

GST notification updates

Background

Central Board of Indirect Taxes and Customs have issued notifications¹ to make effective the provisions of the Central Goods and Services Tax (Amendment) Act, 2018 and Integrated Goods and Services Tax (Amendment) Act, 2018 with effect from 1 February 2019.

The notification announcing the date of implementation of the Amendment Act was recommended by the GST Council in its thirty-second meeting held on 10 January 2019.

Key highlights of the Amendment Acts which would become applicable from 1 February 2019 are as under–

1. Supply

a. Scope of supply [section 7]

New sub-section (1A) inserted to remove the anomaly in section 7 and accordingly activities and transaction which constitute as supply shall be treated either as the supply of goods or as the supply of services as referred in schedule II as against the earlier provision which treated schedule II entry as supply.

The change would have a retrospective effect i.e. the same would be applicable from 1 July 2017.

b. Activities to be treated as supply even if made without consideration [schedule - I]

The scope of import of services made from related person to include even unregistered person. Currently, entry is restricted to be received only by a taxable person.

c. Activities or transaction not to be treated either as the supply of goods or nor as the supply of services [Schedule III]

Following additional activities/transaction have been included in schedule III of the Central Goods and Services Act (CGST)

- Supply of warehoused goods to any person before clearance for home consumption [In-bond supply]
- Supply of goods by the consignee to any person, by the endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption [High sea sales]
- Goods supplied from a place in a non-taxable territory to another place in a non-taxable territory without goods entering into India [Out and out supply].

¹ Notification no. 2/2019 – Central Tax dated 29 January 2019 and Notification no. 1/2019 – Integrated Tax dated 29 January 2019

2. Supply by unregistered dealers – Reverse charge (RCM) [section 9]

Sub-section (4) has been substituted with respect to procurement from unregistered suppliers. RCM on purchases from unregistered suppliers will now be restricted to only notified class of registered recipient of supplies and restricted to specified categories of goods or services or both.

Parallel notification² has been issued to cancel the earlier notification³ issued by CBIC suspending the applicability of purchases from unregistered dealer till 30 September 2019.

KPMG comment –

Notification specifying the class of supplier and the specified goods or services is expected to be issued by CBIC in due course.

3. Composition levy [section 10]

Threshold limit of turnover for composition scheme has been increased from INR1 crore to INR1.50 crore.

Provision has been amended to allow composition scheme to the supplier of services other than restaurant services of value not exceeding 10 per cent of the turnover in a State/Union territory in the preceding FY or INR5 lakh, whichever is higher.

4. Bill-to-ship-to' model for the supply of services

To allow input tax credit under the bill-to-ship-to model for the supply of services as well.

5. Scope of the value of exempt supply

For the purpose of determining input tax credit attributable to taxable supply, the value of exempt supply shall not include the following:

- Out and out supply
- In-bond supply
- High seas sale
- The actionable claim, other than lottery, betting, and gambling

6. Scope of input tax credit [section 17]

Following amendments have been made to enhance eligibility of credit

- a. Credits in relation to conveyance when they are used for providing specific taxable supplies
 - Motor vehicles for transportation of person having seating capacity exceeding thirteen (including the driver),
 - Vessels and aircraft
- b. Credits on General Insurance, servicing, repairs and maintenance shall be available where
 - motor vehicles for transportation of person having seating capacity exceeding thirteen (including the driver), vessels or aircrafts are used for providing specified taxable supplies
 - The taxable person engaged in
 - Manufacture of motor vehicles, vessels or aircrafts; or
 - Supply of general insurance services in respect of such motor vehicles, vessels or aircrafts insured by him
- c. Goods or services which are obligatory for an employer to provide to its employees under any law.

7. E-commerce operators [section 24]

Compulsory registration requirement for e-commerce operators has been restricted only to those operators who are required to collect tax at source (TCS) under the CGST Act.

8. Vertical-wise registration/Place of Business [section 25]

The concept of vertical wise registration has been replaced. Businesses can now obtain registration on the basis of place of business. Business can now have

- Multiple registration within states/union territory in respect of multiple places of business located within such state/union territory and

² Notification 1/2019-Central Tax (Rate) dated 29 January 2019

³ Notification 8/2017-Central Tax (Rate) dated 28 June 2017

- Mandatory separate registration for the unit(s) in the special economic zone (SEZ) or SEZ developer and other units located outside the SEZ.

9. Consolidated credit/debit Notes [section 34]

Amendments have been made to allow the issue of consolidated debit or credit notes with respect to multiple invoices issued during a financial year.

10. The utilisation of Input tax credit (ITC) and order of utilisation [section 49A]

A new section has been inserted to allow the taxpayer to utilise the ITC available of integrated tax fully before utilising credit of central tax, state tax or union tax towards payment of integrated tax, central tax, state tax or union territory tax as the case may be.

11. Exports [section 54]

Supply of services will qualify as exports even where payments are received in Indian rupees wherever permitted by the Reserve Bank of India (RBI).

12. Recovery of taxes [section 79]

The scope of authorities has been enhanced to enable recovery to be made from registered distinct persons from other registered establishments of such registered person.

13. Pre-deposits for the filing of appeal [section 107 and 112]

The upper limit for filing of appeal has been set as under

- Appeal before appellate authority – 10 per cent of tax demand subject to a maximum of 25 crore/50 crore*
- Appeal before appellate Tribunal – 20 per cent of tax demand subject to a maximum of 50 crore/100 crore*

* Amendment in IGST Amendment Act, 2018.

14. Job work procedures [section 143]

Commissioner has been empowered to extend the time limit required for the return of inputs and capital goods sent for job work up to a period of one year and two years respectively.

15. Place of Supply of services where the location of supplier and recipient is in India [Section 12 of the IGST Act]

Proviso has been inserted to provide where the supply of service is towards transportation of goods and where the transportation is to a place outside India, the place of supply shall be the destination of such goods.

KPMG comment -

Though it exempts the transaction, the same would be required to be considered as exempts supply for the purpose of reversal of input tax credit.

16. Place of Supply of services where the location of supplier or recipient is outside India [Section 13 of the IGST Act]

Provision has been amended to provide for where goods are temporarily imported into India for job work and then exported without putting them to use in India – Place of supply shall be deemed to be outside India.

Our comments

Similar notification giving effect to the respective states' amendment act to be passed by the respective states.

² Notification 1/2019-Central Tax (Rate) dated 29 January 2019

³ Notification 8/2017-Central Tax (Rate) dated 28 June 2017

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