliers:

As per section 31(3) (g) of the CGST Act, a registered person who is liable to pay tax under section 9(3) or section 9(4) shall issue a payment voucher at the time of making payment to the supplier.

2.5 Accounts and Records

As per Rule 56(1) of the CGST Rules, every registered person shall keep and maintain, in addition to the particulars mentioned in section 35(1), a true and correct account of the goods or services imported or exported or of supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

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Every registered person, other than a person paying tax under section 10, shall keep and maintain an account, containing the details of tax payable (including tax payable in accordance with the provisions of section 9(3) and section 9(4), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

2.5.1 Recording RCM in Books of Accounts

- ❖ Separate ledgers for RCM liability is required to be maintained in the books of accounts to identify them from normal ledgers: -
 - Output IGST-RCM
 - Output CGST-RCM
 - Output SGST-RCM
 - Input IGST-RCM
 - Input CGST-RCM
 - Input SGST-RCM
- ❖ The following entries shall be passed for recording the expenses under RCM: -

1. *For recording the expense under RCM*

| | | | |
|-------------|-------------|-----|-----|
| Expense A/c | Dr | 100 | |
| | To Creditor | | 100 |

2. *For recording GST on the RCM Expense incurred (in case RCM supply is creditable)*

| | | | |
|----------------|--------------------|---|---|
| Input CGST-RCM | Dr | 9 | |
| Input SGST-RCM | Dr | 9 | |
| | To Output CGST-RCM | | 9 |
| | To Output SGST-RCM | | 9 |

3. *When payment of RCM tax GST liability is made*

| | | | |
|-----------------|---------|---|----|
| Output CGST-RCM | Dr | 9 | |
| Output SGST-RCM | Dr | 9 | |
| | To Bank | | 18 |

2.6 Payment of Tax under RCM

As per section 49(4) of the CGST Act, the amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.

Any liability of tax payable under reverse charge shall be discharged by debiting the electronic cash ledger. In other words, reverse charge liability cannot be discharged by using input tax credit reflecting in electronic credit ledger. However, after discharging reverse charge liability, the credit of the same can be claimed by the recipient in the same month itself, if he is otherwise eligible.

2.7 Input Tax Credit under RCM

As per Rule 36(1) (b), the input tax credit shall be availed by a registered person on an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to payment of tax. In case the supplier is unregistered then the recipient is liable issue a tax invoice under reverse charge towards such receipts and claim ITC against such invoice. However, if the supplier is registered, then he shall issue a tax invoice specifying the supply taxable under reverse charge.

As per Section 17 of the CGST Act, ITC cannot be claimed to the extent attributable towards exempt supply which shall include supplies made on reverse charge basis. The supplier shall not be eligible to claim input tax credit of GST paid on goods or services used to make supplies on which the recipient is liable to pay tax.

Chapter 3

Points to Note

- All *recipients* required to pay tax on goods or services or both under RCM are *mandatorily required to obtain GST Registration and the threshold of ₹ 40 Lakhs/ 20 Lakhs is not applicable to them. However, registration need not be obtained by the recipient if such recipient supplies only services covered under Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017*.
- Where any registered person is supplying specific goods or services or both notified by Government under RCM then *invoice wise details* of such supplies shall be *reflected in Table 4B of FORM GSTR-1*.
- A supplier *shall not be eligible to claim input tax credit of GST paid* on goods or services used to make supplies on which recipient is liable to pay tax.
- GST payable under RCM shall be paid by the recipient by due date for furnishing **FORM GSTR-3B**.
- The *payment of GST under reverse charge* shall be made by the recipient *by debit of electronic cash ledger only*.
- Tax paid on RCM basis *shall be available for input tax credit only if such goods and/or services are used, or will be used, in the course or furtherance of business*.
- The recipient *shall issue a self-invoice* for the goods or services received from unregistered supplier.
- The recipient of supplies under RCM from an unregistered supplier can avail input tax credit on basis of *self-invoice made by him*.
- The recipient shall issue a payment voucher at the time of making payment for the goods or services received from a supplier of goods or services liable to tax under RCM.

Points to Note

- The condition of payment of value of service within 180 days of the date of supplier invoice is not applicable on supplies liable to tax under RCM. Hence, there would be no interest liability on account of the same.²⁹

²⁹ As per the proviso of Section 16(2) of the CGST Act, 2017

Chapter 4

Forms

➤ For Supplier under RCM

- **Form GSTR-1:** - In the case of registered person supplying specific goods and/or services which are notified by government to registered recipient, where tax has to be paid on reverse charge basis, the details (invoice wise, rate wise) of such supplies shall be reflected in **Table 4B of Form GSTR-1**.

4. Taxable outward supplies made to registered persons (including UIN-holders) other than supplies covered by Table 6

(Amount
in Rs. for
all Tables)

| GSTIN/ UIN | Invoice details | | | Rate | Taxable value | Amount | | | | Place of Supply (Name of State/UT) |
|--|-----------------|------|-------|------|------------------|-------------------|----------------|-------------------|------|---|
| | No. | Date | Value | | | Integrated Tax | Central Tax | State / UT Tax | Cess | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 4A. Supplies other than those (i) attracting reverse charge and (ii) supplies made through e-commerce operator | | | | | | | | | | |
| | | | | | | | | | | |
| 4B. Supplies attracting tax on reverse charge basis | | | | | | | | | | |
| | | | | | | | | | | |
| 4C. Supplies made through e-commerce operator attracting TCS (operator wise, rate wise) | | | | | | | | | | |
| GSTIN of e-commerce operator | | | | | | | | | | |
| | | | | | | | | | | |

- **Form GSTR-3B:** - In case of registered person supplying specific goods and/or services which are notified by government to registered recipient, where tax has to be paid on reverse charge basis, the taxable value of such supplies shall be reflected in **Table 3.1 (c) of Form GSTR-3B**.

Forms

According to section 17 (3) of the CGST Act, outward supplies, on which the recipient is liable to pay tax on reverse charge basis, shall be treated as exempt supplies. However, author is of the view that a separate row be made available in **Form GSTR-3B** similar to **Form GSTR-1**.

3.1 Details of Outward Supplies and inward supplies liable to reverse charge

| Nature of Supplies | Total Taxable value | Integrated Tax | Central Tax | State/UT Tax | Cess |
|--|---------------------|----------------|-------------|--------------|------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| (a) Outward taxable supplies (other than zero rated, nil rated and exempted) | | | | | |
| (b) Outward taxable supplies (zero rated) | | | | | |
| (c) Other outward supplies (Nil rated, exempted) | | | | | |
| (d) Inward supplies (liable to reverse charge) | | | | | |
| (e) Non-GST outward supplies | | | | | |

- **Form GSTR-9:** - Aggregate value of supplies made by a registered person on which tax is payable by the recipient on reverse charge basis shall be reflected in **Table 5C**.

| Pt. II | Details of Outward and inward supplies declared during the financial year | | | | | |
|----------|---|---------------|-----------------------------|--------------------|----------------|------|
| | | | (Amount in ₹ in all tables) | | | |
| | Nature of Supplies | Taxable Value | Central Tax | State Tax / UT Tax | Integrated Tax | Cess |
| | 1 | 2 | 3 | 4 | 5 | 6 |
| 5 | Details of Outward supplies on which tax is not payable as declared in returns filed during the financial year | | | | | |
| A | Zero rated supply (Export) without payment of tax | | | | | |
| B | Supply to SEZs without payment of tax | | | | | |
| C | Supplies on which tax is to be paid by the recipient on reverse charge basis | | | | | |
| D | Exempted | | | | | |
| E | Nil Rated | | | | | |
| F | Non-GST supply | | | | | |
| G | Sub-total (A to F above) | | | | | |

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- **Form GSTR-9C:** - Aggregate value of supplies made by a registered person on which tax is to be paid by the recipient shall be declared in **Table 7D**. This shall be reported net of credit notes, debit notes and amendments if any.

| 7 | Reconciliation of Taxable Turnover | |
|---|--|--------|
| A | Annual turnover after adjustments (from SP above) | <Auto> |
| B | Value of Exempted, Nil Rated, Non-GST supplies, No-Supply turnover | |
| C | Zero rated supplies without payment of tax | |
| D | Supplies on which tax is to be paid by the recipient on reverse charge basis | |
| E | Taxable turnover as per adjustments above (A-B-C-D) | <Auto> |
| F | Taxable turnover as per liability declared in Annual Return (GSTR9) | |
| G | Unreconciled taxable turnover (F-E) | AT 2 |

➤ For Recipients under RCM

- **Form GSTR-1:** In case of Registered taxable person receiving supply of notified goods or services or receipt of supplies from unregistered supplier where tax has to be paid on reverse charge basis, the self-invoice series should be reflected in Document details in GSTR-1.

| 13. Documents issued during the tax period | | | | | | |
|--|--|---------|----|--------------|-----------|------------|
| Sr. No. | Nature of document | Sr. No. | | Total number | Cancelled | Net issued |
| | | From | To | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1 | Invoices for outward supply | | | | | |
| 2 | Invoices for inward supply from unregistered person | | | | | |
| 3 | Revised Invoice | | | | | |
| 4 | Debit Note | | | | | |
| 5 | Credit Note | | | | | |
| 6 | Receipt voucher | | | | | |
| 7 | Payment Voucher | | | | | |
| 8 | Refund voucher | | | | | |
| 9 | Delivery Challan for job work | | | | | |
| 10 | Delivery Challan for supply on approval | | | | | |
| 11 | Delivery Challan in case of liquid gas | | | | | |
| 12 | Delivery Challan in cases other than by way of supply (excluding at S no. 9 to 11) | | | | | |

- **Form GSTR-3B:** - In case of Registered taxable person receiving supply of notified goods or services or receipt of supplies where tax has to be paid on reverse charge basis, it should be reflected in **Table 3.1 (d) and Table 4(A)(3) of Form GSTR-3B**.

3.1 Details of Outward Supplies and inward supplies liable to reverse charge

| Nature of Supplies | Total Taxable value | Integrated Tax | Central Tax | State/UT Tax | Cess |
|--|---------------------|----------------|-------------|--------------|------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| (a) Outward taxable supplies (other than zero rated, nil rated and exempted) | | | | | |
| (b) Outward taxable supplies (zero rated) | | | | | |
| (c) Other outward supplies (Nil rated, exempted) | | | | | |
| (d) Inward supplies (liable to reverse charge) | | | | | |
| (e) Non-GST outward supplies | | | | | |

4. Eligible ITC

| Details | Integrated Tax | Central Tax | State/UT Tax | Cess |
|---|----------------|-------------|--------------|------|
| 1 | 2 | 3 | 4 | 5 |
| (A) ITC Available (whether in full or part) | | | | |
| (1) Import of goods | | | | |
| (2) Import of services | | | | |
| (3) Inward supplies liable to reverse charge (other than 1 & 2 above) | | | | |
| (4) Inward supplies from ISTR | | | | |
| (5) All other ITC | | | | |
| (B) ITC Reversed | | | | |
| (1) As per rules 42 & 43 of CGST Rules | | | | |
| (2) Others | | | | |
| (C) Net ITC Available (A) – (B) | | | | |
| (D) Ineligible ITC | | | | |
| (1) As per section 17(5) | | | | |
| (2) Others | | | | |

- **Form GSTR-9:** - The aggregate value of all inward supplies (including advances and net of credit and debit notes) on which tax is to be paid by the recipient (i.e. by the person filing the annual return) on reverse charge basis shall be **reflected in Table 4G**. This shall include supplies received from registered persons and unregistered persons on which tax is levied on reverse charge basis. This shall also include aggregate value of all import of services.

The aggregate value of input tax credit availed on all inward supplies received from **unregistered persons (other than import of services)** on which tax is payable on reverse charge basis shall be declared in **Table 6C**. It may be noted that the total ITC availed is to be classified as ITC on inputs, capital goods and input services. However, for FYs 2017-18 and 2018-19, the registered person shall have an option to either report the breakup of input tax credit as inputs, capital goods and input services or report the entire input tax credit under the “inputs” row only in terms of *Notification No. 56/2019-Central Tax, dated 14-11-2019*.

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The aggregate value of input tax credit availed on all inward supplies received from **registered persons** on which tax is payable on reverse charge basis shall be declared in **Table 6D**. It may be noted that the total ITC availed is to be classified as ITC on inputs, capital goods and input services. But for FYs 2017-18 and 2018-19, the registered person shall have an option to either report Table 6C and Table 6D separately or report the consolidated details of Table 6C and 6D in Table 6D only as per Notification No. 56/2019-C.T., dated 14-11-2019.

| Pt. II | Details of Outward and inward supplies declared during the financial year | | | | | |
|----------|--|---------------|-----------------------------|--------------------|----------------|------|
| | Nature of Supplies | Taxable Value | (Amount in ₹ in all tables) | | | |
| | | | Central Tax | State Tax / UT Tax | Integrated Tax | Cess |
| | 1 | 2 | 3 | 4 | 5 | 6 |
| 4 | Details of advances, inward and outward supplies on which tax is payable as declared in returns filed during the financial year | | | | | |
| A | Supplies made to un-registered persons (B2C) | | | | | |
| B | Supplies made to registered persons (B2B) | | | | | |
| C | Zero rated supply (Export) on payment of tax (except supplies to SEZs) | | | | | |
| D | Supply to SEZs on payment of tax | | | | | |
| E | Deemed Exports | | | | | |
| F | Advances on which tax has been paid but invoice has not been issued (not covered under (A) to (E) above) | | | | | |
| G | Inward supplies on which tax is to be paid on reverse charge basis | | | | | |
| H | Sub-total (A to G above) | | | | | |

Forms

| 6.Details of ITC availed during the financial year | | | | | |
|---|----------------|--------------------|-----------------|------------------|----------|
| Note : The fields, where the system computed values would be modified by more/less than 20%, shall be highlighted in 'Red' for reference and attention. | | | | | |
| Details | Type | Integrated tax (₹) | Central tax (₹) | State/UT tax (₹) | Cess (₹) |
| (A) Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B) | | ₹37,45,671.99 | ₹5,38,791.20 | ₹5,38,791.20 | ₹0.00 |
| (B) Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) | Inputs | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| | Capital goods | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| | Input Services | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| (C) Inward supplies received from registered persons liable to reverse charge (other than B above) on which tax is paid & ITC availed | Inputs | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| | Capital goods | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| | Input Services | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| (D) Inward supplies received from registered persons liable to reverse charge (other than B above) on which tax is paid and ITC availed | Inputs | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| | Capital goods | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| | Input Services | ₹0.00 | ₹0.00 | ₹0.00 | ₹0.00 |
| (E) Import of goods (including supplies from SEZ) | Inputs | ₹0.00 | | | ₹0.00 |
| | Capital goods | ₹0.00 | | | ₹0.00 |
| (F) Import of services (excluding inward supplies from SEZ) | | ₹0.00 | | | ₹0.00 |
| (G) Input Tax credit received from ISD | | ₹4,36,796.69 | ₹0.00 | ₹0.00 | ₹0.00 |

- **Form GSTR-9C:** - Supplies where tax was paid on reverse charge basis by the recipient shall be declared under the head titled **"RC"** in **Table 9**.

Any ITC availed in respect of RCM shall be declared in **Table 12**.

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| Pt. III | Reconciliation of tax paid | | | | | |
|---------|--|---------------|-------------|--------------------|----------------|---------------------|
| 9 | Reconciliation of rate wise liability and amount payable thereon | | | | | |
| | | | Tax payable | | | |
| | Description | Taxable Value | Central tax | State tax / UT tax | Integrated Tax | Cess, if applicable |
| | 1 | 2 | 3 | 4 | 5 | 6 |
| A | 5% | | | | | |
| B | 5% (RC) | | | | | |
| C | 12% | | | | | |
| D | 12% (RC) | | | | | |
| E | 18% | | | | | |
| F | 18% (RC) | | | | | |
| G | 28% | | | | | |
| H | 28% (RC) | | | | | |
| I | 3% | | | | | |
| J | 0.25% | | | | | |
| K | 0.10% | | | | | |
| L | Interest | | | | | |
| M | Late Fee | | | | | |
| N | Penalty | | | | | |
| O | Others | | | | | |
| P | Total amount to be paid as per tables above | | <Auto> | <Auto> | <Auto> | <Auto> |
| Q | Total amount paid as declared in Annual Return (GSTR 9) | | | | | |
| R | Un-reconciled payment of amount | | | | PT 1 | |

| Pt. IV | Reconciliation of Input Tax Credit (ITC) | | |
|--------|--|-----|--------|
| 12 | Reconciliation of Net Input Tax Credit (ITC) | | |
| A | ITC availed as per audited Annual Financial Statement for the State/ UT (For multi-GSTIN units under same PAN this should be derived from books of accounts) | | |
| B | ITC booked in earlier Financial Years claimed in current Financial Year | (+) | |
| C | ITC booked in current Financial Year to be claimed in subsequent Financial Years | (-) | |
| D | ITC availed as per audited financial statements or books of account | | <Auto> |
| E | ITC claimed in Annual Return (GSTR9) | | |
| F | Un-reconciled ITC | | ITC 1 |

Chapter 5

Consequences of Failure- Notice, Interest, Penalty

5.1 Notice

As per *Section 46*, where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within *fifteen days* in such form and manner as may be prescribed.

5.2 Late Fees

Section 47 of the CGST Act, 2017 provides,

- (1) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.
- (2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent of his turnover in the State or Union territory.

5.3 Interest

Section 50 of the CGST Act, 2017 provides,

- (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

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- (2) The interest under section 50(1) *shall be calculated*, in such manner as may be prescribed, *from the day succeeding the day on which such tax was due to be paid*.
- (3) A taxable person who makes an *undue or excess claim of input tax credit* under section 42(10) or undue or excess reduction in output tax liability under section 43(10), *shall pay interest on such undue or excess claim or on such undue or excess reduction*, as the case may be, at such *rate not exceeding twenty-four per cent.*, as may be notified by the Government on the recommendations of the Council.

5.4 Penalties

As per section 122 of the CGST Act, 2017,

- (1) Where a taxable person who-
 - (xi) *is liable to be registered under this Act but fails to obtain registration* he shall be liable to pay a penalty of *ten thousand rupees or an amount equivalent to the tax evaded whichever is higher*.
- (2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, *or where the input tax credit has been wrongly availed or utilised*, -
 - (a) *for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax*, shall be liable to a penalty of ten thousand rupees or ten per cent of the tax due from such person, whichever is higher;
 - (b) *for reason of fraud or any wilful misstatement or suppression of facts to evade tax*, shall be liable to a *penalty equal to ten thousand rupees or the tax due from such person, whichever is higher*.
- (3) Any person who—
 - (a) *aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1)*;
 - (c) *receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder*;

Consequences of Failure- Notice, Interest, Penalty

- (e) *fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account,*

shall be liable to a penalty which may extend to twenty-five thousand rupees.

As per section 125 of the CGST Act, 2017, any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees.

Chapter 6

Analysis- Illustrations

6.1 Supply by an unregistered supplier to registered recipient

6.1.1 Analysis

- Under RCM liability *to pay tax is on the recipient of supply of goods or services or both.*
- Reverse charge shall be applicable in case of *supply of taxable goods and/or services by unregistered supplier to a registered recipient.*
- Supply by an unregistered supplier to another unregistered recipient *does not attract* reverse charge.
- *Exempted Goods / Service* received from an un-registered person are *not covered* under reverse charge mechanism.
- Compulsory registration is required to be obtained by the recipient, if the if supply attracts reverse charge.

6.1.2 Illustration:

- A registered person purchased stationery from an unregistered person on 1.10.2019, whether he/she is liable to pay GST under RCM.
- The registered person shall not be liable to pay GST under RCM on all goods or services procured from unregistered person since section 9(4) is applicable on notified goods or services.

Chapter 7

FAQs

| Sl. No. | Questions | Answers |
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| 1. | Under the GST Act, the liability or payment of GST is with consignee or consignor? | RCM has been provided in GST law for GTA and the recipient of GTA service (the consignor or consignee whoever pays freight will be treated as recipient of the service as per the Explanation provided in the Notification) and he is required to pay GST. <i>Notification No. 13/2017-Central Tax (Rate), dated 28-6-2017 may be referred to.</i> |
| 2. | Whether RCM is applicable to payments made for hiring of transport from unregistered GST traders? | RCM under section 9(3) is applicable to Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate. Effective from 01.01.2020 <i>Notification No. 29/2019-C.T. (Rate), dated 31-12-2019</i> |
| 3. | Whether small payments like unloading charges, detention charges and those under “miscellaneous payments” to petty contractors are liable to reverse charge? | If you are not registered, payment on reverse charge under section 9(4) of the CGST Act, 2017 is not required. However, if such services availed fall within the domain of any service that is subject to reverse |

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| Sl. No. | Questions | Answers |
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| | | charge under section 9(3) of the CGST Act, 2017 you have to get yourself registered and GST has to be paid. |
| 4. | Can any unregistered transporter having a turnover below ₹ 20 lakhs carry the goods for a registered dealer? | Yes, GTA can carry the goods. GST on GTA services is liable to be paid on RCM basis by the recipient. However, supply of services of goods transport by road transporter other than a GTA and a courier is exempt under <i>Notification No. 9/2017-Central Tax (Rate), dated 28-6-2017</i> . |
| 5. | Whether tax under RCM is applicable for expenses incurred towards doctor sponsorship programme? | As per <i>Notification No. 13/2017-Central Tax (Rate), dated 28-6-2017</i> , Sl. No. 4 sponsorship to any body corporate/partnership firm comes under RCM. |
| 6. | Suppose I am under composition scheme in GST. If I purchase goods from unregistered person, whether GST needs to be paid to Government by me or not? | Yes, you will be liable to pay tax on reverse charge basis for supplies from unregistered person only for supplies notified under section 9(4). |
| 7. | As a composition dealer, do I have to issue a self-invoice if I purchase goods from an unregistered person? | Yes, a composition dealer will issue a self-invoice as he is required to pay GST. However, he will not be eligible for ITC. |
| 8. | As per <i>Notification No. 5/2017-Central Tax, dated 19-6-2017</i> , the persons who are only engaged in making | Yes, a GTA exclusively providing service in relation to transportation of goods by road under RCM can avail the benefit of this exemption. |

| Sl. No. | Questions | Answers |
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| | supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under sub-section (3) of section 9 of the CGST Act, 2017 are exempted from obtaining registration under the said Act. Please clarify whether a GTA providing service in relation to transportation of goods by road under reverse charge mechanism (RCM) can avail of the benefit of this exemption. | |
| 9. | Whether reverse charge is applicable to services provided by Government or local authorities? | <p>Yes, reverse charge is applicable in respect of services provided by Government or local authorities to any person whose turnover exceeds ₹ 20 lakhs (₹ 10 lakhs for Special Category States) excluding the following services:</p> <ul style="list-style-type: none"> (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Government; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of an airport or a port; |

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| Sl. No. | Questions | Answers |
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| | | <p>(iii) Transport of goods or passengers.</p> <p>Thus, the recipient of supply of goods or services is liable to pay the entire amount of tax involved in such supply of services or goods or both.</p> |
| 10. | What is the format for invoices to be issued in the case of reverse charge payment of GST? | No separate format for any type of invoicing including self-invoicing has been prescribed. The contents of the invoice have been prescribed in Rule 46 of the CGST Rules, 2017. |
| 11. | Would I be liable to pay GST on reverse charge even if the foreign supplier of software from whom I buy for use in my firm registered under GST was to accept the payment in Indian Rupees? | <p>Yes, you would be liable to pay GST. A supply is treated as an import of service if the following conditions are satisfied:</p> <ol style="list-style-type: none"> (1) the supplier of service is located outside India; (2) the recipient of service is located in India; and (3) the place of supply of service is in India. <p>The place of such supply would be taken to be the location where the firm is registered (under GST) and the supplies would attract integrated tax (IGST). The factum of which currency was used to pay the consideration is immaterial.</p> |
| 12. | Can payment of IGST on reverse charge basis on import of goods/services be | No. GST payable on reverse charge basis is to be discharged through cash only. Refer Rule |

FAQs

| Sl. No. | Questions | Answers |
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| | done through book entry or ITC? | 85(4) of the CGST Rules, 2017. |
| 13. | I am obtaining online database access services from a company abroad over the net. will I have to pay tax on reverse charge? | <p>The recipient, if registered, has to pay the applicable IGST on reverse charge basis. If the recipient is not registered, the matter is treated as an online information and database access or retrieval service (OIDAR) and the OIDAR service provider is liable to take registration and pay tax.</p> <p>However, a non-taxable online recipient is not required to pay tax under RCM. "Non-taxable online recipient" means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.</p> |
| 14. | Whether a person exclusively engaged in supplies which are under RCM is required to register under GST? | No. Such persons are exempt from registration <i>vide Notification No. 5/2017-Central Tax, dated 19-6-2017.</i> |

ISBN :



www.icaai.org

April | 2020 | 0000 (0000)