

GST Alert 04/2022-23

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GST Rate Changes – A Synopsis

GST Council in its 47th meeting held in Chandigarh on 28-29th June 2022 had reviewed GST rate and exemption structure, notifications giving effect to those recommendations have been issued, following is a gist of these changes. I have covered only changes which are relevant to most of the taxpayers and not all.

All these notifications are effective from 18th July 2022

I. Changes in GST Rate applicable on Services [Noti 3/2022-CTR]

A. In following works contract services provided to Central or State Government or Local Authority GST rate has been increased from **12% to 18%**:

1. Historical monuments
2. Canal, Dam, or other irrigational works
3. Any type of water or sewerage treatment pipeline works
4. Roads, bridge, tunnel for use of general public
5. Works pertaining to a scheme under JNNURM or Rajiv Awaas Yojana;
6. Works pertaining to the In-situ redevelopment of existing slums
7. Pollution control or effluent treatment plant
8. Structure meant for funeral, burial or cremation of deceased
9. Railways, monorail and metro
10. Single residential unit otherwise than as a part of a residential complex



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11. low-cost houses up to a carpet area of 60 square metres per house in an affordable housing project
 12. Post-harvest storage infrastructure for agricultural produce including a cold storage
 13. Mechanised food grain handling system, machinery or equipment for units processing agricultural produce
 14. **Contractors providing Construction and allied services to Builders who are developing an affordable residential project on which they are paying GST @ 1% or 8%.**
 15. Works meant predominantly for non-commercial or non-industrial use
 16. Structure meant predominantly for use as an educational, clinical, or an art or cultural establishment
 17. Residential projects for Government employees
 18. Works contract services provided by a sub-contractor to the main contractor who was taxable @ 12%.
- B. Following 2 services would be taxable @ 12% instead of 5%**
1. Works contract services involving predominantly earth work which constitutes more than 75% of the value of the works contract provided to the Central or State Government or Local authority
 2. Works contract services provided by a sub-contractor to the main contractor providing services listed in 1 above.
- C. Hotel accommodation where the room charges were below Rs. 1000 were exempt from levy of GST, same is now made taxable. Effective from 18.07.2022, rooms whose per day value is less than Rs. 7501 would be taxable @ 12% and rooms above 7500 would be taxable @ 18%.**



- D. GST rate on Services pertaining to **Transport of PASSENGERS** by ropeways is **decreased from 18% to 5%, however ITC on Goods used in supplying the service would not be available.**
- E. GST rate on Services pertaining to **Transport of GOODS** by ropeways is **decreased from 18% to 5%, however ITC on Goods used in supplying the service would not be available.**
- F. GST rate on Renting of goods carriage where the consideration charged includes the cost of fuel is **decreased from 18% to 12%** and he will be also eligible to avail ITC on goods and services used in supplying the service.
- G. GST rate is increased from 12% to 18 on Services provided by a foreman of a chit fund in relation to chit.

II. Builders developing Affordable residential projects

Builders who are into developing affordable residential projects were eligible to pay GST @ 8% in an ongoing project. This provision was contained in entry 3 (ie) of notification 11/2017-CTR

Said entry reads as under:

*(ie) Construction of an apartment in an ongoing project **under any of the schemes specified in sub-item (b), sub-item (c), subitem (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as specified for this item.***

This entry (ie) is still there in the notification but the 'items (iv), (v) and (vi) stand deleted, accordingly this entry has no legs to stand on and therefore we believe the 8% option is all but dead.

The builders will face following predicaments:

- a. As they had opted for the old rate of 8% with ITC can they now go to the new rate of 1%



- b. As they cannot go to 8% or 1%, will they be taxed at full rate of 12% with ITC or would they be forced to go for 5%
- c. Can they avail ITC in future.

We sincerely believe this was not the intent while making wholesale amendments, hope a corrigendum to notification 11/2017-CTR is issued sooner than later and the status quo is restored.

III. Withdrawal of exemption for Services under GST – [Noti 4/2022 – CTR]

Exemption from following services have been withdrawn, accordingly said services will become taxable:

1. Services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to the Central Government, State Government, Union territory. However, exemption on services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams) shall continue. Rest would be taxed @ 18%.
2. Renting of residential property **for use as residence** was exempt irrespective of the fact whether the said tenant was a registered business entity under GST or not. Now if the residential property is rented to a GST registered person, then Tax would have to be paid @ 18%
3. Travel by air to or from an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal was exempt irrespective whether the travel was in business or economy class, now, if the exemption is limited to economy class only, rest all is taxable.
4. Exemption on Services of transportation within India by rail or a vessel of railway equipment or materials is withdrawn. Tax would have to be paid @ 5%



5. Following value-based exemption in case of GTA services are withdrawn
- Where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed Rs. 1500
 - Where consideration charged for transportation of all such goods for a single consignee does not exceed Rs. 750

Said services will be taxable as normal GTA services.

6. Exemption is withdrawn on services by way of storage or warehousing of nuts, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea. However, exemption continues for cereals, pulses, fruits and vegetables.
7. Services by the Reserve Bank of India.
8. Services provided by the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act
9. Services provided by the SEBI by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.
10. Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators.
11. Services provided by the GSTN portal to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.
12. Services by way of fumigation in a warehouse of agricultural produce.
13. Services by way of slaughtering of animals
14. Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.



15. Services provided any person other than an Individual by way of training or coaching in recreational activities relating to arts or culture.

IV. Tour Operator Sector [Noti 4/2022 - CTR]

Exemption is being granted to a Travel agent / operator service provided to a foreign tourist, where the tour involves part travel inside India and part outside India, to the extent of the value of the tour operator service which is performed outside India.

Value of the tour operator service performed outside India shall be lesser of the following 2 values:

- a. Total Consideration will be divided by number of days of the entire tour and multiplied with the number of days for which the tour is performed outside India, or
- b. 50% of the total consideration charged for the entire tour

In making the above calculations, any duration of time equal to or exceeding 12 hours shall be considered as one full day and any duration of time less than 12 hours shall be taken as half a day. Foreign tourist means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

V. Renting of Residential property put under RCM [Noti 5/2022-CTR]

Renting of residential property for residential use is exempt from levy of GST. However, where the residential property is rented to a GST registered person is now being made taxable.

Further, this service is being put under RCM and the tenant would be liable to pay GST @ 18%.

Question would arise whether the Tenant (as he is registered) would be eligible to avail ITC of the GST paid under RCM. Let's assume, a company (registered in GST) takes a house on rent and gives it to its director for use as his residence. It will be treated as perquisite in the hands of the director. Company pays GST under RCM on the rentals paid by it for the house. Section 17(5)(g) debars credits for services used for personal consumption.



In my view, Company would be eligible for availing the credit, because it is companies' duty to provide the director with a house (as per the employment contract) and therefore the said service is being used for furtherance of business and cannot be said to be used for personal consumption of the company.

VI. GST Rate on Diamonds increased [Noti 6/2022-CTR]

GST rate on Polished Diamonds have been increased from 0.25% to 1.50%. However, GST on raw and simply sawn diamonds is still taxable @ 0.25%.

VII. Concessional rate of tax for Public funded research institutions withdrawn [Noti 11/2022-CTR]

Public funded research institution or a University or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a Regional Engineering College, other than a hospital are eligible for purchasing certain research related goods at a concessional rate of 5%. This benefit is being withdrawn

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