



Key changes in the Rules for various procedures under GST

Background

The meetings of the GST Council held on 18-19 May and 3 June 2017 were crucial for implementation of GST from 1 July 2017. With the conclusion of these meetings, significant changes are now introduced including revised GST rates for goods and services, finalization of the GST Rules in respect of registration, refund, payment of tax, invoice, debit and credit note, input tax credit (ITC), returns, transitional provisions and release of various formats under the said Rules.

We have highlighted below some of the key changes in the GST Rules now approved by the GST Council vis-à-vis the draft GST Rules which were earlier released (for detailed procedures, the revised Rules may be referred to).

Registration

- An SEZ unit or an SEZ developer, would require separate registration distinct from its other units located outside the SEZ.
- An input service distributor would be required to make a separate application for registration under GST.
- Non-resident taxable person to self-attest copy of valid passport.
- A business entity, incorporated or established outside India, is required to submit along with its application, the tax identification number or unique number allotted to it in the country of origin or its PAN, if available.
- In case of suo motu registration, the person would be required to submit an application for final registration within 30 days (as against 90 days as per the draft Rules) from date of grant of temporary registration.

Valuation

- In case of supply of goods/services/both between distinct or related persons, other than through an agent, a proviso is inserted to state that where goods are intended for further supply as such by the recipient, the supplier has an option to value this supply at 90 per cent of the price charged for the supply of like kind and quality, by the recipient to his/her unrelated customer.
- In case of a person dealing in buying and selling of second hand goods; earlier rule mentioned that difference between the sale and purchase price of such trader shall be the value provided, no credit is taken. A proviso is now added to cover a situation when goods are repossessed from a defaulting borrower. The purchase price in that case would be worked out as the purchase price of the defaulting borrower duly reduced by five percentage points for each quarter or part till the date of disposal by the dealer.
- In case of supply of services between distinct persons (for categories specified by the Government with approval of GST Council) without consideration, value of taxable services shall be nil where input tax credit is available.
- The conditions to be satisfied by the 'pure agent' in case of reduction in taxable value have been simplified.
- Specific rule inserted to determine how value of tax amount to be computed in case supply is inclusive of tax amount.

Tax invoice, credit and debit notes

- Every document *inter alia* tax invoice, revised tax invoice and credit or debit/note, payment voucher, receipt voucher, prescribed under Rules, to have a consecutive serial number not exceeding 16 characters, in one or multiple series.
- For tax invoice to be issued by a registered recipient in case of reverse charge supplies, invoice should bear signature or digital signature of the recipient.
- For export invoice, number and date of application for removal of goods now not required to be mentioned.
- Tax invoice or any other similar document issued under any other Act in respect of any non-taxable supply shall be treated as bill of supply under GST Act.
- Where at the time of receipt of advance, the rate of tax is not determinable, the tax shall be paid at the rate of eighteen per cent and where nature of supply is not determinable, the same shall be treated as inter-state supply.
- Contents of refund voucher (in case of refund of advance received earlier) and payment voucher (in case of payment for reverse charge supplies) have been prescribed which are similar to contents of receipt voucher.

Input Tax Credit (ITC)

- In respect of reverse charge payments, input tax credit to be availed on basis of tax invoice issued by recipient subject to payment of tax.
- For credit of integrated tax on imports, credit to be availed basis bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder.
- Restriction on availment of credit only where any demand has been 'confirmed' on account of any fraud, wilful misstatement or suppression of facts instead of 'where any demand has been raised', as was in earlier rule.

- A registered person, who has availed of input tax credit but fails to pay to the supplier value of such supply and tax thereon within the prescribed time limit, he will be required to declare the amount not paid and ITC availed proportionate to such amount not paid to the supplier in Form GSTR 2. Earlier rules lacked this clarity.
- GST Act requires that value of supply shall be paid to the supplier within 180 days of supply. For supplies made without consideration as specified in Schedule I it shall be deemed that the value has been paid.
- GST Act requires that ITC in respect of any invoice or debit note is availed before filing of the September return of the following year or date of filing annual return whichever is earlier. This time limit will not apply for re-availing ITC that had been reversed earlier.
- Where capital goods or plant or machinery, on which ITC has been taken, are supplied, the registered person would be required to reduce ITC taken on such goods at the rate of five percentage points for every quarter or part thereof from the date of issue of invoice for such goods.

Refunds

- Where goods/services are supplied to SEZ unit or developer on payment of IGST, supplier, in order to claim refund, is required to submit a declaration that the SEZ unit/developer has not availed of the ITC of tax so paid.
- Refund under GST is allowed only in case of exports or where there is an inverted duty structure. Formula to determine the amount of refund available in case of inverted duty structure has been provided.
- Where the claim for refund is pertaining to integrated tax on account of export of goods, the acknowledgment shall be issued within three days of filing of such claim.
- Following conditions are no more required to be complied with for provisional grant of refund:
 - GST compliance rating of the applicant is not less than five on a scale of ten;

- No proceedings of any appeal, review or revision is pending on any of the issues which form the basis of the refund and if pending, the same has not been stayed by the appropriate authority or court.

Transitional provisions

- GST Act provides for carrying forward credits under existing taxes like excise duty, service tax, VAT, etc. Electronic declaration in form GST TRAN-1 for carry forward of credit of tax would be required to be filed in a prescribed form within 90 days of the appointed date (Expected to be 1 July 2017).
- Commissioner may, on the recommendations of the GST Council, extend the period of 90 days by a further period not exceeding 90 days.
- Section 140 of the Act provides for carrying forward of credit in respect of inputs in stock or inputs contained in the stock of semi-finished/finished goods (goods) provided the registered person is in possession of an invoice or other prescribed duty paying document.
- Where a registered person under GST (who is not registered under the existing law) is not in possession of any document evidencing payment of central excise duty/CVD in respect of goods held in stock on the appointed date, the said person would be allowed to take deemed credit for CGST/IGST as under:
 - Where the goods are taxable at 18 per cent or more, 60 per cent of CGST or 30 per cent of IGST
 - Where the goods are taxable below 18 per cent, 40 per cent of CGST or 20 per cent of IGST
- Similar provisions are made where a registered person is not in possession of any document evidencing payment of value added tax in respect of the goods held in stock, which have suffered tax at the first point of sale in the state and subsequent sales of which are not subject to tax in the state.
- Where VAT and service tax is paid to the extent of supplies made after the appointed date, electronic declaration in Form GST TRAN-1 would be required to be furnished for availment of ITC within a period 90 days of the appointed date.

- As per SGST Act, agents are allowed to carry forward credit of tax paid in respect of stock held by them (i.e. goods or capital goods belonging to the principal and lying at agent's premises). They are now required to furnish electronic declaration within a period of 90 days of the appointed date, specifying details of such stock.
- An exception is carved out for certain products where full credit of excise duty would be available to a person who was not registered under Central Excise Act but is registered under GST (called 'dealer' in draft rule) even if invoice/other specified documents are not available. The manufacturer who manufactured the goods would issue a document called 'Credit Transfer Document' (CTD) to enable the dealer to claim such credit subject to following conditions:
 - The value of the goods should be more than INR25,000 per piece, should be identifiable through serial number, etc., should bear the brand name of the manufacturer.
 - CTD to be issued to the dealer directly within 30 days from introduction of GST.
 - The duty payment document (excise invoice) of the manufacturer and the invoices of intermediate distributors, etc. should be available with the dealer.

This provision will come as an amendment to CENVAT credit Rules 2004

- Formats under the transitional provisions have also been released by CBEC.

Our comments

Currently, CTD can be issued only by a manufacturer and does not cover an importer. A large section of white goods, vehicles which are imported and sold through dealers would remain outside this provision. The government should look at extending the benefit to imported goods too.

www.kpmg.com/in

Ahmedabad

Commerce House V,
9th Floor, 902 & 903,
Near Vodafone House,
Corporate Road, Prahlad Nagar,
Ahmedabad – 380 051
Tel: +91 79 4040 2200
Fax: +91 79 4040 2244

Bengaluru

Maruthi Info-Tech Centre
11-12/1, Inner Ring Road
Koramangala, Bengaluru 560 071
Tel: +91 80 3980 6000
Fax: +91 80 3980 6999

Chandigarh

SCO 22-23 (1st Floor)
Sector 8C, Madhya Marg
Chandigarh 160 009
Tel: +91 172 393 5777/781
Fax: +91 172 393 5780

Chennai

No.10, Mahatma Gandhi Road
Nungambakkam
Chennai 600 034
Tel: +91 44 3914 5000
Fax: +91 44 3914 5999

Gurgaon

Building No.10, 8th Floor
DLF Cyber City, Phase II
Gurgaon, Haryana 122 002
Tel: +91 124 307 4000
Fax: +91 124 254 9101

Hyderabad

8-2-618/2
Reliance Humsafar, 4th Floor
Road No.11, Banjara Hills
Hyderabad 500 034
Tel: +91 40 3046 5000
Fax: +91 40 3046 5299

Kochi

Syama Business Center
3rd Floor, NH By Pass Road,
Vytilla, Kochi – 682019
Tel: +91 484 302 7000
Fax: +91 484 302 7001

Kolkata

Unit No. 603 – 604,
6th Floor, Tower – 1,
Godrej Waterside,
Sector – V, Salt Lake,
Kolkata 700 091
Tel: +91 33 44034000
Fax: +91 33 44034199

Mumbai

Lodha Excelus, Apollo Mills
N. M. Joshi Marg
Mahalaxmi, Mumbai 400 011
Tel: +91 22 3989 6000
Fax: +91 22 3983 6000

Noida

6th Floor, Tower A
Advant Navis Business Park
Plot No. 07, Sector 142
Noida Express Way
Noida 201 305
Tel: +91 0120 386 8000
Fax: +91 0120 386 8999

Pune

703, Godrej Castlemaine
Bund Garden
Pune 411 001
Tel: +91 20 3050 4000
Fax: +91 20 3050 4010

Vadodara

iPlex India Private Limited,
1st floor office space, No. 1004,
Vadodara Hyper, Dr. V S Marg
Alkapuri
Vadodara 390 007
Tel: +91 0265 235 1085/232 2607/232 2672

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2017 KPMG, an Indian Registered Partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.