

## GST Alert

### Reverse Charge Mechanism under GST

Reverse Charge Mechanism based tax payment is now more or less a known phenomenon. This phenomenon will continue under GST as well. **If you have any queries please get in touch with my office.**

#### Rate Chart

#### SERVICES

S. No.	Name of Service	Status of Service Provider (See note 2)	Status of Svs Recipient (Do u fall in this)	Description of Service	Tax payable by Provider	Tax payable by Recipient	Remarks
1	Import of Services	Any	Any	Any Services provided by a person outside India to any person in India <b>(Jammu and Kashmir is outside India)</b>	Nil	<b>Rate as applicable to the service being imported</b>	No Change from existing provisions
2	Insurance agent Services	Any	Any	Services provided by an insurance agent to any person carrying on insurance business	Nil	<b>18%</b>	No Change from existing provisions
3	Goods Transport by Road (GTA)	Any	Any person other than a non business entity <b>(see Note 4)</b>	Service provided by the Good Transport Agency (GTA) in respect of transportation of goods by road.	Nil	<b>5%</b>	No Change from existing provisions
4	Sponsorship Service	Any Person	Firm, LLP or Company	Service provided by way of sponsorship.	Nil	<b>18%</b>	No Change from existing provisions
5	Service by an Arbitral Tribunal	Arbitral Tribunal	Business entity located in India <b>(See Note 5)</b>	Service provided by an Arbitral Tribunal	Nil	<b>18%</b>	No Change from existing provisions
6	Advocate Service <b>(including Senior Advocates)</b>	Individual or Firm of Advocates	Any <b>(See Note 5)</b>	<b>Representational services before any court, tribunal or authority</b>	Nil	<b>18%</b>	Svs of Senior advocates have now been included
7	All Services provided by Government or local authority <b>(See Note 6)</b>	Govt. or Local authority	Any business entity	<b>Any</b> Service provided by Government or Local authority except a few services	Nil	<b>18%</b>	No change from existing provisions
8	Services provided by Directors <b>[See note 7]</b>	Individual	Company/Body Corporate	Service provided by Directors	Nil	<b>18%</b>	No change from existing provisions

S. No.	Name of Service	Status of Service Provider (See note 2)	Status of Svs Recipient (Do u fall in this)	Description of Service	Tax payable by Provider	Tax payable by Recipient	Remarks
9	Recovery Agent Services [See note 8]	Any	Banking Co. or Financial Inst. Or Non-Banking Co.	Service provided by recovery agents to certain persons	Nil	18%	No Change from existing provisions
10	Goods Transportation svs by vessel from outside India to Indian Port	A person located outside India	Importer as defined u/s 2(26) of the Customs Act, 1962 located in India		Nil	18%*	New Svs Added
11	Transfer or permitting the use or enjoyment of a copyright	Author or music composer, photographer, artist, or the like	Publisher, Music company, Producer or the like	Transfer or permitting the use or enjoyment of a copyright covered under section 13 (1)(a) of the Copyright Act, relating to original literary, dramatic, musical or artistic works	Nil	18%*	New Svs Added
12	Radio taxi, Motor Cab or motor cycle done through an e-commerce operator	Taxi driver or Rent a cab operator	Any Person	services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;	Nil	18% by E-Commerce Operator	New Svs Added
13	Accommodation Services through an e-commerce operator	Unregistered Hotel, inns, clubs etc	Any Person	services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes	Nil	18% by E-Commerce Operator	New Svs Added
13	Procurement of goods or service from an unregistered person [See note 9]	Any Unregistered person	Any Registered person	Purchase of any goods and receipt of any service from an unregistered person	Nil	Rate applicable to goods or service recd	Newly added

## GOODS

S. No.	HSN	Supplier of Goods	Recipient of Goods	Description of Goods	Tax payable by Supplier	Tax payable by Recipient
1	0810	Agriculturist	Any registered person	Cashew nuts, not shelled or peeled	Nil	Rate Applicable
2	1404 90 10	Agriculturist	Any registered person	Bidi wrapper leaves (tendu)	Nil	Rate Applicable
3	2401	Agriculturist	Any registered person	Tobacco leaves	Nil	Rate Applicable
4	5004 to 5006	Manufacture r of silk yarn from raw silk or silk worm cocoons	Any registered person	Silk Yarn	Nil	Rate Applicable
5	-	State Government, Union Territory or any local authority	Lottery distributor or selling agent.	Supply of lottery	Nil	Rate Applicable

### Notes

#### 1. When to Pay GST

In case of RCM based tax payments – the tax becomes payable on the earlier of the following 2 dates:

- a. When the payment to the vendor is made
- b. 30 days from the date of the invoice for purchase of **goods**
- c. 60 days from the date of the invoice for the **service**

In case where the service was completed and invoice was raised prior to GST date but service tax is not paid, then GST will become payable. In case service tax was paid by the recipient before GST date then he will not be required pay GST again

#### 2. How to ascertain Status of Service Provider:

We can ascertain the same from the PAN of the party. Normally Service Tax registration number starts from the PAN. Check the 4th digit of PAN. It denotes Status of Party.

4 <sup>th</sup> digit	Status
P	Individual

<b>F</b>	<b>Firm</b>
<b>H</b>	<b>HUF</b>
B	Body of Individual
<b>A</b>	<b>Association of Person (AOP)</b>
L	Local Authority
C	Company
T	Trust
J	Artificial Judicial Person

#### **How to ascertain State of Supplier:**

We can ascertain the same from the PAN number of the supplier. The GSTIN always contain 1st two digits as State Code.

### **3. Declaration in Invoice**

Every service provider whose service falls under RCM is required to have the following declaration in his invoice as under:

*“NOTE: “Tax is payable by the Service Recipient”*

### **4. GTA Service**

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 RCM.

If the recipient falls in any of the following categories then he will be required to pay GST on RCM basis:

- a. any factory registered under or governed by the Factories Act, 1948;
- b. any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India
- c. any co-operative society established by or under any law;
- d. any person registered under CGST/SGST/UTGST Act;
- e. anybody corporate established, by or under any law; or
- f. any partnership firm whether registered or not under any law including association of persons.
- g. Casual taxable person

### **5. Advocates and Arbitral tribunals:**

Please note the term “Business entity” is not defined anywhere in the GST Law. However it is defined in Notification 12/2017 CT (Rate) as under:

2 (n) “business entity” means any person carrying out business;

**Also note that from services of Senior Advocates (as designated by respective Bar Council) will also fall under RCM provisions.**

- 6. All Services by the Government or Local Authority:** In case of all services provided by the Government or Local authority which are taxable under the present service tax law except a few listed below the tax on the same shall be payable by the service recipient.

Following services if provided by the Government or Local Authority are not under RCM

Recipient has to pay tax on all Services as explained above except the following services on which the Government will pay the tax.

- i. Renting of immovable property
- ii. Services by the Department of Posts
- iii. Services in relation to an aircraft or a vessel
- iv. Transport of goods or passengers

- a. What is the meaning of ‘Government’

“Government” means the Central Government, State Government or Union Territory Administration

- b. What is the meaning of ‘Local Authority’

Local authority means-

- i. a “Panchayat” as defined in clause (d) of article 243 of the Constitution;
- ii. a “Municipality” as defined in clause (e) of article 243P of the Constitution;
- iii. a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
- iv. a Cantonment Board as defined in section 3 of the Cantonments Act 2006;
- v. a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
- vi. a Development Board constituted under article 371 of the Constitution; or
- vii. a Regional Council constituted under article 371A of the Constitution;

## **7. Services provided by director**

Services provided or agreed to be provided by a director of the Company to the said Company would be taxable under reverse charge mechanism wherein the Company would be required to discharge the tax liability in full.

In our view, only those services will be covered under this head which are provided by the director **in the capacity of a director** and not otherwise. A director who has rented his office to the company and draws lease rentals will be required to pay tax in his individual capacity and the company will not be required to pay tax on the same under RCM.

Services provided by director who is employee of the company would not get covered under this entry as Schedule III specifically excludes service provided by employee to employer

**8. Recovery Agent Services:**

Services provided or agreed to be provided by a recovery agent to Banking Company, Financial Institutions or Non-Banking Company in relation of recovery any sum due to such Banking Company, Financial Institutions or Non-Banking Company shall be taxable under Reverse Charge Mechanism. Now the Banking Company, Financial Institutions or Non-Banking Company shall be required to pay tax on the same.

**9. Unregistered Purchases:**

RCM shall apply only where the aggregate value of purchases by a registered person from an unregistered purchases of goods or service from 1 or all the unregistered suppliers exceeds five thousand rupees in a day.

**Also note that in case of receipt of inter-state services or goods one shall NOT be required to pay tax under RCM because as per section 24 (i) of CGST and SGST act, the vendor is required to compulsorily register as he is supplying goods or services on inter-state basis.**

**Formulated by**

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