

GOODS & SERVICES TAX (GST)



OTHER INDIRECT TAXES (including legacy issues)



Inside this edition

- Major amendments in section 10, 16, 17 etc.
- Manner and Utilization of ITC subject to certain conditions.
- Clarification regarding the applicability of GST on various programmes conducted by the Indian Institutes of Managements (IIMs).
- Clarification on GST rate applicable on supply of food and beverage services by educational institution.
- Extension of due date for furnishing of GSTR- 7 and Tran-1.

GOODS & SERVICES TAX (GST)

NOTIFICATIONS

- Notification No. 03/2019-Central Tax dated 29.01.2019 substitutes rule 11 as under:



Rule 11. Separate registration for multiple places of business within a State or a Union territory:

1. Any person having multiple places of business within a State or a Union territory, requiring a separate registration for any such place of business under sub-section (2) of section 25 shall be granted separate registration in respect of each such place of business subject to the following conditions, namely:-
 - (a) Such person has more than one place of business as defined in clause (85) of section 2;
 - (b) Such person shall not pay tax under section 10 for any of his places of business if he is paying tax under section 9 for any other place of business;
 - (c) all separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

Explanation: - For the purposes of clause (b), it is hereby clarified that where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other registered places of business of the said person shall become ineligible to pay tax under the said section.

2. A registered person opting to obtain separate registration for a place of business shall submit a separate application in FORM **GST REG-01** in respect of such place of business.
3. The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.

- Inserts the new rule 41A after the existing rule 41, namely:

Rule 41A. Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory:

1. A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilized input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of thirty days from obtaining such separate registrations, the details in **FORM GST ITC-02A** electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:

Provided that the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.

Explanation:- For the purposes of this sub-rule, it is hereby clarified that the 'value of assets' means the value of the entire assets of the business whether or not input tax credit has been availed thereon.

2. The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilized input tax credit specified in FORM GST ITC-02A shall be credited to his electronic credit ledger.

- **Amends the existing rule 53 “Revised tax invoice and credit or debit notes” and inserts sub rule (1A) after sub rule (1), namely:**

(1A) A credit or debit note referred to in section 34 shall contain the following particulars, namely:

(a) name, address and Goods and Services Tax Identification Number of the supplier;

(b) nature of the document;

(c) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolized as “-” and “/” respectively, and any combination thereof, unique for a financial year;

(d) date of issue of the document;

(e) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

(f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;

(g) serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;

(h) value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and

(i) signature or digital signature of the supplier or his authorized representative.

- **Notification No. 01/2019-Central Tax (Rate) dated 29.01.2019: Seeks to rescind notification No. 8/2017-Central Tax (Rate) dated 28.06.2017 in view of bringing into effect the amendments (regarding RCM on supplies by unregistered persons) in the GST Act:**

The Central Government, on the recommendations of the Council, rescinds the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 8/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India.

Notification states that the provision of RCM under Sec 9(4): purchase of goods from unregistered supplier shall now stand to be applicable blanket all intra-state supplies (irrespective of the daily limit per supplier of ₹5,000 that was earlier notified).

Further, the Sec 9(4) has been amended to refer only to specified goods and services as notified by the Government and not all supplies. But the list is yet to be notified, after which this provision Sec 9(4) shall apply to all such supplies notified.

- **Notification No. 07/2019-Central Tax dated 31.01.2019:**



Seeks to extend the due date for furnishing of FORM GSTR – 7(GST TDS Return) for the months of October, 2018 to December, 2018 till 28.02.2019.

- **Notification No. 01/2019 - Central Tax dated 15.01.2019:**

Provided that goods so supplied, when exports have already been made after availing input tax credit on inputs used in manufacture of such exports, shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant is submitted to the jurisdictional commissioner of GST or any other officer authorized by him within 6 months of such supply. Provided further that no such certificate shall be required if input tax credit has not been availed on inputs used in manufacture of export goods.

- **Notification No. 02/2019 – Central Tax dated 29.01.2019 hereby appoints the 1st day of February, 2019, as the date on which the provisions of the Central Goods and Services Tax (Amendment) Act, 2018 (31 of 2018) shall come into force:**

Major amendments are as follows:

1. Section 10 “Composition levy”

Amended so as to raise the statutory threshold of turnover for a taxpayer to be eligible for the composition scheme from ₹1crore to ₹1.5 crores, and to allow the composition taxpayers to supply services (other than restaurant services), for up to a value not exceeding ten percent of turnover in the preceding financial year, or five lakh rupees, whichever is higher.

2. Section 16 “Eligibility and conditions for taking input tax credit”

For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services:

- (i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;
- (ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.”

3. Section 17 “Apportionment of credit and blocked credits”

Section 17(5) amended as follows:

Clause (a) and (b) replaced with (a), (aa), (ab) and (b)

Replaced clauses:



(a) Motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the

following taxable supplies, namely:—

- (A) Further supply of such motor vehicles; or
- (B) Transportation of passengers; or
- (C) Imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used:

(i) For making the following taxable supplies, namely:—

- (A) Further supply of such vessels or aircraft; or
- (B) Transportation of passengers; or
- (C) Imparting training on navigating such vessels; or
- (D) Imparting training on flying such aircraft;

(ii) For transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance

in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available—

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged:

- (I) in the manufacture of such motor vehicles, vessels or aircraft; or
- (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

(b) the following supply of goods or services or both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance.

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) Membership of a club, health and fitness center; and

(iii) Travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

4. **Section 22 “Person liable for registration”**

Amended so as to increase the threshold turnover for registration in special category States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand from ₹10 lakhs to ₹20 lakhs.

5. **Section 24 “Compulsory registration in certain cases”**

Amended so as to provide for mandatory registration for only those E-commerce operators who are liable to collect tax at source under Section 52 of the Act. Replaced clause (x) every electronic commerce operator who is required to collect tax at source under section 52. Earlier clause (x) every electronic commerce operator.

6. **Section 35 “Accounts and other records”**

Amended so as to provide that any Department of the Central or State Government or local authority which is subject to audit by the Comptroller and Auditor-General of India need not get their books of account audited by any Chartered Accountant or Cost Accountant.

Newly inserted proviso:

“Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.”.

7. **New Section 43A “Procedure for furnishing return and availing input tax credit” shall be inserted, namely:**

(1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.

(2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.

(3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.

(4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.

(5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.

(6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.

(7) For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees.

(8) The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person-

(i) within six months of taking registration;

(ii) who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount, shall be such as may be prescribed.

8. Section 49 “Payment of tax, interest, penalty and other amounts”

(a) in sub-section (5)–

(i) in clause (c), the following proviso shall be inserted, namely:—

“Provided that the input tax credit on account of State tax shall be utilized towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;”

(ii) in clause (d), the following proviso shall be inserted, namely:—

“Provided that the input tax credit on account of Union territory tax shall be utilized towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;”.

9. New Section 49A “Utilisation of input tax credit subject to certain condition” shall be inserted, namely:

“Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilized towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilized fully towards such payment”.

10. New Section 49B “Order of utilisation of input tax credit” shall be inserted, namely:

Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilization of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.

11. Amendment in Schedule III

“Activities or transactions which shall be treated neither as a supply of goods nor a supply of services”:

After paragraph 6, the following paragraphs shall be inserted, namely:—

7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.



8. (a) Supply of warehoused goods to any person before clearance for home consumption;
(b) Supply of goods by the consignee to any other person, by 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.

Newly inserted explanation 2:

Explanation 2.—For the purposes of paragraph 8, the expression “**warehoused goods**” shall have the same meaning as assigned to it in the Customs Act, 1962.

CIRCULARS

- **Central Government via Circular No. 82/01/2019- GST clarify the applicability of GST on various programmes conducted by the Indian Institutes of Managements (IIMs):**



From 31st January, 2018 onwards

All long duration programs (one year or more) conferring degree/diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one-year Post Graduate Programs for Executives – **Exempt from GST.**

All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law– **Not Exempt from GST**

- **Central Government via Circular No. 84/03/2019- GST clarify the classification of services of printing of pictures:**

It is clarified that service of “printing of pictures” falls under service code “998386: *Photographic and videographic processing services*” and not under “998912: *Printing and reproduction services of recorded media, on a fee or contract basis*”.

The service of printing of pictures attracts GST @ 18%

- **Central Government via Circular No. 85/04/2019- GST Clarify on GST rate applicable on supply of food and beverage services by educational institution:**

Supply of all services by an educational institution to its students, faculty and staff is exempt under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Sl. No. 66. Such services include supply of food and beverages by an educational institution to its students,



faculty and staff. Accordingly, it is clarified that supply of food and beverages by an educational institution to its students, faculty and staff, where such supply is made by the educational institution itself, is exempt under

Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, vide Sl. No. 66 w.e.f. 01-07-2017 itself.

However, such supply of food and beverages by any person other than the educational institutions based on a contractual arrangement with such institution is leviable to GST@ 5%.

ORDERS

- **Order No. 01/2019-GST- Extension of time limit for submitting the declaration in FORM GST TRAN-1:**

Central Government extends the period for submitting the declaration in FORM GST TRAN-1 till 31st March, 2019 for the class of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and whose cases have been recommended by the Council.

CONTACT DETAILS:

Head Office

75/7 Rajpur Road, Dehradun
T +91.135.2743283, 2747084, 2742026
F +91.135.2740186
E info@vkalra.com
W www.vkalra.com

Branch Office

80/28 Malviya Nagar, New Delhi
E info@vkalra.com
W www.vkalra.com

For any further assistance contact our team at
kmt@vkalra.com

© 2019 Verendra Kalra & Co. All rights reserved.

This publication contains information in summary form and is therefore intended for general guidance only. It is not a substitute for detailed research or the exercise of professional judgment. Neither VKC nor any member can accept any responsibility for loss occasioned to any person acting or refraining from actions as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.

