

AMENDMENTS IN GST - APPLICABLE TO MAY 2020 ATTEMPT

(SAME MATERIAL WILL APPLY FOR THE STUDENTS OF IPCC & CA INTER)



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1. SUPPLY UNDER GST

1. Service by way of grant of alcoholic liquor license is neither a supply of goods nor a supply of service.

In terms of section 7(2) of the CGST Act, the Government has notified that **Service by way of grant of alcoholic liquor license**, against consideration in the form of license fee or application fee or by whatever name it is called 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.

Analysis:

It 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 in respect of other licenses and privileges for a fee where GST is payable.

EX: Services provided by the Government to business entities (including Privileges, licenses, mining rights, natural resources such as spectrum etc Other than above alcoholic liquor license are taxable under GST under Reverse Charge Mechanism.

2. No 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.

EX:

- i) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.
- ii) "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.

Note: In above 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 (i.e., it leads to no commercial gain) and not advertisement, GST is not leviable.

2. CHARGE OF GST

- With effect from 01.10.2019, Manufacturer of aerated water & supplier of aerated water cannot opt to pay tax under composition levy. A supplier of aerated water will also not be eligible to pay concessional tax along with ice cream, pan masala, Tobacco & Tobacco substitutes.
- Before Amendment:** 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.

After Amendment: Now, The Author has an option to pay GST liability either under RCM or Forward Charge. However, an author can choose to pay tax under forward charge if-

- He has taken registration under the CGST Act and filed a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option.
- He makes a declaration on the invoice issued by him in prescribed form to the publisher.

Note: It is an optional scheme only available to the author to pay GST under FCM (or) RCM.

3. New services under Reverse Charge Mechanism

SL. NO.	CATEGORY OF SUPPLY OF SERVICES	SUPPLIER OF SERVICE	RECIPIENT OF SERVICE
5B	Services supplied by any person by way of Transfer of Development Rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any Person	Promoter
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter (Note)	Any Person	Promoter
15	Services provided by way of renting of a motor vehicle provided to a body corporate	Any person other than a body corporate, who is paying CGST @ 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business.	Any-body corporate located in the taxable territory
16	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India, as amended	Lender i.e., a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI

Note:

- Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer are exempt subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.
- Exemption of TDR, FSI, long term lease (premium) is withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. In such cases, the liability to pay tax on TDR, FSI, long term lease (premium) has been shifted from land owner to builder under the reverse charge mechanism (RCM) - as illustrated in table above.

3. EXEMPTIONS

1. Exemptions:

A. Entry 7:

Before Amendment: Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to **Rs. 20 lakh [Rs. 10 Lakh in case of a Special Category States (SCS)]** in the preceding FY.

After Amendment: Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to **such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.**

B. Entry 45:

Before Amendment: Services provided by-

- a) An arbitral tribunal to a business entity with an aggregate turnover up to **Rs. 20 lakh (Rs. 10 lakh in the case of SCS) in the preceding FY**
- b) A partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to a business entity with an aggregate turnover up to **Rs. 20 Lakh (Rs. 10 Lakh in the case of SCS) in the preceding FY.**
- c) A senior advocate by way of legal services to a business entity with an aggregate turnover up to **Rs. 20 lakh (Rs. 10 lakh in the case of SCS) in the preceding FY**

After Amendment: Services provided by-

- a) An arbitral tribunal to a business entity with an aggregate turnover up to **such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.**
- b) A partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to a business entity with an aggregate turnover up to **such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.**
- c) A senior advocate by way of legal services to a business entity with an aggregate turnover up to **such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.**

C. New Entry 9AA: Services provided by and to **Federation International 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.

Condition to be fulfilled: Director (Sports), Ministry of Youth Affairs and Sports have to certify that the services are directly or indirectly related to any of the events under **FIFA U-17 Women's World Cup 2020.**

D. Entry 14:

Before Amendments: 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 **below Rs. 1,000 per day or equivalent.**

After Amendment: 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 **below or equal to Rs. 1,000 per day or equivalent.**

E. Entry 22:

Before Amendment: Services by way of giving on hire -

- a) To a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers

After Amendment: Services by way of giving on hire -

- a) to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers; or
- b) To a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;

EOV means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one/more electrical batteries fitted to such road vehicle.

F. New Entry 24B:

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.

G. Entry 35:

Before Amendment: It exempt services of general insurance business provided under specified schemes (17 schemes were provided in this entry under clauses (a) to (q))

After Amendment: A new clause '(r)' has been inserted:

- (r) Service of general insurance business provided under **Bangla Shasya Bima scheme** have been exempted.

H. New Entry 82A: Services by way of right to admission to the events organised under **FIFA U-17 Women's World Cup 2020.**

Note: Parallel exemptions from IGST have been extended to supply of specified inter-State services.

2. Clarification regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI).

There are two transaction options involving EMI that are prevalent in the trade. These two options, along with the GST applicability have been explained as under:

Option I: Finance Assistance directly provided by the Supplier to Buyer

Mr. X buys goods from Supplier Mr. Y for Rs.40,000. It will be paid Rs. 11,000 per month in four EMI. Mr. Y issues separate invoice for providing service of extending loans to Mr.X 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 of EMI. Assume Mr.X made a default in payment of EMI for two months.

Solution:

In terms of section 15(2)(d), Interest or late fee or penalty for delayed payment of any consideration for any supply shall be included in value of the supply. So the value of supply shall be 45,000 (Rs.44,000 + 1,000(including Additional/Penal Interest Rs. 500 per month) irrespective of the manner of invoicing.

Option II: Finance Assistance provided by third party to buyer

Mr. X takes a loan Rs.40,000 from ABC Ltd and buys goods from Supplier Mr. Y for Rs.40,000.

Such loan will be Rs. 11,000 per month in four EMI and an additional/ penal interest amounting to Rs. 500/- per month for each delay in payment of EMI. Assume Mr.X made a default in payment of EMI for two months.

Solution:

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) are exempt vide Entry 27. Consequently, in this case the 'penal interest' charged thereon on a transaction between X and ABC Ltd. would not be subject to GST as the same would be covered

under said exemption entry. 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 does not qualify to be interest as defined in exemption notification, and accordingly will not be exempt. Therefore, the value of supply is NIL

3. Clarification on issues related to GST on monthly subscription/ contribution charged by a Residential Welfare Association from its members.

a) Issue: 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: 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) Issue: A RWA has aggregate turnover of Rs. 20 lakh 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. 7500/- per month per member?

Clarification: No, If aggregate turnover of an RWA does not exceed Rs.20 Lakh 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 lakh or more.

Annual turnover of RWA	Monthly maintenance charge	Whether exempt?
i) More than Rs. 20 lakhs	More than Rs.7,500/-	No
	Rs. 7,500/- or less	Yes
ii) Rs. 20 lakhs or less	More than Rs. 7,500/-	Yes
	Rs. 7,500/- or less	Yes

c) Issue: 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: 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

d) Issue: 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: 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.

4. INPUT TAX CREDIT

1. Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR -1.

With effect from 09.10.2019, As per sub-rule (4) of rule 36, ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in GSTR-1, 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.

Case	Amount of ITC to be claimed by recipient
a) 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
b) Where invoice/debit note has not been uploaded by supplier in his GTSR-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 1:

Mr. Rakesh, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakh, 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 20th November 2019 in the following independent cases assuming that GST of Rs. 10 lakh is otherwise eligible for ITC:

Cases	Amount of ITC involved in the invoices (Rs.)	Amount of ITC that can be availed (Rs.)
1. Out of 100 invoices, 80 invoices involving GST of Rs. 6 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor	6 lakh	6 lakh (Ref. Note 1)
	4 lakh	1.2 lakh (Ref. Note 2)
2. Out of 100 invoices, 75 invoices involving GST of Rs. 8.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor	8.5 lakh	8.5 lakh (Ref. Note1)
	1.5 lakh	1.5 lakh (Ref. Note 3)

Notes:

1. In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.
2. The 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 lakh [20% of Rs. 6 lakh].
3. The 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 lakh] 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 lakh (20% of Rs. 8.5 lakh)], actual amount of ITC can be availed.

5. REGISTRATION

1. Bank Account details may be furnished after obtaining registration certificate [New rule 10A inserted and rule 21 of the CGST Rules amended]

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, by inserting a new rule 10A to the CGST Rules. In pursuance to the same, the registered person is allowed to furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision, soon after obtaining certificate of registration and a GSTIN, but not later than 45 days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier.

This relaxation is not available for those who have been granted registration as TDS deductor/ TCS collector under rule 124 or who have obtained suo-motu registration under rule 16.

In other words, 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.

However, if a person violates the provisions of rule 10A, his GST registration is liable to be cancelled [Rule 21]. [Notification No. 31/2019 CT dated 28.06.2019]

2. Meaning of not making taxable supply during suspension of registration clarified and registered person required to issue revised tax invoice and file first return for supplies during suspension period [Rule 21A of the CGST Rules].

- a) An explanation has been inserted to this sub-rule (3) to rule 21A 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.
- b) a new sub-rule (5) has been inserted in said rule to provide that where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) [revised tax invoices] and section 40 [first return] in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

6. TAX INVOICE, CREDIT AND DEBIT NOTES

1. In terms of section 31(3)(b) of the CGST Act read with fourth proviso to rule 46 of the CGST Rules, A registered person has an option to issue consolidated tax invoice for supplies at the close of each day if

- The value of goods or services supplies is less than R s. 200 and
- Recipient is unregistered and
- Recipient does not require tax invoice

However, with effect from 01.09.2019: Fourth proviso to rule 46 has been amended to disallow this option to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens. And a new sub-rule (4A) has been inserted in rule 54. Accordingly, a registered person who is 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 is deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46.

7. ACCOUNTS AND RECORDS & E-WAY BILL

1. Validity of e-way bill in case of multimodal shipment in which at least one leg involves transport by ship [Rule 138(10) of the CGST Rules]

Sl. No.	Distance within country	Validity period from relevant date
1.	Upto 100 km	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
2.	For every 100 km or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
3.	Upto 20 km	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
4.	For every 20 km. or part thereof thereafter	One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship

It further lay down that the validity of the e-way bill can be extended within eight hours from the time of its expiry.

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