

Reverse Charge Mechanism in GST Regime

Introduction

Generally, tax is payable by the person who supplies goods or services or both but under Reverse Charge Mechanism the liability to pay tax has been shifted to recipient of goods or services or both.

Reverse charge mechanism is not a new concept as we are already dealing with this in the service tax which is incorporated under GST also, but in GST regime Government has notified not only supply of certain services but also supply of certain goods under Reverse Charge Mechanism.

The objective of shifting the burden of GST payments to the recipient is -

1. Where supplier of goods or services or both is unregistered person and he make supply of goods or services or both to a registered person.
2. Where supplier of goods or services or both is located in non-taxable territory and person receiving the goods is located in taxable territory.
3. Sometime legislature may exempt specific goods or services or both from levy of tax but indirectly tax is levied on that sector under reverse charge mechanism whereby the recipient of such goods or services or both has to deposit tax.
4. Sometime taxes are levied on reverse charge basis on certain goods or services or both wherein many people fall under unorganised sector. The cost of administering and collecting tax from such local or unorganised sector would be too high.

Therefore, under Reverse Charge Mechanism the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply under Section 9(3) or Section 9(4) of the CGST Act, 2017 and under sub-section (3) or sub-section (4) of Section 5 of the IGST Act, 2017.

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Statutory provisions- IGST

As per section 2(24) of the IGST Act 2017, Words and expressions used and not defined in this Act but defined in the Central Goods and Services Tax Act, the Union Territory Goods

and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts.

Section 2(98) of the CGST Act, 2017 has defined the term “Reverse Charge” and the same is reproduced as follows:

“reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of Section 9, or under sub-section (3) or sub-section (4) of Section 5 of the Integrated Goods and Services Tax Act.

Reverse Charge Mechanism in respect of specify categories of supply of goods or services or both

Section 5(3) of the IGST Act, 2017 provides the provisions of reverse charge **in respect of specify categories of supply of goods or services or both** as follows:

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Reverse Charge Mechanism in respect of Un-Registered Person:

Section 5(4) of the IGST Act, 2017 provides the provisions of reverse charge **in respect of Un-Registered Person** as follows:

“(4) The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both..”

The above provision had been deferred till 30th September, 2019 vide Notification No.23/2018-Integrated Tax., dated 6-8-2018 which has been rescinded vide Notification No.1/2019-Integrated Tax (Rate) dated 29.1.2019 [The said section 5(4) has been substituted w.e.f.1.2.2019 as “The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the

provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.”]

Accordingly, there are two types of reverse charge scenarios provided in law.

First situation is dependent on the nature of supply and/or nature of supplier. This is covered by Section 5(3) of the IGST Act.

Second situation is covered by Section 5(4) of the IGST Act where a taxable supply by any unregistered person to a registered person is covered.

Accordingly, whenever a registered person procures supplies from an unregistered supplier, he needed to pay GST on reverse charge basis. However, the Central Government, by issuing a Notification No. 32/2017 –Integrated Tax(Rate) dated 13-10-2017 exempted the inter-State supply of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the integrated tax leviable thereon under sub-section (4) of section 5 of the said Act until 31-3-2018 and The said time line has been extended to by the Notifications vide Notification No.11/2018-IGST (Rate), dated 23.03.2018 the exemption was granted up to 30.06.2018; Vide Notification No. 13/2018-IGST (Rate), dated 29.06.2018 the exemption was further extended up to 30.09.2018; Vide Notification No. 23/2018-IGST (Rate), dated 06.08.2018, the exemption is further granted for a long term i.e., up to 30.09.2019 and later the same has been rescinded vide Notifications No. 1/2019 - Integrated Tax (Rate) dated 29-1-2019.

Reverse Charge Mechanism in GST Regime

Registration - IGST

The Central Government has specified the persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under sub-section (3) of section 9 of the said Act as the category of persons exempted from obtaining registration under the aforesaid Act.

As per Section 24 of the CGST Act, 2017, a person who is required to pay tax under reverse charge has to compulsorily register under GST irrespective of the threshold limit of registration and threshold limit of ` 20 lakhs/ 40 lakhs (` 10 lakhs for special category States) but special category States threshold exemption is increased to ` 20 lakhs, as per CGST (Amendment) Act, 2018 is not applicable to the Reverse Charge Mechanism.

Reverse Charge Mechanism in GST Regime

Invoicing Rules

Under reverse charge, the buyer or recipient of goods or services or both has to issue invoice or payment voucher on received of goods or services or both from the supplier as may be the case.

In terms of sub-section (3) of Section 31(3)(f) of the CGST Act, 2017 and read with clause (f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of Section 9 of the CGST Act, shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both; and as per clause (g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of Section 9 shall issue a payment voucher at the time of making payment to the supplier.

The second proviso to Rule 46 provides that where an invoice is required to be issued under Section 31(3)(f) of the CGST Act, a registered person may issue a consolidated invoice at the end of a month for supplies covered under Section 9(4), the aggregate value of such supplies exceeds rupees five thousand in a day from any or all the supplies.

C.B.I &C, vide its Circular no 130/2019 –GST dated 31.12.2019, has clarified regarding Reverse Charge Mechanism (RCM) on renting of motor vehicles, as -

When any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure in law under RCM. There are only two rates applicable on the service of renting of vehicles, 5% with limited ITC and 12% with full ITC. The only interpretation of the notification entry in question which is not absurd would be that –

- (i) where the supplier of the service charges GST @ 12% from the service recipient, the service recipient shall not be liable to pay GST under RCM; and,
- (ii) where the supplier of the service doesn't charge GST @ 12% from the service recipient, the service recipient shall be liable to pay GST under RCM.

Though a supplier providing the service to a body corporate under RCM may still be paying GST @ 5% on the services supplied to other non body corporate clients, to bring in greater clarity, serial No. 15 of the notification No. 13/2017-CT (R) dated 28.6.17 has been amended vide notification No. 29/2019-CT (R) dated 31.12.19 to state that RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier fulfils all the following conditions:–

- (a) is other than a body-corporate;
- (b) does not issue an invoice charging GST @ 12% from the service recipient; and
- (c) supplies the service to a body corporate.

Reverse Charge Mechanism in GST Regime

Input Tax Credit

A supplier cannot take Input Tax Credit of GST paid on goods or services used to make supplies on which the recipient is liable to pay tax under reverse charge.

The recipient can avail Input Tax Credit of GST amount that is paid under reverse charge on receipt of goods or services by him.

GST paid on goods or services under reverse charge mechanism is available as input tax credit to the registered person provided that such goods or services are used or will be used for business or furtherance of business. In other words, any amount paid as reverse charge is allowed as **input tax credit** subject to condition that credit is allowed in normal circumstances to such business. For example composition dealers are not allowed to take input tax credit in normal circumstances and therefore they are also not allowed to take input tax credit on GST paid on reverse charge.

When can one claim ITC of tax paid under RCM?

The person who paid tax under RCM in a month can claim it as ITC in the same month.

Reverse Charge Mechanism in GST Regime

Time of supply - IGST

The time of supply is the point when the supply is liable to GST. One of the factors relevant for determining time of supply is the person who is liable to pay tax. In reverse charge, the recipient is liable to pay GST. Thus, time of supply for supplies under reverse charge is different from the supplies which are under forward charge.

Time of supply for Goods under reverse charge:

As per Section 12(3) of the CGST Act, 2017 in case of supplies of goods in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely :-

(a) date of receipt of goods; or

(b) date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(c) the date immediately following 30 days from the date of issue of invoice or any other document, or similar other document thereof by the supplier :

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

Time of supply for Services under Reverse Charge:

As per Section 13(3) of the CGST Act, 2017 in case of supplies for Services in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely :-

(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(b) the date immediately following 60 days from the date of issue of invoice or any other documents, similar other document thereof by the supplier :

Provided that where it is not possible to determine time of supply by using above methods under clause (a) and clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply.

Reverse Charge Mechanism in GST Regime

Compliances in respect of supplies

(1) As per Section 31 of the CGST Act, 2017 read with Rule 46 of the CGST Rules, 2017, every tax invoice has to mention whether the tax in respect of supply in the invoice is payable on reverse charge. Similarly, this also needs to be mentioned in receipt voucher as well as refund voucher, if tax is payable on reverse charge.

(2) Maintenance of accounts by registered persons: Every registered person is required to keep and maintain records of all supplies attracting payment of tax on reverse charge.

(3) Any amount payable under reverse charge shall be paid by debiting the electronic cash ledger. In other words, reverse charge liability cannot be discharged by using input tax credit. However, after discharging reverse charge liability, credit of the same can be taken by the recipient, if he is otherwise eligible.

(4) Invoice level information in respect of all supplies attracting reverse charge, rate wise, are to be furnished separately in column 4B of GSTR-1.

(5) Advance paid for reverse charge supplies is also leviable to GST. The person making advance payment has to pay tax on reverse charge basis.

What if an Input Service Distributor (ISD) receives supplies liable to reverse charge?

An ISD cannot make purchases liable to reverse charge. If the ISD wants to procure such supplies and take the reverse charge paid as ITC, the ISD should register as a regular taxpayer.

Reverse Charge Mechanism in GST Regime

Rate and Payment of GST

The **rate of tax** to be used is the rate which is applicable on such goods/service. GST Compensation Cess is also applicable on reverse charge. If the goods/services purchased in **exempted or nil rated** then no tax is payable under RCM.

Composition dealers are required to pay reverse charge at normal rates (5%,12%,18%,28%) and not at the composition rates (1% or 5%).

Payment Of GST under RCM

The amount of GST under Reverse charge is to be paid in cash only and can not be paid from ITC available.

Reverse Charge on certain specified goods under IGST

[Notification No.4/2017-Integrated Tax (Rate) dated 28th June, 2017

as amended vide Notification No.37/2017- Integrated Tax (Rate) dated 13.10.2017, Notification No.45/2017- Integrated Tax (Rate) dated 14.11.2017, Notification No.12/2018- Integrated Tax (Rate) dated 28.05.2018, Notification No.10/2021- Integrated Tax (Rate) dated 30.09.2021, Notification No.14/2022- Integrated Tax (Rate) dated 30.12.2022 and Notification No.22/2023- Integrated Tax (Rate) dated 19.10.2023]

G.S.R. 669(E). - In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby specifies the supply of goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, made by the person as specified in the corresponding entry in column (4), in respect of which the integrated tax shall be paid on reverse charge basis by the recipient of the ¹[inter-state] supply of such goods as specified in the corresponding entry in column (5) and all the provisions of the said Act shall apply to such recipient, namely:-

S. No.	Tariff item, sub-heading,	Description of supply of Goods	Supplier of goods	Recipient of supply
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	heading or Chapter			
(1)	(2)	(3)	(4)	(5)
1	801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	1404 90 10	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3	2401	Tobacco leaves	Agriculturist	Any registered person
² [3A.	33012400, 33012510, 3301 25 20, 3301 25 30, 3301 25 40, 3301 25 90	Following essential oils other than those of citrus fruitnamely: - (a) Of peppermint (<i>Menthapiperita</i>); (b) Of other mints : Spearmint oil (ex-menthaspicata), Water mint-oil (ex-mentha aquatic), Horsemint oil (ex-menthasylvestries), Bergament oil (ex-menthacitrate), Mentha arvensis	Any Unregistere d Person	Any Registered Person]
4	5004 to 5006	Silk yarn	Any person who manufactures silk yam from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
³ [4A.	5201	Raw cotton	Agriculturist	Any registered person]
5		Supply of lottery	State Governmen t, Union Territory or any local authority	Lottery distributor or selling agent. <i>Explanation.—</i> For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under the provisions of sub-section (1) of section 11 of the Lotteries (Regulation) Act, 1998 (17 of 1998).
⁴ [6.	Any Chapter	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	⁶ [Central Governmen t [excluding	Any registered person]

			Ministry of Railways (Indian Railways) , State Government, Union territory or a local authority.	
⁵ [7.	Any Chapter	Priority Sector Lending Certificate	Any registered person	Any registered person]

Explanation.–

(1) In this Table, “tariff item”, “sub-heading”, “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading or chapter, as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

2. This notification shall come into force with effect from the 1st day of July, 2017.

Notes				
1. Corrected vide corrigendum notification dated 30-6-2017, read as, "intra-state". 2. Substituted w.e.f. 01-1-2023 vide notification No. 14/2022-Integrated Tax (Rate) dated 30-12-2022 . Earlier read as -				
3A.	33012400, 33012510, 3301 25 20, 3301 25 30, 3301 25 40,	Following essential oils other than those of citrus fruitnamely: - (a) Of peppermint (<i>Menthapiperita</i>); (b) Of other mints : Spearmint oil (ex-menthaspicata), Water mint-oil (ex-mentha aquatic), Horsemint oil (ex-menthasylvestries), Bergament oil (ex-menthacitrate),	<i>Any Unregistered Person</i>	<i>Any Registered Person</i>
3. Inserted w.e.f. 15-11-2021 vide Notification no. 45/2017 dated 14-11-2017. 4. Inserted vide notification no. 37/2017 dated 13-10-2017. 5. Inserted vide Notification No. 12/2018-Integrated Tax (Rate) dated 28-05-2018. 6. Substituted w.e.f. 20.10.2023 for the entry “Central Government, State Government, Union territory or a local authority” vide Notification No. 22/2023-Integrated Tax (Rate) dated 19.10.2023 .				

Reverse Charge on supply of specified Services under IGST

[Notification No. 10/2017- Integrated Tax (Rate) dated 28th June, 2017 as amended vide Notification no. 22/2017 - Integrated Tax (Rate) dated 22-8-2017, Notification no. 34/2017 - Integrated Tax (Rate) dated 13-10-2017, Notification no. 3/2018 - Integrated Tax (Rate) dated 25-1-2018, Notification no. 16/2018 - Integrated Tax (Rate) dated 26-7-2018, Notification no. 30/2018 - Integrated Tax (Rate) dated 31-12-2018, Notification no. 5/2019 - Integrated Tax (Rate) dated 29-3-2019, Notification no. 21/2019 - Integrated Tax (Rate) dated 30-9-2019, Notification no. 28/2019 - Integrated Tax (Rate) dated 31-12-2019, Notification no. 05/2022-Integrated Tax (Rate) dated 13-07-2022, Notification no. 02/2023- Integrated Tax (Rate) dated 28-02-2023, Notification no. 08/2023- Integrated Tax (Rate) dated 26.07.2023, Notification no. 13/2023- Integrated Tax (Rate) dated 26.09.2023 and Notification no. 17/2023- Integrated Tax (Rate) dated 19.10.2023]

G.S.R. 685(E). -In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services mentioned in column (2) of the Table below, supplied by a person as specified in column (3) of the said Table, the whole of integrated tax leviable under section 5 of the said Integrated Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services as specified in column (4) of the said Table:-

Table

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.
2	Supply of Services by a goods transport agency (GTA) ^{18[*****]} in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or

<p>(d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person.</p> <p>²[Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -</p> <p>(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.]</p> <p>Provided further that nothing contained in this entry shall apply where, -</p> <p>¹⁹[i. the supplier has taken registration under the CGST Act, 2017 read with clause (v) of Section 20 of the IGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to</p>	<p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p>
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	<p>transport of goods supplied by him under forward charge, and</p> <p>ii. the supplier has issued a tax invoice to the recipient charging Integrated Tax at the applicable rates and has made a declaration as prescribed in Annexure III on such invoice issued by him.]</p>		
3	<p>³[Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.</p> <p><i>Explanation.</i>- “legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.]</p>	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
4	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
5	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory.
6	<p>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, -</p> <p>(1) renting of immovable property, and</p> <p>(2) services specified below-</p> <p>(i) services by the Department of Posts ²⁰[****] ²⁶[and the Ministry of Railways (Indian Railways)];</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers.</p>	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.
⁴[6A]	Services supplied by the Central Government ²⁷ [[excluding the Ministry of Railways (Indian Railways)], State Government,	Central Government, State Government,	Any person registered under the Central Goods and Services Tax Act, 2017.]

	Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).	Union territory or local authority	
²¹ [6AA	Service by way of renting of residential dwelling to a registered person.	Any person	Any registered person.]
⁵ [6B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter.
6C	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.	Any person	Promoter.]
7	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
8	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
9	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
10	²⁵ [*****	*****	*****]
⁶ [11	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory.]
⁷ [11	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the	Author	Publisher located in the taxable territory: Provided that nothing contained in this entry shall apply where, -

	Copyright Act, 1957 relating to original literary works to a publisher.		<p>(i) the author has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017), and filed a declaration, in the form at Annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on the service specified in column (2), under forward charge in accordance with Section 9 (1) of the Central Goods and Service Tax Act, 2017 under forward charge, and to comply with all the provisions of Central Goods and Service Tax Act, 2017 (12 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</p> <p>(ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher.]</p>
⁸ [12]	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India]
⁹ [13]	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs)	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking company or a non-banking financial company, located in the taxable territory.]
¹⁰ [14.	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory
15.	Services provided by an agent of business correspondent (BC) to business correspondent (BC).	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory.
16.	Security services (services provided by way of supply of security personnel) provided to a registered person: Provided that nothing contained in this entry shall apply to, -	Any person other than a body corporate	A registered person, located in the taxable territory.]

	<p>(i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies;</p> <p>which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or</p> <p>(ii) a registered person paying tax under section 10 of the said Act.</p>		
¹¹ [¹² [17	<p>Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.</p>	<p>Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to the service recipient</p>	<p>Any body corporate located in the taxable territory.]</p>
18	<p>Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended.</p>	<p>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</p>	<p>Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.]</p>

		Scheme of SEBI	
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Explanation.- For purpose of this notification,-

(a) The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

(b) "Body Corporate" has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.

(c) the business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.

(d) the words and expressions used and not defined in this notification but defined in the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, and the Union Territory Goods and Services Tax Act shall have the same meanings as assigned to them in those Acts.

¹³[(e) A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 (6 of 2009) shall also be considered as a partnership firm or a firm.]

¹⁴[(f) "insurance agent" shall have the same meaning as assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938).]

¹⁵[(g) "renting of immovable property" means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property."]

¹⁶[(h) provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament and ²³[State Legislatures, Courts and Tribunals].]

¹⁷[(i) The term "apartment" shall have the same meaning as assigned to it in clause (e) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(j) the term "promoter" shall have the same meaning as assigned to it in clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(k) the term "project" shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);

(l) “the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016).

(m) The term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.

(n) “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.]

2. This notification shall come into force on the 1st day of July, 2017.

Annexure I

FORM

(11A of Table)

(Declaration to be filed by an author for exercising the option to pay tax on the “supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher” under forward charge on or before 31.10.2019 for the option to be effective from 1.11.2019 or before the commencement of any Financial Year for the option to be effective from the commencement of that Financial Year.)

Reference No. _____

Date _____

To

(To be addressed to the jurisdictional Commissioner)

- 1. Name of the author:
- 2. Address of the author:
- 3. GSTIN of the author:

Declaration

1. I have taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017), and I hereby exercise the option to pay integrated tax on the service specified against serial No. 11A in column (2) of the Table in the notification No. 10/2017-Integrated Tax (Rate) dated 28th June 2017, supplied by me, under forward charge in accordance with section 5 (1) of IGST Act, and to comply with all the provisions of IGST Act, 2017 (13 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both;

2. I understand that this option, once exercised, shall not be allowed to be changed within a period of 1 year from the date of exercising the option and shall be valid, at least, till the end of Financial Year following the year in which it is made.

Signature _____

Name _____

GSTIN _____

Place _____

Date _____

Annexure II

(Declaration to be made in the invoice by the author exercising the option to pay tax on the “supply of service by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher” under forward charge.)

Declaration

(11A of Table)

I have exercised the option to pay integrated tax on the service specified against serial No. 11A in column (2) of the Table in the notification No. 10/2017-Integrated Tax (Rate) dated 28th June 2017 under forward charge.

²²Annexure III

I/we have taken registration under the CGST Act, 2017 read with clause (v) of section 20 of IGST Act, 2017 and have exercised the option to pay tax on services of GTA in relation to transport of goods supplied by us ²⁴[from the Financial Year ____ under forward charge and have not reverted to reverse charge mechanism].]

Notes:

1. Inserted vide Notification No. 22/2017 - Integrated Tax (Rate) dated 22-8-2017.
2. Inserted w.e.f. 01-01-2019 vide Notification No. 30/2018- Integrated Tax (Rate) dated 31-12-2018.
3. Corrected vide notification dated 25-9-2017, before it was read as, "Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity."
4. Inserted vide Notification No. 3/2018- Integrated Tax (Rate) Dated 25-01-2018
5. Inserted w.e.f. 01-04-2019 vide Notification No. 05/2019- Integrated Tax (Rate) dated 29-03-2019
6. Substituted w.e.f. 01-10-2019 vide Notification No. 21/2019- Integrated Tax (Rate) dated 30-09-2019 before it was read as –

"11	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory."
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7. Inserted w.e.f. 01-10-2019 vide Notification No. 21/2019 - Integrated Tax (Rate) dated 30-09-2019
8. Inserted vide notification no. 34/2017 - Integrated Tax (Rate) dated 13-10-2017
9. Inserted w.e.f. 27.07.2018 vide Notification No. 16/2018 - Integrated Tax (Rate) dated 26-07-2018
10. Inserted w.e.f. 01.01.2019 vide Notification No. 30/2018- Integrated Tax (Rate) dated 31-12-2018
11. Inserted w.e.f. 01-10-2019 vide Notification No. 21/2019 - Integrated Tax (Rate) dated 30-09-2019
12. Substituted w.e.f. 01-01-2020 vide Notification No. 28/2019- Integrated Tax (Rate) dated 31-12-2019.

17	Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate, paying integrated tax at the rate of 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."
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13. Inserted vide Notification No. 22/2017 - Integrated Tax (Rate) dated 22-8-2017.
14. Inserted vide Notification No. 3/2018- Integrated Tax (Rate) Dated 25-01-2018
15. Inserted w.e.f. 27.07.2018 vide Notification No. 16/2018- Integrated Tax (Rate) dated 26-07-2018
16. Inserted w.e.f. 01.01.2019 vide Notification No. 30/2018- Integrated Tax (Rate) dated 31-12-2018
17. Inserted w.e.f. 01-04-2019 vide Notification No. 05/2019- Integrated Tax (Rate) dated 29-03-2019
18. Omitted the words, figures and symbols "1[who has not paid Integrated tax at the rate of 12%]" w.e.f. 18.07.2022 vide [Notification No. 05/2022-Integrated Tax \(Rate\) dated 13.07.2022](#).
19. Inserted w.e.f. 18.07.2022 vide [Notification No. 05/2022-Integrated Tax \(Rate\) dated 13.07.2022](#).
20. Omitted the words "by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority" w.e.f. 18.07.2022 vide [Notification No. 05/2022-Integrated Tax \(Rate\) dated 13.07.2022](#).
21. Inserted w.e.f. 18.07.2022 vide [Notification No. 05/2022-Integrated Tax \(Rate\) dated 13.07.2022](#).
22. Inserted w.e.f. 18.07.2022 vide [Notification No. 05/2022-Integrated Tax \(Rate\) dated 13.07.2022](#).
23. Substituted for the words "and State Legislatures" w.e.f. 01.03.2023 vide [Notification No. 02/2023-Integrated Tax \(Rate\) dated 27.02.2023](#).
24. Substituted for the words and figures "during the Financial Year ____ under forward charge", w.e.f. 27.07.2023 vide [Notification No. 08/2023- Integrated Tax \(Rate\) dated 26.07.2023](#).

25. Omitted serial number 10 and the entries relating thereto w.e.f. 01.10.2023 vide Notification No. 13/2023- Integrated Tax (Rate) dated 2609.2023 .			
10	Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	A person located in non-taxable territory	Importer, as defined in clause (26) of section 2 of the Customs Act, 1962(52 of 1962), located in the taxable territory.
26. Inserted w.e.f. 20.10.2023 vide Notification No. 17/2023- Integrated Tax (Rate) date 19.10.2023 .			
27. Inserted w.e.f. 20.10.2023 vide Notification No. 17/2023- Integrated Tax (Rate) date 19.10.2023 .			

Reverse Charge on Registered Promoter for construction, as a recipient of goods or service

[Notification No. 07/2019- Integrated Tax (Rate) dated 29th March, 2019 as amended vide Notification No. 23/2019- Integrated Tax (Rate) dated 30th September, 2019]

G.S.R. 260 (E).- In exercise of the powers conferred by sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies that the registered person specified in column (3) of the table below, shall in respect of supply of goods or services or both specified in column (2) of the Table below, received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services or both, namely:-

Table

Sl. No.	Category of supply of goods and services	Recipient of goods and services
(1)	(2)	(3)
1	Supply of such goods and services or both [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 8/ 2017- Integrated Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial No. (3), published in Gazette of India vide G.S.R. No. 683 (E), dated 28th June, 2017, as amended.	Promoter.
2	¹ [Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975).]	Promoter.
3	Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, in notification No. 8/ 2017- Integrated Tax (Rate), dated 28th June, 2017, published in Gazette of India vide G.S.R. No. 683, dated 28th June, 2017, as amended.	Promoter

Explanation. - For the purpose of this notification, -

(i) the term “promoter” shall have the same meaning as assigned to it in in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(ii) “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);

(iii) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(iv) “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.

(v) “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.

2. This notification shall come into force with effect from the 1st of April, 2019.

Notes

1. Substituted serial number 2 w.e.f. 01-10-2019 vide Notification No. 23/2019- Integrated Tax (Rate) dated 30-09-2019 **w.e.f. 01-10-2019** before it was read as- "Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 8/ 2017- Integrated Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial No. (3), published in Gazette of India vide G.S.R. No. 683 (E), dated 28th June, 2017, as amended."

Reverse Charge Mechanism in GST Regime

DEPARTMENTAL CLARIFICATIONS

Sub : Further clarification on tax in reverse charge on gold ornaments

In the GST master class held on 13/07/2017, in one of the replies given to an on-the-spot-question, it was informed that purchase of old gold jewellery by a jeweller from a consumer will be subject to GST @ 3% under reverse charge mechanism in terms of the provisions contained in Section 9(4) of the CGST Act, 2017.

2. On further examination, it is felt that the issue needs to be clarified.

3. Section 9(4) of the said Act mandates that tax on supply of taxable goods (gold in this case) by an unregistered supplier (an individual in this case) to a registered person (the jeweller in this case) will be paid by the registered person (the jeweller in this case) under reverse charge mechanism. This provision, however, has to be read in conjunction with section 2(105) read with section 7 of the said Act. Section 2 (105) defines supplier as a person supplying the goods or services. Section 7 provides that a supply is a transaction, for a consideration by a person in the course or furtherance of business.

4. Even though the sale of old gold by an individual is for a consideration, it cannot be said to be in the course or furtherance of his business (as selling old gold jewellery is not the business of the said individual), and hence does not qualify to be a supply per se. Accordingly the sale of old jewellery by an individual to a jeweller will not attract the provisions of section 9(4) and jeweller will not be liable to pay tax under reverse charge mechanism on such purchases. However, if an unregistered supplier of gold ornaments sells it to registered supplier, the tax under RCM will apply.

(CBIC PRESS RELEASE dated 13.07.2017)

Raw Cotton - Will 5% GST on raw cotton be paid directly by factories on reverse charge basis and who will pay it?

Where the supply of raw cotton is by an agriculturist [as defined under section 2 (7) of the Central Goods and Services Tax Act, 2017] to a registered person, GST will have to be paid by such registered person on reverse charge basis.

[\(CBIC Topic wise FAQs – GST Rates I\)](#)

Reverse Charge Mechanism in GST Regime

SOME IMPORTANT OR RECENT DECISIONS ON RCM UNDER GST

Mohit Minerals Pvt. Ltd. Vs. Union of India, special civil Application no. 726 of 2018, dated 23.01.2020, GUJARAT HIGH COURT wherein the Hon'ble High court of Gujrat has declared ultra vires the impugned Notification No. 8/2017, Integrated Tax (Rate), dated 28.06.2017 and Entry no. 10 of Notification No. 10/2017 Integrated Tax (Rate), dated 28.06.2017 held that we have reached to the conclusion that no tax is leviable under the Integrated Goods and Services Tax Act, 2017, on the ocean freight for the services provided by a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India upto the customs station of clearance in India and the levy and collection of tax of such ocean freight under the impugned Notifications is not permissible in law.

M/s Clay Craft India Pvt. Ltd. Advance Ruling No. RAJ/AAR/2019-20/33 Dated 20.02.2020- AUTHORITY FOR ADVANCE RULING RAJASTHAN passes the following rulings:

Q: Whether GST is payable under Reverse charge Mechanism (RCM) the salary paid to director of the company who is paid salary as per contract.

Ans: The consideration paid to Directors by the applicant company will attract GST under reverse charge mechanism as it is covered under entry No. 6 of Notification No. 13/2017 Central Tax (Rate) dated 28.06.2017 issued under Section 9(3) of the CGST Act, 2017.

Q: whether the situation would change from (a) above if the Director also a part time Director in other company also.

Ans: Situation will remain same as (a) above and will attract GST under reverse charge mechanism.

M/s. MAANICARE SYSTEM INDIA PRIVATE LIMITED raised a question before Maharashtra Advance Ruling Authority "Whether the Applicant (Maanicare System India Private Limited) is eligible to take input tax credit on GST paid under Reverse Charge Mechanism @ 5% for hiring of buses for transportation of employees?" The Authority **found that** the bus service availed by the Applicant is 49-seater i.e. more than 13 seater. Accordingly, the same is not falling under the block credit as provided under section 17 (5) of CGST Act 2017 and,

therefore, in the instant case, (since the applicant is utilizing the services of renting of motor vehicle for business or furtherance of business), the input tax credit is not restricted to the applicant under the referred Section 17(5) of CGST Act 2017. Thus the applicant would be eligible for ITC but only with effect from 01/02/2019 only, as per above legal provisions.

Sanjay Kumar Jain raised a question before Authority for Advance Ruling Rajasthan - Whether the applicant is liable to pay tax on the basis of reverse charge mechanism on the freight paid by the applicant on transportation of cotton seed oil cake having HSN code 2306? - The cotton seed oil cake is not exempted under the GST Act in general and is also not covered under Notification No. 12/2017 (as amended from time to time). Thus being recipient of GTA services the applicant is liable to pay tax under Reverse Charge Mechanism.- The applicant is liable to pay GST under Reverse Charge Mechanism being recipient of GTA services.
