

GOODS & SERVICES TAX/IDT UPDATE - 112

Select sections of the Finance Act, 2020 to be effective from 1st January 2021

The Central Government vide [Notification No. 92/2020- Central Tax dated 22nd December 2020](#) has appointed **1st day of January, 2021**, as the date on which the provisions of sections 119, 120, 121, 122, 123, 124, 126, 127 and 131 of the Finance Act, 2020 shall come into force.

The amendments made by the aforesaid sections in the relevant sections of the CGST Act, 2017 are tabulated below for ready reference:

Section of the Finance Act, 2020	Relevant section of the CGST Act, 2017	Amendment
Sec.119	Amendment of section 10 (Composition levy)	In section 10 of the Central Goods and Services Tax Act, in sub-section (2), in clauses (b), (c) and (d), after the words “of goods”, the words “or services” shall be inserted.
Sec.120	Amendment of section 16 (Eligibility and conditions for taking input tax credit)	In section 16 of the Central Goods and Services Tax Act, in sub-section (4), the words “invoice relating to such” shall be omitted.
Sec.121	Amendment of section 29 (Cancellation or suspension of registration)	In section 29 of the Central Goods and Services Tax Act, in sub-section (1), for clause (c), the following clause shall be substituted, namely:— “(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to optout of the registration voluntarily made under sub-section (3) of section 25:”
Sec.122	Amendment of section 30 (Revocation of cancellation of registration)	In section 30 of the Central Goods and Services Tax Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:— “Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,— (a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not

		<p>exceeding thirty days;</p> <p>(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).”.</p>
Sec.123	<p>Amendment of section 31</p> <p>(Tax invoice)</p>	<p>In section 31 of the Central Goods and Services Tax Act, in sub-section (2), for the proviso, the following proviso shall be substituted, namely:—</p> <p>“Provided that the Government may, on the recommendations of the Council, by notification,—</p> <p>(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;</p> <p>(b) subject to the condition mentioned therein, specify the categories of services in respect of which—</p> <p>(i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or</p> <p>(ii) tax invoice may not be issued.”.</p>
Sec.124	<p>Amendment of section 51</p> <p>(Tax deduction at source)</p>	<p>In section 51 of the Central Goods and Services Tax Act,—</p> <p>(a) for sub-section (3), the following sub-section shall be substituted, namely:—</p> <p>“(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”</p> <p>(b) sub-section (4) shall be omitted</p>
Sec.126	<p>Amendment of section 122</p> <p>(Penalty for certain offences)</p>	<p>In section 122 of the Central Goods and Services Tax Act, after sub-section (1), the following sub-section shall be inserted, namely:—</p> <p>“(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.”.</p>
Sec.127	<p>Amendment of section 132</p> <p>(Punishment for certain offences)</p>	<p>In section 132 of the Central Goods and Services Tax Act, in sub-section (1),—</p> <p>(i) for the words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted;</p> <p>(ii) for clause (c), the following clause shall be substituted, namely:— “(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit</p>

		without any invoice or bill;”; (iii) in clause (e), the words “, fraudulently avails input tax credit” shall be omitted.
Sec.131	Amendment to Schedule II [Activities or transactions to be treated as supply of goods or supply of services]	In Schedule II to the Central Goods and Services Tax Act, in paragraph 4, the words “whether or not for a consideration,” at both the places where they occur, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

Waiver of late fee for FORM GSTR-4 filing in UT of Ladakh for Financial year 2019-20

The Central Government vide [Notification No. 93/2020- Central Tax dated 22nd December 2020](#) has amended [Notification No. 73/2017-Central Tax, dated 29th December, 2017](#) to **waive the late fee** payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2019-20, from the 1st day of November, 2020 till the 31st day of December, 2020 for the registered person whose principal place of business is in the Union Territory of Ladakh.

Fourteenth amendment (2020) to the CGST Rules, 2017

The Central Government vide [Notification No. 94/2020- Central Tax dated 22nd December 2020](#) has made the following amendments in the Central Goods & Services Tax Rules, 2017:-

<u>Rule</u>	<u>Amendment</u>
Rule 8 (Application for registration)	Biometric based Aadhaar authentication/ verification process introduced for GST registration Substitution of sub-rule (4A) In rule 8, for sub-rule (4A), with effect from a date to be notified , the following sub-rule shall be substituted, namely: - “(4A)Every application made under rule (4) shall be followed by— (a) biometric-based Aadhaar authentication and taking photograph, unless exempted under sub-section (6D) of section 25, if he has opted for authentication of Aadhaar number; or (b) taking biometric information, photograph and verification of such other KYC documents, as notified, unless the applicant

	<p>is exempted under sub-section (6D) of section 25, if he has opted not to get Aadhaar authentication done,</p> <p>of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.”.</p>
<p>Rule 9 (Verification of the application and approval)</p>	<p>Time limit for grant of GST registration increased from 3 to 7 working days</p> <p>Amendment in sub-rule (1), (2) &(5)</p> <p>In the said rules, in rule 9,-</p> <p>➤ in sub-rule (1), -</p> <p>(i) after the words “applicant within a period of”, for the word “three”, the word “seven” shall be substituted;</p> <p>(ii) for the proviso, the following proviso shall be substituted, namely: -</p> <p>“Provided that where-</p> <p>(a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or</p> <p>(b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,</p> <p>the registration shall be granted within thirty days of submission of application, after physical verification of the place of business in the presence of the said person, in the manner provided under rule 25 and verification of such documents as the proper officer may deem fit.”</p> <p>➤ in sub-rule (2), -</p> <p>(i) for the word “three”, the word “seven” shall be</p>

	<p>substituted;</p> <p>(ii) for the proviso, the following proviso shall be substituted, namely: -</p> <p>“Provided that where-</p> <p>(a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or</p> <p>(b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,</p> <p>the notice in FORM GST REG-03 may be issued not later than thirty days from the date of submission of the application.”;</p> <p>➤ for sub-rule (5), the following sub-rule shall be substituted, namely: -</p> <p>“(5) If the proper officer fails to take any action, -</p> <p>(a) within a period of seven working days from the date of submission of the application in cases where the person is not covered under proviso to sub-rule (1); or</p> <p>(b) within a period of thirty days from the date of submission of the application in cases where a person is covered under proviso to sub-rule (1); or</p> <p>(c) within a period of seven working days from the date of the receipt of the clarification, information or documents furnished by the applicant under sub-rule (2),</p> <p>the application for grant of registration shall be deemed to have been approved.”.</p>
<p>Rule 21</p> <p>(Registration to be cancelled in certain cases.)</p>	<p>New grounds for cancellation of registration introduced</p> <p>Amendment in clause (b) & insertion of clauses (e), (f) &(g)-</p> <p>In the said rules, in rule 21,-</p> <p>➤ in clause (b), after the words “goods or services”, the words “or both” shall be inserted;</p>

	<ul style="list-style-type: none"> ➤ after clause (d), the following clauses shall be inserted, namely:- <p>“(e) avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or</p> <p>(f) furnishes the details of outward supplies in FORM GSTR-1 under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or</p> <p>(g) violates the provision of rule 86B.”.</p>
<p>Rule 21A (Suspension of registration)</p>	<p><u>Amendment in sub-rule (2), (3) & (4) & insertion of sub-rule (2A) & (3A)</u></p> <p>In the said rules, in rule 21A,-</p> <ul style="list-style-type: none"> ➤ in sub-rule (2), the words “after affording the said person a reasonable opportunity of being heard,” shall be omitted; ➤ after sub-rule (2), the following sub-rule shall be inserted, namely: - ➤ “(2A) Where, a comparison of the returns furnished by a registered person under section 39 with <p>(a) the details of outward supplies furnished in FORM GSTR-1; or</p> <p>(b) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1,</p> <p>or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.”;</p> ➤ in sub-rule (3), after the words, brackets and figure “or sub-rule

	<p>(2)", the words, brackets, figure and letter "or sub-rule (2A)" shall be inserted;</p> <p>➤ after sub-rule (3), the following sub-rule shall be inserted, namely: -</p> <p>“(3A) A registered person, whose registration has been suspended under sub-rule (2) or sub-rule (2A), shall not be granted any refund under section 54, during the period of suspension of his registration.”;</p> <p>➤ in sub-rule (4), -</p> <p>(i) after the words, brackets and figure “or sub-rule (2)”, the words, brackets, figure and letter “or sub-rule (2A)” shall be inserted;</p> <p>(ii) the following proviso shall be inserted, namely: - “Provided that the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.”.</p>
<p>Rule 22 (Cancellation of registration)</p>	<p>Provisions of cancellation of registration under Rule 22 synced with newly inserted sub-rule (2A) of Rule 21A</p> <p>Amendment in sub-rule (3) & (4)</p> <p>In the said rules, in rule 22,-</p> <p>➤ in sub-rule (3), after the words, brackets and figure “the show cause issued under subrule (1)”, the words, brackets, figures and letters “or under sub-rule (2A) of rule 21A” shall be inserted;</p> <p>➤ in sub-rule (4), after the words, brackets and figure “reply furnished under sub-rule (2)”, the words, brackets, figures and letters “or in response to the notice issued under sub-rule (2A) of rule 21A” shall be inserted.</p>
<p>Rule 36(4)</p>	<p>ITC entitlement for invoices not furnished by supplier reduced from 10% to 5%</p> <p>Amendment in sub-rule (4)</p>

	<p>In the said rules, in rule 36, in sub-rule (4), with effect from the 1st January, 2021,-</p> <ul style="list-style-type: none"> ➤ for the word “uploaded”, at both the places where it occurs, the word “furnished” shall be substituted; ➤ after the words, brackets and figures “by the suppliers under sub-section (1) of section 37”, at both the places where they occur, the words, letters and figure “in FORM GSTR-1 or using the invoice furnishing facility” shall be inserted; ➤ for the figures and words “10 per cent.”, the figure and words “5 per cent.” shall be substituted.
<p>Rule 59 (Form and manner of furnishing details of outward supplies)</p>	<p>GSTR-1 to be blocked in case of non-filing of GSTR-3B</p> <p>Insertion of sub-rule (5)</p> <p>In the said rules, in rule 59, after sub-rule (4), the following sub-rule shall be inserted, namely: -</p> <p>“(5) Notwithstanding anything contained in this rule, -</p> <p>(a) a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for preceding two months;</p> <p>(b) a registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period;</p> <p>(c) a registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety-nine per cent. of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period.”.</p>
<p>Rule 86B (Restrictions on use of amount</p>	<p>Restrictions on utilisation of ITC for payment of output tax liability</p> <p>Insertion of new rule 86B w.e.f. 1st January, 2021</p>

available in
electronic credit
ledger)

In the said rules, after rule 86A, with effect from the **1st January, 2021**, the following rule shall be inserted, namely: -

“86B. Restrictions on use of amount available in electronic credit ledger.-Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent. of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:

Provided that the said restriction shall not apply where –

(a) the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years for which the time limit to file return of income under subsection (1) of section 139 of the said Act has expired; or

(b) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of subsection (3) of section 54; or

(c) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of subsection (3) of section 54; or

(d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or

(e) the registered person is –

(i) Government Department; or

(ii) a Public Sector Undertaking; or

(iii) a local authority; or

(iv) a statutory body:

Provided further that the Commissioner or an officer authorised by

	him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.”.
<p>Rule 138</p> <p>(Information to be furnished prior to commencement of movement of goods and generation of e-way bill)</p>	<p>E-way bill to be valid for 200 km per day</p> <p>Amendment in sub-rule (10) w.e.f. 1st January, 2021</p> <p>In the said rules, in rule 138, in sub-rule (10), with effect from the 1st day of January, 2021,-</p> <p>(a) in the Table, against serial number 1, in column 2, for the figures and letters “100 km.”, the figures and letters “200 km.” shall be substituted;</p> <p>(b) in the Table, against serial number 2, in column 2, for the figures and letters “100 km.”, the figures and letters “200 km.” shall be substituted.</p>
<p>Rule 138E</p> <p>(Restriction on furnishing of information in PART A of FORM GST EWB-01)</p>	<p>Person whose registration has been suspended not allowed to furnish PART A of E-way Bill</p> <p>Amendment in clause (b) & insertion of clauses (d)</p> <p>In the said rules, in rule 138E, -</p> <p>➤ in clause (b), for the words “two months”, the words “two tax periods” shall be substituted;</p> <p>➤ after clause (c),the following clause shall be inserted, namely:-</p> <p>“(d) being a person, whose registration has been suspended under the provisions of sub-rule (1) or sub-rule (2) or sub-rule (2A) of rule 21A.”.</p>
<p>Form GST REG-31</p>	<p>In the said rules, after FORM GST REG-30, the following FORM shall be inserted, namely-</p> <p style="text-align: center;">“FORM GST REG – 31</p> <p style="text-align: center;">[See rule 21A]</p> <p>Reference No. _____ Date: _____</p> <p>To,</p> <p>GSTIN _____</p> <p>Name: _____</p> <p>Address: _____</p>

Intimation for suspension and notice for cancellation of registration

[Notification No. 94/2020- Central Tax dated 22nd December 2020]

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