

## Update on amendments made in GST Law on 13<sup>th</sup> October 2017 in view of various recommendations made by GST Council

### No Reverse Charge with respect to purchase from unregistered persons till 31<sup>st</sup> March 2018:

- Every registered assessee procuring taxable goods or services from any unregistered person was liable to pay GST under Reverse Charge Mechanism (RCM)<sup>1</sup>. However, RCM was applicable only when the aggregate value of taxable supplies exceeds Rs. 5,000/- in a day<sup>2</sup>.
- These provisions of RCM were not available in the first two drafts of GST Law provided by Government and were introduced in final Law only in April, 2017. Even post introduction of GST in India, in view of compliance hurdles, numerous representations were made by trade and industry to remove RCM on procurement from unregistered persons.
- Therefore, now<sup>3</sup> with effect from 13<sup>th</sup> October, 2017, no RCM is applicable on procurement from unregistered persons till 31<sup>st</sup> March 2018.
- Further, hitherto, all assessees making inter-state supply were required to take mandatory registration and therefore, no such scenario arose of inter-state supply by any unregistered person. Consequently, no RCM under IGST Law arose till date. However, now, a service provider making inter-state supply but below prescribed threshold limit is exempted from registration. Therefore, an exemption is issued even under IGST Law to exempt inter-state supply by any unregistered persons<sup>4</sup> to a registered person till 31<sup>st</sup> March, 2018. In other words, no RCM arises for

<sup>1</sup> Section 9 (4) of CGST Act and 5 (4) of IGST Act

<sup>2</sup> Notification No. 8/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017

<sup>3</sup> Notification No. 38/2017 - Central Tax (Rate) dated 13<sup>th</sup> October, 2017

<sup>4</sup> Notification No. 32/2017 - Integrated Tax (Rate) dated 13<sup>th</sup> October, 2017

procurement from unregistered persons in case of inter-state supply of goods or services till 31<sup>st</sup> March, 2018.

**GSC Comments:**

- 🕒 ***The press release was unclear whether exemption from RCM in case of procurement from unregistered persons till 31<sup>st</sup> March, 2018 is applicable to all registered taxpayers or only to MSMEs. Now, it is clear that such exemption is applicable to all registered taxpayers.***
- 🕒 ***Further, there is a question mark on applicability of this notification i.e. whether no RCM is applicable for procurement from unregistered persons from 1<sup>st</sup> July, 2017 or from 13<sup>th</sup> October, 2017. Having regard to the language used in Notification, in our view, the Notification shall be applicable from 13<sup>th</sup> October, 2017.***
- 🕒 **Addition in the list of Handicraft Goods where a person is exempted from obtaining registration:**
  - Casual taxable person making taxable supplies of notified handicraft goods are exempted from obtaining registration if the aggregate value of such supplies, on pan India basis, does not exceed Rs. 20 Lakhs generally and Rs. 10 Lakhs in case of Special Category States other than Jammu & Kashmir<sup>5</sup> subject to specified conditions.
  - Further, a person making inter-state taxable supplies of “Handicraft Goods”, are also exempted from obtaining registration if the aggregate value of such supplies, on pan India basis, does not exceed Rs. 20 Lakhs generally and Rs. 10 Lakhs in case of Special Category States other than Jammu & Kashmir<sup>6</sup> subject to specified conditions.
  - Now following items are added to widen the scope of Handicraft Goods<sup>7</sup>:

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<sup>5</sup> Notification No. 32/2017-Central Tax dated 15<sup>th</sup> September, 2017

<sup>6</sup> Notification No. 8/2017-Integrated Tax dated 14<sup>th</sup> September, 2017

<sup>7</sup> Notifications No. 38/2017 – Central Tax and 09/2017-Integrated Tax both dated 13<sup>th</sup> October, 2017

Description of Handicraft Goods	HSN Code
Textile (handloom products), Handmade shawls, stoles and scarves (Earlier this entry read as "Textile (handloom products)")	Including 50,58,61,62,63 (Earlier this entry read as "Including 50, 58, 62, 63")
Chain stitch	Any Chapter
Crewel, namda, gabba	Any Chapter
Wicker willow products	Any Chapter
Toran	Any Chapter
Articles made of shola	Any Chapter

🕒 **Extension of time limit to file GST Returns by specific category of persons for the period July, 2017 to September, 2017:**

Sr. No.	Category of persons	Return/ Statement	Period (Month)	Due date <sup>8</sup>	Extended Due Date
1.	Composite Dealer	<b>GSTR-4</b>	July to September, 2017	18 <sup>th</sup> October, 2017	<b>15<sup>th</sup> November, 2017<sup>9</sup></b>
2.	Input Service Distributor	<b>GSTR-6</b>	July, 2017	13 <sup>th</sup> October, 2017	<b>15<sup>th</sup> November, 2017<sup>10</sup></b>
			August, 2017	23 <sup>rd</sup> September, 2017 <sup>11</sup>	
			September, 2017	13 <sup>th</sup> October, 2017	
3.	OIDAR provided	<b>GSTR-5A</b>	July, 2017	15 <sup>th</sup> September,	<b>20<sup>th</sup> November,</b>

<sup>8</sup> Original Due date or extended due date from time to time

<sup>9</sup> Notification No. 41/2017-Central Tax dated 13<sup>th</sup> October, 2017

<sup>10</sup> Notification No. 43/2017-Central Tax dated 13<sup>th</sup> October, 2017

<sup>11</sup> Notification for extension of due date was awaited in view of Notification No. 31/2017-Central tax dated 11<sup>th</sup> September, 2017

from outside India to a non-taxable online recipient		2017	<b>2017<sup>12</sup></b>
	August, 2017	20 <sup>th</sup> September, 2017	
	September, 2017	20 <sup>th</sup> October, 2017	
<b>Note:</b> Extension relating to GSTR-5A shall be deemed to have come in force on 15 <sup>th</sup> September, 2017			

🕒 **Amendment made to CGST Rules, 2017<sup>13</sup>:**

○ **Composition Scheme:**

- For the current year, any taxpayer (whether already registered or newly registered) can avail the benefit of composition scheme till 31<sup>st</sup> March, 2018.
- To avail composition scheme, intimation in Form GST CMP – 02 has to be filed and the scheme would become applicable from the 1<sup>st</sup> day of the immediately next month in which the intimation is filed. For example, if the intimation in GST CMP-02 is filed on 16<sup>th</sup> October, 2017, benefit of composition scheme shall be available from 1<sup>st</sup> November, 2017 till 31<sup>st</sup> March, 2018.
- After availing the option of Composition Scheme, such person is required to file Form GST ITC-03 within 90 days from the date the assessee commences to pay tax under composition scheme to furnish the details of stock and amount of input tax reversal. However, in such cases, GST TRAN-1 cannot be filed after filing GST ITC-03.

○ **Single invoice-cum-bill of supply for supplies made to unregistered persons:**

- Registered person making taxable supply of goods and/or services or both to any person is required to issue a tax invoice<sup>14</sup>. Further, any registered person

<sup>12</sup> Notification No. 42/2017-Central Tax dated 13<sup>th</sup> October, 2017

<sup>13</sup> Notification No. 45/2017-Central Tax dated 13<sup>th</sup> October, 2017

supplying exempted goods and/or services or both to any person or paying tax under composition scheme is required to issue “Bill of Supply” instead of tax invoice<sup>15</sup>.

- Now, if a registered person is making taxable as well as exempted supply of goods or services or both to an unregistered person, may issue a single invoice-cum-bill of supply<sup>16</sup>.
- Earlier, Insurer or a banking company or a financial institution, including a non-banking financial company while making taxable supply were required to issue “Tax Invoice” for each transaction. Now, they can issue a ‘*consolidated tax invoice*’ at the end of the month for the services supplied during that month<sup>17</sup>.
- Composition Dealer is required to furnish GSTR-4 on quarterly basis, the due date of furnishing such return is 18<sup>th</sup> of the month after the end of the quarter. Example for ease of understanding – for the quarter October – December 2017, due date shall be 18<sup>th</sup> January 2018.
- Amendment<sup>18</sup> is made by inserting a condition in regard, to person who is opting for composition scheme, from the *first day of a month which is not the first month of a quarter* (i.e. in the middle of the quarter), are required to file following two returns:

Sr. No.	Return	Period
1.	GSTR-4	For that middle period/quarter from when he opted for Composition Scheme
2.	Normal Return, as applicable to	For the period prior to opting for composition scheme

<sup>14</sup> Rule 46 of CGST Rules, 2017

<sup>15</sup> Rule 49 of CGST Rules, 2017

<sup>16</sup> Insertion of Rule 46A of CGST Rules, 2017

<sup>17</sup> Substitution in sub-rule 2 of Rule 54 of the CGST Rules, 2017

<sup>18</sup> Insertion of proviso in sub-rule 1 of Rule 62 of the CGST Rules, 2017

	him earlier	
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**GSC Comment:**

☺ *If a person is engaged in providing exempted services, the benefit of composition scheme was not available. It was proposed in the 22<sup>nd</sup> meeting of the GST Council held on 6<sup>th</sup> October, 2017 that even if a supplier is engaged in supply of exempt services, such person will be eligible for composition scheme. For example, if the person is receiving interest for exempt supply of extending deposits, the person shall still be eligible for composition scheme. It is interesting to note that the relaxation proposed is only for exempt services and not for goods. **But, no such proposal has been notified yet in the recent GST Notifications issued on 13<sup>th</sup> October, 2017.***

☺ **Increase in threshold limit for Composition Scheme<sup>19</sup>:**

States	Existing limit	Revised limit
All States (Other than Special Category States) including Jammu & Kashmir and Uttarakhand	Rs. 75 Lakhs	Rs. 1 Crore
Special Category States (Excluding Jammu & Kashmir and Uttarakhand)	Rs. 50 Lakhs	Rs. 75 Lakhs

☺ **Exemption from Registration to a person engaged in Inter-State Supply of Taxable Services:**

Any person engaged in inter-state supply, except a job worker, is required to obtain compulsory registration<sup>20</sup> under GST Law irrespective of turnover. Since this was one of

<sup>19</sup> Notification No. 46/2017-Central Tax dated 13<sup>th</sup> October, 2017

<sup>20</sup> Section 24 of CGST Act

the hurdles to spread business nationwide for small service assesseees, Central Government has now<sup>21</sup> extended the threshold exemption even to small service providers. Therefore, small service providers will enjoy following exemption even if they are engaged in inter-state supply of services:

Particulars	Annual Aggregate Turnover Limit
All States including Jammu & Kashmir (Other than Special Category States)	Rs. 20 Lakhs
Special Category States ( <b>Excluding Jammu &amp; Kashmir</b> )	Rs. 10 Lakhs

**GSC Comments:**

- ☺ ***It may be pertinent to note that the threshold exemption for registration in cases of inter-state supplies is applicable only in respect of service sector. In case, a person is engaged in making inter-state taxable supply of goods, GST registration has to be taken irrespective of the turnover<sup>1</sup>.***
- ☺ ***If an assessee who had already obtained GST registration due to inter-state taxable supply of services, the assessee may opt to surrender the registration.***

<sup>21</sup> Vide Notification No. 10/2017 - Integrated Tax dated 13<sup>th</sup> October 2017

☺ **Benefit to Small and Medium Enterprises:**

- Under GST Law, every registered assessee supplying taxable goods is liable to discharge GST liability on either of the following dates whichever occurs earlier:
  - Date of Receipt of payment or
  - Date of invoice or
  - Last date of raising invoice i.e. generally, on or before removal of goods.
- Now, it is notified<sup>22</sup> to set aside the provision of discharging GST liability, at the time of receipt of advance<sup>23</sup>, in both the cases i.e. in general case as well as in case of change in rate of tax, for following SME assesses on fulfillment of ensuing conditions:

Registered Assessee	Annual Aggregate Turnover Limit
A. In preceding Financial Year	Less than or equal to 1.50 Crore Rupees
Or	
B. In the year of Registration (The assessee has not opted to pay tax under Composition Scheme)	Is likely to be less than or equal to 1.50 Crore Rupees

***GSC Comments:***

- ☺ ***GST Council in its meeting held on 6<sup>th</sup> October, 2017, has recommended the following for which notifications are not yet issued:***
  - ***To reduce compliance burden on MSMEs by allowing them to file quarterly returns with facility of quarterly payment of taxes. However, no notification is issued in this regard***
  - ***To provide a facility to MSMEs to file quarterly returns from the period October – December 2017.***

<sup>22</sup> Vide Notification No. 40/2017 - Central Tax dated 13<sup>th</sup> October, 2017

<sup>23</sup> Section 12 (2) and Section 14 of CGST Act

🕒 **Extension of Time Limit to file Form GST ITC 01:**

- In following situations, the assessee is entitled to avail ITC as provided under respective provisions of GST Law<sup>24</sup>:
  - Registration within prescribed time limit
  - Voluntary registration
  - Ceasing to pay tax under composition scheme
  - Exempt supply becomes taxable supply
- One Declaration in GST ITC-01 was required to be filed by such assesseees with 30 days from the date of becoming eligible for such ITC<sup>25</sup>. Now<sup>26</sup>, the registered persons who have become eligible for ITC during the months of July, August and September 2017, the due date to file declaration in GST ITC-01 is extended till 31<sup>st</sup> October, 2017.

***GSC Comments:***

- 🕒 ***GST Council in its meeting held on 6<sup>th</sup> October, 2017, has recommended the following for which notifications are yet to be issued:***
  - ***Deferment of certain provisions such as implementation of TDS and TCS provisions, E – Way Bills, etc.***

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<sup>24</sup> Section 18 (1) of CGST Act

<sup>25</sup> Rule 40 of Central Goods and Services Tax Rules, 2017

<sup>26</sup> Notification No. 44/2017 - Central Tax dated 13<sup>th</sup> October, 2017

**Abbreviations used:**

<b>GST</b>	: Goods and Services tax
<b>CGST</b>	: Central Goods and Services tax Act, 2017
<b>IGST</b>	: Integrated Goods and Services tax Act, 2017
<b>ITC</b>	: Input Tax Credit
<b>OIDAR</b>	: Online information and database access and retrieval services
<b>CBEC</b>	: Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, Government of India
<b>HSN</b>	: Harmonized System of Nomenclature
<b>MSME</b>	: Micro, Small and Medium Enterprises
<b>ITC</b>	: Input Tax Credit

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Todi Chamber, 2, Lal Bazar Street,  
Kolkata - 700 001.

**South Region**

64, Thirumalai Pillai Road,  
T. Nagar, Chennai – 600 017.



[www.gscintime.com](http://www.gscintime.com)



+91 22 2683 6519  
+91 98210 12151



[jayeshgogri@gscintime.com](mailto:jayeshgogri@gscintime.com)  
[info@gscintime.com](mailto:info@gscintime.com)