

## CHAPTER 1 - INTRODUCTION TO GST

No Amendment

## CHAPTER 2 - CHARGE OF GST

### I. REVERSE CHARGE IN CASE OF SERVICES {Section 9(3)}:

Section 9(3) of CGST Act empowers the Government to notify, on the recommendations of the GST Council, specific categories of supply of goods or services or both, where tax is payable on reverse charge basis by the recipient of such supply. Two new entries have been added to widen the scope of reverse charge in case of services. Further, a change has been carried out in respect of one existing entry.

- **CHANGE IN EXISTING ENTRY: Payment Of Tax Under Reverse Charge Made Optional In Case Of Supply Of Services By An Author By Way Of Transfer/Permitting The Use Or Enjoyment Of A Copyright Relating To Original Literary Work To A Publisher:**

- Earlier, tax on supply of services by an author, music composer, photographer, artist by way of transfer or permitting the use or enjoyment of a copyright relating to original literary, dramatic, musical or artistic works, was payable under reverse charge by publisher, music company, producer. This entry has been substituted as under:

Description Of Supply Of Services	Supplier Of Services	Recipient Of Services
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 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

- Simultaneously, a new entry has been inserted for transfer of copyright by an author to publisher. The new entry reads as under:

Description Of Supply Of Services	Supplier Of Services	Recipient Of Services
Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright relating to original literary works to a publisher	Author	Publisher located in the taxable territory

**Note:** RCM provisions shall not apply where an author gets himself registered under GST law and issues a declaration specifically mentioning that he would discharge tax liability on such transaction under forward charge and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option.

- **IMPACT OF THE ABOVE AMENDMENT:**

- Reverse charge provisions shall continue to apply in case of supply of services by a music composer, photographer, artist or the like by way of transfer/permitting the use or enjoyment of a copyright relating to original dramatic, musical or artistic works to a music company, producer or the like.
- However, in case of supply of services by an author by way of transfer/permitting the use or enjoyment of a copyright relating to original literary work to a publisher, reverse charge provisions have been made optional. If the author wishes to pay the tax himself under forward charge, the facility has been made available to him subject to fulfillment of prescribed conditions.

- TWO NEW ENTRIES:**

The following two entries have been newly added to the list of services where GST is payable by the recipient under reverse charge:

S.No.	Description Of Supply Of Services	Supplier Of Services	Recipient Of Services
1	<b>Services provided by way of renting of a motor vehicle provided to a body corporate</b>	Any person other than a body-corporate paying GST @ 5% on renting of motor vehicles with ITC only of input service in the same line of business	Any body-corporate located in the taxable territory
2	<b>Services of lending of securities under Securities Lending Scheme, 1997 of SEBI</b>	Lender {The person who deposits the securities registered in his name or in the name of any other person duly authorized on his behalf with an approved intermediary for the purpose of lending under the Scheme}	Borrower {The person who borrows the securities under the Scheme through an approved intermediary of SEBI}

## CHAPTER 3 - SUPPLY UNDER GST

### **I. SERVICE BY WAY OF GRANT OF ALCOHOLIC LIQUOR LICENCE IS NEITHER A SUPPLY OF GOODS NOR A SUPPLY OF SERVICE {Section 7(2)}:**

- In terms of Section 7(2) of the CGST Act, the Government has notified the **following activity** or transaction undertaken by the State Governments in which they are engaged as public authorities, **to be treated neither as a supply of goods nor a supply of service**, namely:
 

**"Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called"**
- It has also been clarified that the above special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

### **II. LEVY OF GST ON THE SERVICE OF DISPLAY OF NAME OR PLACING OF NAME PLATES OF THE DONOR IN THE PREMISES OF CHARITABLE ORGANISATIONS RECEIVING DONATION OR GIFTS FROM INDIVIDUAL DONORS:**

- Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes, etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude.
- When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such a manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on the part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.**

- Some examples of cases where there would be no taxable supply are as follows:
  - "Good wishes from Mr Rajesh" printed underneath a digital blackboard donated by Mr Rajesh to a charitable yoga institution.
  - "Donated by Smt Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised. **Thus, where all the three conditions are satisfied - namely the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (ie, it leads to no commercial gain) and not advertisement, GST is not leviable.**

## CHAPTER 4 - COMPOSITION SCHEME

**I. Manufacturer Of Aerated Waters Cannot Opt For Composition Scheme. Further, Suppliers Of Aerated Waters Cannot Opt For Simplified Scheme.**

**II. Supplier Of Any Services Other Than Supplier Of Restaurant/Catering Services Is Not Eligible For Composition Scheme. However, Vide Order No 01/2019-Central Tax Dated February 1, 2019, CBEC Has Clarified That A Supplier Of Exempt Services By Way Of Extending Deposits, Loans Or Advances In So Far As The Consideration Is Represented By Way Of Interest Or Discount Shall Be Eligible To Opt For Composition Scheme.**

## CHAPTER 5 - TIME OF SUPPLY

No Amendment

## CHAPTER 6 - VALUE OF SUPPLY

No Amendment

## CHAPTER 7 - INPUT TAX CREDIT

**I. RESTRICTION ON AVAILMENT OF ITC IN RESPECT OF INVOICES/DEBIT NOTES NOT UPLOADED BY THE SUPPLIERS IN THEIR GSTR-1s:**

- Section 16(2) of the CGST Act provides certain conditions for availing ITC wherein one of the conditions is that the taxpayer must be in possession of the tax invoice or other tax paying document in respect of which he is claiming the ITC.
- A new rule has been introduced to specify the quantum of ITC that can be claimed against the invoices/debit notes uploaded and invoices/debit notes not uploaded, by the supplier. As per the newly inserted provisions, where details of invoices or debit notes have not been uploaded by the suppliers in GSTR-1, the ITC to be availed by the recipient in respect of such invoices or debit notes cannot exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1.



- This can be further understood as under:

Case	Amount Of ITC To Be Claimed By Recipient
Where Invoice/Debit Note Has Been Uploaded By The Supplier In His GSTR-1	Full ITC, if all other conditions of availing ITC are fulfilled.
Where Invoice/Debit Note Has Not Been Uploaded By Supplier In His GSTR-1	20% of the eligible ITC available in respect of the uploaded invoices/debit notes. However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded.

**Illustration**

Mr Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/services) involving GST of Rs 10 lakhs, from various suppliers during the month of October 2019. Compute the ITC that can be claimed by Mr Vijay in his GSTR-3B for the month of October 2019 to be filed by 20<sup>th</sup> November 2019 in the following independent cases assuming that GST of Rs 10 lakhs is otherwise eligible for ITC:

- Case I:** Out of 100 invoices, 80 invoices involving GST of Rs 6 lakhs have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.
- Case II:** Out of 100 invoices, 75 invoices involving GST of Rs 8.5 lakhs have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

**Answer**

- Case I:** ITC to be claimed by Mr Vijay in his GSTR-3B for the month of October 2019 to be filed by 20<sup>th</sup> November 2019 will be computed as under:

Invoices	Amount Of ITC Involved In The Invoices (Rs)	Amount Of ITC That Can Be Availed (Rs)
In Respect Of 80 Invoices Uploaded In GSTR-1	6 lakhs	6 lakhs {In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed}
In Respect Of 20 Invoices Not Uploaded In GSTR-1	4 lakhs	1.2 lakhs {ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. Thus, in respect of 20 invoices not uploaded in GSTR-1s, the ITC has been restricted to Rs 1.2 lakhs (20% of Rs 6 lakhs)}
<b>Total</b>	<b>10 lakhs</b>	<b>7.2 lakhs</b>

- Case II:** ITC to be claimed by Mr Vijay in his GSTR-3B for the month of October 2019 to be filed by 20<sup>th</sup> November 2019 will be computed as under:

Invoices	Amount Of ITC Involved In The Invoices (Rs)	Amount Of ITC That Can Be Availed (Rs)
In Respect Of 75 Invoices Uploaded In GSTR-1	8.5 lakhs	8.5 lakhs {In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed}
In Respect Of 25 Invoices Not Uploaded In GSTR-1	1.5 lakhs	1.5 lakhs {ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. However, since in this case, the actual ITC (Rs 1.5 lakhs) in respect of 25 invoices not uploaded in GSTR-1 does not exceed 20% of the eligible ITC in respect of invoices uploaded in GSTR-1s (Rs 1.7 lakhs, ie 20% of Rs 8.5 lakhs), actual amount of ITC can be availed}
<b>Total</b>	<b>10 lakhs</b>	<b>10 lakhs</b>

## CHAPTER 8 - EXEMPTIONS UNDER GST

### 1) LEGAL SERVICES (+) GOVERNMENT SECTOR:

- In case of legal services or government services provided to business entities, certain exemptions were available provided the said business entity is not eligible for registration in the preceding financial year. Accordingly, the threshold limit provided under these entries was aligned with the threshold limit for registration provided earlier {ie, Rs 20 lakhs (Rs 10 lakhs in case of Special Category States)}.
- Consequent to amendment in the threshold limit for registration prescribed for different States/ Union Territories (including Special Category States), said entries have also been amended suitably so as to provide exemption to a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act.

### 2) SPORTS SECTOR (+) AMUSEMENT / ENTERTAINMENT SECTOR:

Since FIFA U-17 Women's World Cup 2020 is to be hosted in India, two new exemptions have been introduced in the same context:

- Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020.
- Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India. Exemption is available subject to the condition that the Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.

### 3) FOOD/AGRICULTURAL SECTOR:

A new entry has been introduced to exempt services by way of storage/warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc, indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.

### 4) GOODS TRANSPORTATION SECTOR:

Exemption was introduced in respect of transportation of goods by an aircraft or a vessel from customs station of clearance in India to a place outside India. This exemption was introduced on a temporary basis and the benefit of this exemption was available only till 30<sup>th</sup> September 2019. The exemption which was earlier available upto 30<sup>th</sup> September 2019 has now been extended upto 30<sup>th</sup> September 2020.

### 5) EDUCATION SECTOR:

Clarification On Applicability Of GST Exemption To The Director General Shipping Approved Maritime Courses Conducted By Maritime Training Institutes Of India:

- Services provided by educational institutions to its students, faculty and staff are exempt only when such institution falls under the definition of 'educational institution' provided under the exemption notification. 'Educational institution' has been defined to mean, inter alia, an institution providing services by way of education as a part of a curriculum for obtaining a qualification/degree recognized by law.
- In this regard, it has been clarified that Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (Standards of Training, Certification and Watch-Keeping for Seafarers) Rules, 2014.
- Therefore, Maritime Training Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST subject to fulfilment of other prescribed conditions.



**6) RENTING SECTOR:**

- With a view to encourage the extensive usage of environment friendly electric vehicles, exemption has been introduced where an electronically operated vehicle meant to carry more than 12 passengers is taken on rent by a local authority.
- Further, slight amendment has been made in one of the exemptions which has been discussed below:

Old Law	New Law
Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation <b>below Rs 1,000 per day or equivalent.</b>	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation <b>below or equal to Rs 1,000 per day or equivalent.</b>

**IMPACT OF THE ABOVE AMENDMENT:** Earlier, accommodation services were exempt only where value of supply per unit per day was less than Rs 1,000 (ie, such services were taxable where value of supply per unit per day was Rs 1,000 or more). However, now, exemption has also been extended in cases where value of supply per unit per day is Rs 1,000, ie such services are taxable only where value of supply per unit per day exceeds Rs 1,000.

**7) INSURANCE SECTOR:**

A new entry has been introduced to exempt services of life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.

**8) CLARIFICATION ON ISSUES RELATED TO MONTHLY SUBSCRIPTION/ CONTRIBUTION CHARGED BY A RWA FROM ITS MEMBERS:****RELEVANT EXEMPTION:**

Services by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution up to an amount of Rs 7,500 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.

**CLARIFICATIONS ISSUED:**

- a) Are the maintenance charges paid by residents to the Resident Welfare Association (RWA) in a housing society exempt from GST and if yes, is there an upper limit on the amount of such charges for the exemption to be available?

**Clarification Issued:** Supply of service by RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of Rs 7,500 per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.

- b) Is the RWA entitled to take ITC of GST paid on input and services used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than Rs 7,500 per month per member?

**Clarification Issued:** RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc), goods (taps, pipes, other sanitary/hardware fillings etc) and input services such as repair and maintenance services.

- c) A RWA has aggregate turnover of Rs 20 lakhs or less in a FY. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than Rs 7,500 per month per member?

**Clarification Issued:** If aggregate turnover of RWA does not exceed Rs 20 lakhs in a FY, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds Rs 7,500

per month per member. RWA shall be required to pay GST on monthly subscription/contribution charged from its members, only if such subscription is more than Rs 7,500 per month per member and the annual aggregate turnover of RWA by way of supplying of services and goods is also Rs 20 lakhs or more.

Annual Turnover of RWA	Monthly Maintenance Charges	Whether Exempt?
More than Rs 20 lakhs	More than Rs 7,500	No
	Rs 7,500 or less	Yes
Rs 20 lakhs or less	More than Rs 7,500	Yes
	Rs 7,500 or less	Yes

d) Where a person owns 2 or more flats in the housing society/residential complex, whether the ceiling of Rs 7,500 per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person?

**Clarification Issued:** As per general business sense, a person who owns 2 or more residential apartments in a housing society/residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of Rs 7,500 per month per member shall be applied separately for each residential apartment owned by him.

**Example:** If a person owns 2 residential apartments in a residential complex and pays Rs 15,000 per month as maintenance charges towards maintenance of each apartment to the RWA (Rs 7,500 per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.

## 9) CLARIFICATION REGARDING APPLICABILITY OF GST ON DELAYED PAYMENT CHARGES IN CASE OF LATE PAYMENT OF EMI:

### ISSUE:

Whether GST is applicable on additional/penal interest on the overdue loan? Whether such penal interest would be exempt under Exemption Notification or it would be taxable treating it as consideration for liquidated damages?

### CLARIFICATIONS ISSUED:

- As per the provisions of Section 15(2)(d) of the CGST Act, the value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply. Exemption notification, inter alia, exempts the services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services). Here, interest means interest payable in any manner in respect of any moneys borrowed/debt incurred (including a deposit, claim or other similar right or obligation), but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised.
- There are two transaction options involving EMI that are prevalent in the trade. In view of the provisions of law discussed in the preceding para, these two options, alongwith the GST applicability on them, have been explained with the help of illustrations as under:
- Illustration 1:** X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000. However, X gives Y an option to pay in installments, Rs 11,000 every month before 10<sup>th</sup> day of the following month, over next four months (Rs 11,000 × 4 = Rs 44,000). As per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/penal interest amounting to Rs 500 per month for the delay.

In some instances, X is charging Y Rs 40,000 for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/penal interest amounting to Rs 500 per month for each delay in payment. In this case, the amount of penal interest is to be included in the value of supply {in terms of Section 15(2)(d)}. The transaction between X and Y is for supply of taxable goods, ie mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.



- **Illustration 2:** X sells a mobile phone to Y. The cost of mobile phone is Rs 40,000. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s ABC Ltd. The terms of the loan from M/s ABC Ltd allows Y a period of four months to repay the loan and an additional/penal interest @ 1.25% per month for any delay in payment.

Here, the additional/penal interest is charged for a transaction between Y and M/s ABC Ltd, and the same is getting covered under the provisions of the Exemption Notification. Consequently, in this case, the 'penal interest' charged thereon on a transaction between Y and M/s ABC Ltd would not be subject to GST as the same would be covered under the provisions of the Exemption Notification. However, any service fee/charge or any other charges, if any, are levied by M/s ABC Ltd in respect of the transaction related to extending deposits, loans or advances shall not be exempt.

Moreover, the value of supply of mobile by X to Y would be Rs 40,000 for the purpose of levy of GST.

## CHAPTER 9 – REGISTRATION

### I. BANK ACCOUNT DETAILS MAY BE FURNISHED AFTER OBTAINING REGISTRATION CERTIFICATE:

- While applying for registration on GST portal, a person is required to furnish the details of his bank account. This requirement has now been relaxed to a limited extent.
- A registered person has an option to give his bank account details after obtaining registration, within 45 days from the date of grant of registration or the due date of furnishing return, whichever is earlier. Where a registered person fails to provide such information within the stipulated time period, his GST registration is liable to be cancelled.

### II. CLARIFICATION ON MEANING OF "NOT MAKING TAXABLE SUPPLY DURING SUSPENSION OF REGISTRATION":

- Once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, his registration shall remain suspended during the pendency of the proceedings relating to cancellation of registration filed. **Such person shall not make any taxable supply during the period of suspension and shall not be required to file any return.**
- **An explanation has been inserted clarifying that the expression "shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.**
- Further, it has also been provided that where any order having the effect of revocation of suspension of registration has been passed, the registered person shall be required to issue 'revised tax invoice' and file 'first return' for supplies during the suspension period.



## CHAPTER 10 - DOCUMENTATION UNDER GST

### I. SPECIAL PROVISIONS PERTAINING TO TAX INVOICE FOR SERVICES BY WAY OF ADMISSION TO EXHIBITION OF CINEMATOGRAPH FILMS IN MULTIPLEX SCREENS:

- A registered person has an option to issue consolidated tax invoice for supplies at the close of each day where the value of goods or services supplied is less than Rs 200, recipient is unregistered and does not require tax invoice. However, as per a recent amendment, the above option shall not be allowed to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens.
- A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket. The said electronic ticket shall be deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains other prescribed information. Moreover, a supplier of such services in a screen other than multiplex screens has also been given an option to follow the above procedure.

## CHAPTER 11 - PAYMENT OF TAX

No Amendment

## CHAPTER 12 - RETURNS

I. Form GSTR-3B To Be Treated As A Return Furnished Under Section 39 of CGST Act.

II. Filing Of Annual Return for FY 2017-18 and FY 2018-19 Has Been Made Optional For Small Taxpayers Whose Aggregate Turnover Is Less Than Rs 2 Crores And Who Have Not Filed The Said Return Before The Due Date.