

GST BULLETIN

January 2019

Notifications giving effect to the recommendations of 31st GST Council Meeting

The GST Council in its 31st Meeting at New Delhi on 22nd December 2018 took forward-looking approach by responding to key industry challenges like rationalization of tax rates, ease of compliances, clarifications on certain vexed issues and referring contentious issues to dedicated group of ministers etc.

Please [Click Here](#) to read our detailed bulletin on recommendations made by the GST Council in its 31st Council Meeting.

In relation to above, the Government has issued various notification giving effect to the recommendations of the GST Council summarized below.

Particulars	Description	Instruction
<u>Extension of due dates for filing GST Annual Returns:</u> <ul style="list-style-type: none">• GSTR-9 (Annual Return for regular taxpayer)• GSTR-9A (Annual Return for Composition Dealer)• GSTR-9C (Audit Report for taxpayers having aggregate turnover exceeding INR 2 crore)	Due date for FY 2017-18 has been extended till 30 th June 2019	Please Click Here to read Order no 03/2018-Central Tax dated 31st December 2018
GSTR-8 (Return for e-commerce operator)	Due date for the period October 2018 to December 2018 has been extended till 31st January 2019	Please Click Here to read Order no. 04/2018-Central Tax dated 31st December 2018
GST ITC 04 (Details of goods dispatched/ received to/ from job worker or sent from one job worker to another)	Due date for the period July 2017 to December 2018 has been extended till 31st March 2019	Please Click Here to read Notification no. 78/2018-Central Tax dated 31 st December 2018
Changes in Annual Return (GSTR-9 and GSTR-9A) and Reconciliation Statement (GSTR-9C)	Forms GSTR 9, GSTR 9A and GSTR 9C has been revised	Please Click Here to read Notification no. 74/2018-Central Tax dated 31 st December 2018

Particulars	Description	Instruction
Claim of GST Input Tax Credit (ITC) related to FY 2017-18	ITC of FY 2017-18 available in GSTR-2A can be claimed up to due date of furnishing of the return for the month of March 2019	Please Click Here to read Order no. 02/2018-Central Tax dated 31 st December 2018
Migration Window	<ul style="list-style-type: none"> • Due date for furnishing requisite details for persons, who did not complete Form GST REG-26 filing but received only Provisional ID till 31st December 2017, has been extended till 31st January 2019 • Due date of GSTR-1 & GSTR-3B for the period July 2017 to February 2019 has been extended till 31st March 2019 for above migrated persons 	<ul style="list-style-type: none"> • Please Click Here to read Notification no. 67/2018 - Central Tax dated 31st December 2018 • Please Click Here to read Notification no. 72/2018 - Central Tax dated 31st December 2018 for GSTR-1 • Please Click Here to read Notification no. 70/2018 - Central Tax dated 31st December 2018 for GSTR-3B
Late fee for filing of GST Returns	Late fees for filing of GST Returns (GSTR-1, GSTR-3B and GSTR-4) have been waived for all taxpayers for the months / quarters from July 2017 to September 2018 provided the Returns has been filed between the period 22nd December 2018 to 31st March 2019.	<ul style="list-style-type: none"> • Please Click Here to read Notification no. 75/2018-Central Tax dated 31st December 2018 for GSTR-1 • Please Click Here to read Notification no. 76/2018-Central Tax dated 31st December 2018 for GSTR-3B • Please Click Here to read Notification no. 77/2018-Central Tax dated 31st December 2018 for GSTR-4
Restrictions on generating E-way bill	A person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall not be allowed to generate E-way bill in respect of person (supplier or recipient), who have not filed returns	Please Click Here to read Notification no. 74/2018-Central Tax dated 31 st December 2018

Particulars	Description	Instruction
	for two consecutive tax periods/ months	
GST rates on goods / services have been notified as recommended by GST Council	The Government has changed / amended GST rates on goods / services or exempted goods / services as recommended by the GST Council	<ul style="list-style-type: none"> • Please Click Here to read Notification no. 24/2018-Central Tax dated 31st December 2018 for change of GST rates on goods • Please Click Here to read Notification no. 27/2018-Central Tax dated 31st December 2018 for change of GST rates on services • Please Click Here to read Notification no. 25/2018-Central Tax dated 31st December 2018 for exemption given to certain goods • Please Click Here to read Notification no. 28/2018-Central Tax dated 31st December 2018 for change of GST rates on services
Certain additional services has been specified on which tax is payable under RCM	Services specified as follows: <ul style="list-style-type: none"> • Services provided by business facilitator to a banking company • Services provided by agent of business correspondent to the business correspondent • Security services provided by person (other than body corporate) to a registered person (located in taxable territory) subject to certain exceptions 	<ul style="list-style-type: none"> • Please Click Here to read Notification no. 29/2018-Central Tax dated 31st December 2018

HIGHLIGHTS OF THE KEY NOTIFICATIONS AND CIRCULARS

1. Exemption to the intra-State supply of gold supplied by Nominated Agency under the scheme for "Export Against Supply by Nominated Agency (EASNA)"

The Government has exempted intra-State supply of gold¹ by Nominated Agency under the scheme for "EASNA"² to a registered person (recipient) from the whole of the CGST subject to prescribed conditions.

Please [Click here](#) to read notification no. 26/2018-Central Tax (Rate) dated 31st December 2018

2. Clarification on GST rate applicable on supply of food and beverage services by educational institution

The Government has clarified that supply of food and beverages by any educational institution (not restricted to school/ college) to its students, faculty and staff, where such supply is made by the educational institution itself, is exempt under GST. 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%.

Please [Click Here](#) to read Circular No. 85/2019-GST dated 1st January 2019

3. Clarification on issue of classification of service of printing of pictures

Various representations have been received that whether service of "printing of pictures" is covered under:

- service code "998386" - Photographic and videographic processing services subject to GST rate 18%; or
- under service code "998912" - Printing and reproduction services of recorded media, on a fee or contract basis having GST rate 12%.

As per the Explanatory Notes to the scheme of classification of services:

- service code "998386 - Photographic and video graphic processing services includes "developing of negatives and the printing of pictures for others according to customer specifications; colour printing of images from film or digital media"

¹ Falling in heading 7108 of the First Schedule to the Customs Tariff Act, 1975

² As referred to in paragraph 4.41 of the Foreign Trade Policy, read with relevant provisions of Chapter 4 of Handbook of Procedures

- service code 998912 - Printing and reproduction services of recorded media, on a fee or contract basis clearly excludes “colour printing of images from film or digital media cf. 998386”

In view of the above, it is clarified that service of “printing of pictures” falls under service code “998386” which is subject to GST at the rate of 18%.

Please [Click Here](#) to read Circular No. 84/2019-GST dated 1st January 2019.

4. Applicability of GST on various programs conducted by the Indian Institutes of Managements (IIMs)

Indian Institutes of Management Act, 2018 came into force on 31st January, 2018. According to provisions of the IIM Act, all IIMs listed in the schedule to the IIM Act are “institutions of national importance”. Therefore, with effect from 31st January, 2018, all IIMs are “educational institutions” as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force.

Accordingly, the Government has also determined the eligibility of various programs conducted by Indian Institutes of Managements for the purpose of applicability / exemption from GST.

Please [Click Here](#) to read Circular No. 82/2019-GST dated 1st January 2019

5. Clarification on certain issues under the GST laws

Various representations have been received seeking clarification on certain issues under the GST laws. In order to clarify these issues and to ensure uniformity of implementation across field formations, the Government has clarified the following key issues:

Issue	Clarification
<p>1. Penalty under section 73 of the CGST Act, is applicable when self-assessed tax has not been paid within 30 days from due date.</p> <p>Whether such penalty is applicable in case FORM GSTR-3B has been filed late by 30 days?</p>	<ul style="list-style-type: none"> • Penalty under section 73 can be levied only when show cause notice has been issued • Accordingly, it is clarified the aforesaid penalty is not applicable in case delay in filing of GSTR-3B.
<p>2. In case a debit note or a credit note raised in respect of supply made before 1st July</p>	<ul style="list-style-type: none"> • It is clarified that rate as applicable under GST would be applicable as such debit

<p>2017, what will be the tax rate applicable – the rate in the pre-GST regime or the rate applicable under GST?</p>	<p>note or a credit note shall be deemed to have been issued in respect of an outward supply made under the CGST Act.</p>
<p>3. Applicability of the provisions of section 51 of the CGST Act (TDS) in the context of notification No. 50/2018-Central Tax dated 13.09.2018.</p>	<ul style="list-style-type: none"> • TDS provisions are applicable only to such authority set up by an Act of Parliament or a State legislature or established by any Government in which 51% or more participation by way of equity or control is with the Government.
<p>4. What is the correct valuation methodology for ascertainment of GST on Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961?</p>	<ul style="list-style-type: none"> • It is clarified that taxable value for the purposes of GST shall include the TCS amount collected under Income Tax Act, 1961.
<p>5. Who will be considered as the “owner of the goods in transit” for the purposes of section 129(1) of the CGST Act?</p>	<p>It is clarified that:</p> <ul style="list-style-type: none"> • if the invoice or any other specified document is accompanying the consignment of goods, then either the consignor or the consignee should be deemed to be the owner. • If the invoice or any other specified document is not accompanying the consignment of goods, then in such cases, the proper officer should determine who should be declared as the owner of the goods.

Please [Click Here](#) to read Circular No. 76/2018-GST dated 31st December 2018

6. Clarification on export of services under GST

Various representations have been received seeking clarification on certain issues relating to export of services under the GST laws. The same have been examined and the clarifications on the same are as below:

Issue	Clarification
<p>In case an exporter of services outsources a portion of the services contract to another person located outside India, what would be the tax treatment of the said portion of the contract at the hands of the exporter?</p> <p>There may be instances where the full consideration for the outsourced services is not received by the exporter in India.</p>	<p>Where an exporter of services located in India is supplying certain services to a recipient located outside India, either wholly or partly through any other supplier located outside India, the following two supplies are taking place:</p> <ul style="list-style-type: none"> (i) One supply from the exporter located in India to the recipient located outside India for the full contract value; (ii) Import of services by the exporter located in India from the supplier located outside India with respect to the outsourced portion of the contract. <p>The total value of services as agreed to in the contract between the exporter of services located in India and the recipient of services located outside India will be considered as export of services if all the conditions laid down in IGST laws are satisfied.</p> <p>It is clarified that the supplier of services located in India would be liable to pay IGST on reverse charge basis on the import of services on that portion of services which has been provided by the supplier located outside India to the recipient of services located outside India. Furthermore, the said supplier of services located in India would be eligible for taking input tax credit of the integrated tax so paid</p> <p>Further, even if the full consideration for the services as per the contract value is not received in convertible foreign exchange in India due to the fact that the recipient of services located outside India has directly paid to the supplier of services located outside India (for the outsourced part of the services), that portion of the consideration shall also be treated as receipt of consideration for export of services, provided:</p> <ul style="list-style-type: none"> (i) IGST has been paid by the supplier located in India for import of services on services which has been directly provided by the supplier located outside India to the recipient of services located outside India; and (ii) RBI by general instruction or by specific approval has allowed that a part of the consideration for such exports can be retained outside India.

Please [Click Here](#) to read Circular No. 78/2018-GST dated 31st December 2018

About KrayMan

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We are members of following associations:

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- Prime Advisory Network (PAN), United Kingdom - a network of Accountants and Lawyers with presence in more than 60 countries
- Cross Border Associates (CBA), Germany - specializing in mergers & acquisitions activities having presence in more than 95 countries
- TiE Delhi - world's largest entrepreneurial organization with 62 chapters in 18 countries

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