

KrayManTM

Demystifying Complexities

GST BULLETIN

September 2018

A. GST AMENDMENT ACTS

The Government recently passed CGST (Amendment) Act 2018, IGST (Amendment) Act 2018, UTGST (Amendment) Act 2018 and GST (Compensation to States) Amendment Act 2018 by publication in Official Gazette which received Presidential assent on August 29, 2018.

We have briefly summarised some of the major amendments in the section below:

Key Amendments under CGST (Amendment) Act 2018

Sl.	Particulars	New Provisions	Old Provisions
1	Scope of "Supply" does not include entries in Schedule II	Reference to Schedule II should be made only to determine an eligible "supply" as 'supply of goods' or 'supply of services'	Transactions specified in Schedule II was considered as "supply" whether or not in the course of furtherance of business
2	Reverse Charge Mechanism ('RCM') on supplies received from unregistered person [Section 9(4) of CGST Act, 2017 & section 5(4) of IGST Act, 2017]	RCM provisions on supplies received from unregistered person shall be applicable only for notified registered taxpayers in respect of specified goods or services only	RCM was applicable on transactions exceeding Rs. 5,000 / day for all taxpayers on inward supply of any goods and services received from unregistered persons (<i>applicable till October 12, 2017 and thereafter deferred till September 30, 2019</i>)
3	Composition Scheme (Section 10)	The threshold turnover limit for a registered taxpayer to opt for composition levy has been increased to Rs. 1.5 crores Further, composition scheme taxpayer has been permitted to supply services (apart from restaurant services) for a value not exceeding 10% of turnover in proceeding financial year or Rs. 5 lakhs, whichever is higher	Registered taxpayer could opt for composition scheme if aggregate turnover in the preceding financial year does not exceed Rs. 1 crore Earlier, registered taxpayers engaged in supply of services (other than restaurant services) were not eligible to opt for composition scheme
4	Scope of blocked Input Tax Credit ('ITC') (Section 17)	Ineligible ITC has been restricted to: <ul style="list-style-type: none"> motor vehicles for transportation of persons having approved seating capacity up to 13 persons (including driver), vessels and aircraft except when they are used for making specified taxable supplies; 	ITC on motor vehicles and other conveyances allowed only if they are used for- <ol style="list-style-type: none"> making following taxable supply <ul style="list-style-type: none"> further supply of such vehicle or

Sl.	Particulars	New Provisions	Old Provisions
		<ul style="list-style-type: none"> General Insurance, servicing, repairs and maintenance in respect of motor vehicles for transportation of persons having approved seating capacity up to 13 persons (including driver), vessels and aircraft except when they are used for making specified taxable supplies 	<ul style="list-style-type: none"> transportation of passengers or imparting training on driving, flying, navigating, such vehicles or conveyance <p>(b) Transportation of goods</p>
5	ITC allowed for food and beverages health services, travel benefits provided to employees under any law (Section 17)	The Government has extended benefit of ITC on food & beverages apart from health services, travel benefits if these goods/services have been provided by the employer to employees under any law for the time being in force	ITC was available in respect of rent a cab, life insurance, health insurance services only if the Government notified that such services are obligatory for an employer to provide to its employees under any law for the time being in force
6	Compulsory registration of E-commerce operator (Section 24)	E-commerce operator who is required to collect tax at source only is required to take compulsory registration	Every e-commerce operator was required to take compulsory GST registration
7	Registration for multiple 'business vertical' vis-à-vis multiple 'place of business' in a State or Union Territory (Section 25)	A person having multiple 'place of business' in a State or Union Territory may be granted separate registration for each such 'place of business'	A person having multiple 'business verticals' in a State or Union Territory may be granted a separate registration for each such 'business vertical'
8	Consolidated Credit or Debit notes (Section 34)	A taxpayer can issue consolidated / multiple credit or debit note in respect of multiple / single invoices issued in a financial year without linking the same with individual invoices	Credit / debit note was required to be issued invoice-wise
9	Changes in cross-utilisation of ITC in line with GST portal (Section 49A and 49B)	ITC of CGST, SGST / UTGST can be utilised for payment of output IGST only if balance of input IGST is not available for payment of output IGST	Earlier, there was no such provision

Sl.	Particulars	New Provisions	Old Provisions
		This amendment has been made to bring the law in sync with the GST portal	
10	Extension of time for release for seized goods	Proceedings initiated in respect of seized goods and conveyance shall be deemed to be concluded if tax and penalty are paid within 14 days of seizure by the person transporting the goods or the owner of the goods	Earlier this period was 7 days
11	Transitional arrangement for ITC on Cess (Section 140)	It has now been clarified that credit of all cesses (including Krishi Kalyan Cess) and additional duty of excise (on textile and textile articles) levied under pre-GST laws shall not form part of transitional credit retrospectively from July 1, 2017	Availability of credit of certain cesses (including Krishi Kalyan Cess) was in dispute
12	Scope of taxability of import of services widened	Import of services would be taxable even if any person other than the taxable person receives the services with or without consideration	Import of services was taxable only if taxable person received the service with or without consideration
13	Activities or transactions neither treated as supply of goods nor supply of services under Schedule III – not to be considered as exempt supply	Value of 'exempt' supply shall not include activities or transactions specified in Schedule III except sale of Land & Building This amendment seeks to expand the scope of eligibility of ITC	Value of exempt supply included activities or transactions specified in Schedule III
14	New entries in Schedule III i.e. new transactions not to be deemed as "supply"	The following transactions or activities shall not be treated as a supply of goods or supply of services: <ul style="list-style-type: none"> 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 Supply of warehoused goods (bond sales) to any person before clearance for home consumption 	-

Sl.	Particulars	New Provisions	Old Provisions
		<ul style="list-style-type: none"> High-sea sales i.e. 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 in India 	

Key Amendments under IGST (Amendment) Act 2018

Sl.	Particulars	New Provisions	Old Provisions
1	Payment for export of services can be received in Indian Rupees if permitted by RBI Section 2(6)	In case of export of services, the registered supplier can receive the payment in convertible foreign exchange or in Indian Rupees, if permitted by the Reserve Bank of India ('RBI')	One of the conditions to qualify as 'export of service' was to receive the inward remittance in convertible foreign exchange
2	Service by way of transportation of goods outside India (Section 12)	Place of supply of service by way of transportation of goods to a place outside India shall be its destination i.e. outside India.	Place of supply of service by way of transportation of goods to a place outside or inside India was: <ul style="list-style-type: none"> Where services provided to registered person - location of such person Where services provided to unregistered person - location at which such goods are handed over for their transportation
3	No GST on goods temporarily imported into India which are re-exported (Section 13)	Place of supply shall be deemed to be outside India where goods are temporarily imported into India for job work and then exported outside India without putting them to use in India	Earlier, this exemption was provided only in case of repairs

B. GST RETURNS & AUDIT

CBIC notifies Reconciliation Statement for the period July, 2017 to March, 2018

CBIC has notified format of Reconciliation Statement for the period July, 2017 to March, 2018 in Form GSTR-9C consisting of the following parts:

Part	Description
Part I	Basic Information
Part II	Reconciliation of the annual turnover declared in the audited Annual Financial Statement with the turnover as declared in the Annual Return in Form GSTR-9
Part III	Reconciliation of tax payable as per declaration in the reconciliation statement and the actual tax paid as declared in Annual Return
Part IV	Reconciliation of ITC
Part V	Auditor's recommendation on the additional liability to be discharged by the taxpayer due to non-reconciliation of turnover or non-reconciliation of ITC

Please [Click here](#) to read copy of Notification No. 49/2018- Central Tax dated September 13, 2018

CBIC releases format of Annual Return for July 2017 to March 2018

Central Board of Indirect Taxes and Customs ('CBIC') notified format of Annual Return for regular taxpayers (FORM GSTR-9) and composite taxpayers (FORM GSTR-9A) for the period July 2017 to March 2018.

Please [Click here](#) to read CBIC Notification No. 39/2018- Central Tax dated September 4, 2018

Extension in time limit for filling GSTR-1 and GSTR-3B

Extended due dates are tabulated below:

Sl.	Returns	Tax period	Due Date
1	Monthly GSTR-1 (for taxpayers with annual turnover > Rs. 1.5 crore**)	For every month from July 2017 to September 2018	October 31, 2018
2	Quarterly GSTR-1 (for taxpayers with annual turnover up to Rs. 1.5 crore**)	July – September 2017	October 31, 2018
		October – December 2017	October 31, 2018
		January – March 2018	October 31, 2018
		April – June 2018	October 31, 2018

3	Monthly GSTR-3B (by the taxpayers who have obtained Goods and Services Tax Identification Number (GSTIN) in terms of notification no. 31/2018)	July 2017 to November 2018	December 31, 2018
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** Note: The GST Council in its 28th meeting proposed to increase this limit of Rs. 1.5 crore to Rs. 5 crore

Please [Click here](#) to read copy of Notification No. 44/2018 – Central Tax dated September 10, 2018 for Monthly GSTR-1

Please [Click here](#) to read copy of Notification No. 43/2018 – Central Tax dated September 10, 2018 for Quarterly GSTR-1

Please [Click here](#) to read copy of Notification No. 47/2018 – Central Tax dated September 10, 2018 for Monthly GSTR-3B

Extension in time limit for filling GST Transitional Credit Returns

The Commissioner, on the recommendations of the GST Council, may extend the date for submitting the declaration electronically as below:

Sl.	Returns	Due Date
1	FORM GST TRAN – 1 (by registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal)	March 31, 2019
2	FORM GST TRAN – 2 (by registered person who could not submit the said declaration by the due date on account of technical difficulties on the common portal and submits FORM GST TRAN-1 pursuant to this Notification)	April 30, 2019

Please [Click here](#) to read copy of Notification No. 48 /2018 – Central Tax dated September 10, 2018

C. KEY NOTIFICATIONS & CIRCULARS

CBIC notifies applicability of TDS and TCS provisions effective October 1, 2018

CBIC notifies applicability of TDS (for Government authorities) and TCS (for e-commerce operators) provisions effective October 1, 2018. Further TDS provisions has been made applicable for following class of persons:

- (a) An authority or a board or any other body set up by an Act of Parliament or State Legislature or established by any Government with 51% equity participation or control;
- (b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;
- (c) public sector undertakings

Please [Click here](#) to read copy of Notification No. 50/2018- Central Tax dated September 13, 2018 and [Click here](#) to read copy of Notification No. 51/2018- Central Tax dated September 13, 2018

Extension in time limit for transactions with job workers

The Government has extended time limit for making declaration in FORM GST ITC-04 in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during the period from July 2017 to June 2018 till September 30, 2018

Please [Click here](#) to read copy of Notification No. 40/2018 – Central Tax dated September 4, 2018

Scope of Principal-agent relationship clarified

In Schedule I of the CGST Act, supply of goods by an agent on behalf of the principal without consideration was deemed to be a “supply”. In this connection, the Government has received various representations regarding the scope and ambit of the principal-agent relationship under GST. The Government has now clarified some of the issues regarding principal-agent relationship under GST.

The key ingredient for determining principal-agent relationship covered under Schedule I of CGST Act would be to test whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not.

Where the invoice for further supply is being issued by the agent in his own name then, such transactions between Principal and the Agent would be covered under Schedule I.

Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent, then further provision of the said goods by the agent to the principal would be covered under Schedule I.

However, where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not be covered within the ambit of Schedule I.

Please [Click here](#) to read Circular No. 57/31/2018-GST dated September 4, 2018

E-way bill in case of storing of goods in godown of transporter

The Government has clarified various issues faced by transporters providing warehousing facilities due to which they need to get themselves registered and maintain detailed records.

In this regard, an alternative method has been provided where transporter's godown can be declared as an additional place of business by the recipient taxpayer. On such declaration, the transportation under the e-way bill shall be deemed to be concluded once the goods have reached the transporter's godown (i.e. recipient taxpayer's additional place of business). Hence, e-way bill validity in such cases will not be required to be extended.

Further, the obligation of the transporter to maintain accounts and records shall continue as a warehouse keeper. Furthermore, books of accounts in relation to goods stored at the transporter's godown by the recipient taxpayer may be maintained by him at his principal place of business. It may be noted that the facility of declaring additional place of business by the recipient taxpayer is in no way putting any additional compliance requirement on the transporters.

Please [Click here](#) to read Circular No. 61/35/2018-GST dated September 4, 2018

Clarification on Refund related issues

The Central Government has clarified various refund related issues on:

- Submission of invoices for processing of claims of refund
- System validations in calculating refund amount
- Re-credit of electronic credit ledger in case of rejection of refund claim
- Disbursal of refund amount after sanctioning by the proper officer
- Status of refund claim after issuance of deficiency memo
- Treatment of refund applications where the amount claimed is less than rupees one thousand

Please [Click here](#) to read Circular No. 59/33/2018-GST dated September 4, 2018

Clarification regarding removal of restriction of refund of accumulated ITC on fabrics

In the 28th GST Council meeting, it was decided to remove the restriction of not allowing refund of ITC accumulated on account of inverted duty structure on fabrics with prospective effect on the input supplies received after the date of notification.

In this connection, CBIC issued following clarifications on issues arising in Notification No. 20/2018 – Central Tax (Rate) dated July 26, 2018 (which amended Notification No. 5/2017 – Central Tax (Rate) dated June 28, 2017) relating to the provision of lapsing of ITC accumulated due to inverted duty structure on fabrics up to July 31, 2018:

Issues	Clarification
Whether the Notification seeks to lapse all unutilized ITC after payment of tax up to July 2018	Accumulated ITC on account of inverted duty structure on fabrics lying unutilized after making payment of GST up to July 31, 2018 shall lapse
Whether unutilized ITC in respect of services and capital goods shall also lapse	Such restriction is applicable only in respect of refund of accumulated ITC on account of inverted duty structure on inputs It does restrict ITC on input services and capital goods
Implication on fabrics like cotton and silk where there was no inverted duty structure	The said condition of lapsing of ITC would apply only if ITC on inputs has been accumulated on account of inverted duty structure Hence, it will not have any implication on fabrics like cotton and silk where there was no inverted duty structure
Whether accumulated ITC in respect of exports shall also lapse	The aforesaid restriction does not apply to ITC relating to zero rated supplies. Hence, accumulated ITC on zero rated supplies shall not lapse

Please [Click here](#) to read copy of CBIC Circular No.56/30/2018- GST dated August 24, 2018

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- Cross Border Associates (CBA), Germany - specializing in mergers & acquisitions activities having presence in more than 95 countries
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