

GST Rate changes vide notification 20/2017-CTR w.e.f. 22.08.2017

GST was made effective from 1.07.2017, only 53 days have passed and government has felt the need to tinker with the rates in a manner which will send all the connected industries and service providers back to the drawing board. Vide notification 20/2017-CTR dated 22.08.2017 Government has made far reaching changes in the rate structure for certain services and in some other services they have given an option of paying taxes at the higher rate and avail credits. Following is a brief analysis of this notification.

I. Works Contract Services

GST Rates for certain work contracts (material + labour) are brought down to 12% (from 18%). Before we delve into the specific changes brought about by this notification, it is important to understand what Work Contract means, it is defined in section 2(119) of the CGST Act as under:

(119) "works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract

In other words, any contract for construction, erection, repairs etc where material and services both are provided by the service provider, then it shall be termed as a works contract.

Changes in rates are broken up into 3 categories as under:

A. Services provided to Government, Local authority or a Governmental Authority

Following types of works contracts services (WCS) provided to **Government, local authority and Governmental Authority** will be taxed at 12% w.e.f. 22.08.2017. Works done and billed prior to 22.08.2017 will be taxed @ 18% only.

- a) Historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
- b) Canal, dam or other irrigation works;

- c) pipeline, conduit or plant for
 - (i) water supply
 - (ii) water treatment, or
 - (iii) sewerage treatment or disposal.

Important issues that come out of this entry are as under:

- i. If any of the above works are done for a private person/company, same shall be taxed @ 18%.
- ii. A company providing WCS to the Government shall be taxed at 12% but his sub-contractor will be taxed @ 18%
- iii. Any person providing pure services (without material) to the Government or main contractor for the above projects shall also be taxed @ 18%

B. Works Contracts Services provided to any person

WCS provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-

- (a) a road, bridge, tunnel, or terminal for road transportation for use by general public;
- (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;
- (c) a civil structure or any other original works pertaining to the “In-situ rehabilitation of existing slum dwellers using land as a resource through private participation” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers;
- (d) a civil structure or any other original works pertaining to the “Beneficiary led individual house construction / enhancement” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;
- (e) a pollution control or effluent treatment plant, except located as a part of a factory; or
- (f) a structure meant for funeral, burial or cremation of deceased.

Important issues that come out of this entry are as under:

- i. Projects defined in this entry will be taxed @ 12% in the hands of main as well as sub-contractors who provide material as well as labour under one contract
- ii. Pure services in relations to the above projects will be taxable @ 18%

- iii. Works contract which are in nature of Building, Fabrication, Improvement, and modification shall be taxable @ 18%

C. Works Contracts Services in relation original works provided to any person

Works contract service supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-

- (a) railways, excluding monorail and metro;
- (b) a single residential unit otherwise than as a part of a residential complex;
- (c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;
low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under-
 - (1) the “Affordable Housing in Partnership” component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;
 - (2) any housing scheme of a State Government;
- (e) post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes; or
- (f) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.

Important issues that come out of this entry are as under:

- i. Only Construction, Erection, installation and commissioning services provided in relation to an Original Works shall qualify for this entry.
- ii. Original Works means:
 - a. All new constructions
 - b. all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable
 - c. erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise

- iii. Projects defined in this entry will be taxed @ 12% in the hands of main as well as sub contractors providing material and labour under one contract
- iv. Pure services in relations to the above projects will be taxable @ 18%
- v. Works contract in relation to only new projects and erection installation of plant machinery will be eligible for 12% tax.
- vi. All works contract other than construction, erection, commissioning, or installation, like repairs, maintenance etc shall be taxable @ 18%
- vii. **Builders executing schemes falling under “Affordable Housing” will not be eligible for this entry, only contractors constructing such schemes will fall under this and will be eligible to pay tax @ 12%. Builders shall also pay 12% on the value of the unit as applicable earlier.**

II. Transport of Passengers by Motor Cab

Suppliers of services in relation to Passenger transportation by Motorcab (where fuel cost was included in the price charged) were required to pay Tax @ 5% and were not eligible to claim any credits. Now they have been given an option of paying tax @ 12% if they want to avail credits of Capital goods, inputs and input services.

Hence now a Transport of Passengers by Motor Cab service provider will have 2 options to choose from as under:

- a. 5% without any credit
- b. 12% with all credits

Motor cab means a vehicle constructed to carry 6 or less passengers excluding the driver.

III. Renting of Motorcab Services

Suppliers of rent a cab service (where fuel cost was included in the price charged) were required to pay tax @ 5% and were not eligible to claim any credits. Now they have been given an option of paying tax @ 12% if they want to avail credits of Capital goods, inputs and input services.

Hence now a Rent a Cab Service provider will have 2 options to choose from:

- a. 5% without any credit
- b. 12% with all credits

IV. Goods Transport Services

GTA services were taxable @ 5% and as per RCM provisions, service recipient was liable to pay tax on the same. Provider of service was not liable to pay GST. This resulted into huge loss of credits for the GTA industry.

Vide this notification, GTA service providers have been given an option of paying 12% GST and avail credits of Capital goods like trucks, inputs like tyres, oil and input services like repairs and maintenance. Following are norms for this:

- a. GTA has to himself pay this tax under Forward charge (FCM) and RCM provisions shall not apply
- b. Once this option of paying 12% is chosen by the GTA, he shall have to keep paying tax @ 12% for all GTA services provided by him thereafter. He shall not be able to go back to the old method where recipient was liable to pay tax. It's a one way street.

V. Textile Jobwork Services

Jobwork services on textile yarns and fabrics was taxable @ 5% whereas jobwork in relation to manmade fibre was taxable @ 18%.

Vide this notification government has done away with this differentiation, w.e.f. 22.08.2017 Jobwork of any kind of textiles (falling under chapter 50 to 63) will be taxable @ 5% only.

VI. Treatment or processing in relation to printing of Newspapers, Books, journals etc

Services by way of any treatment or process on goods belonging to another person, in relation to printing of newspapers, books, Braille books, journals, periodicals etc where the publisher provides printing material and allied goods shall now be taxable @ 5%. Earlier the same was taxable @ 18%

VII. Printing services of newspapers, books, journals etc

Services in relation to printing of newspapers, books, braille books, journals and periodicals, where content is supplied by the publisher whereas all the goods required including paper used for printing belong to the printer shall now be taxed @ 12%. Earlier the same was taxable @ 18%

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