

Recent Changes made in GST Law

Government has come out with a series of notifications making wide ranging changes.

Following is a gist of these changes:

The effective date of applicability of all the following amendments shall be 25.01.2018.

I. Changes in Rate of Old and Used Cars (Noti. 08/2018 CTR)

Rates for supply of old and used cars have been restructured as under:

Chapter Heading	Description of Goods	Existing Rate	New Rates
8703	- LPG or CNG driven Motor Vehicles - Engine Capacity of 1200 cc or more and - Length of 4000 mm or more	28% + Cess	18% + Nil Cess
8703	- Diesel driven Motor Vehicles - Engine Capacity of 1500 cc or more and - Length of 4000 mm	28% + Cess	18% + Nil Cess
8703	- Engine capacity exceeding 1500 cc, - Sports Utility Vehicles (SUVs)	28% + Cess	18% + Nil Cess
87	All Old and used Vehicles other than those mentioned from S. No. 1 to S. No.3	28% + Cess	12% + Nil Cess

Sale of Old and Used Cars by a Registered person claiming depreciation under Section 32 of Income Tax Act, 1961

If a registered person, who holds a car in its block of capital assets and has consequently **claimed depreciation on Motor vehicle under section 32 of the Income Tax Act, 1961**, sells his car then taxable value shall be the difference between sale price of sale of such car and depreciated value in books of account. If the difference is negative, then it no tax shall be payable.

In any other cases the taxable value shall be the difference between consideration received for sell of such car and purchase price. If the difference is negative, then it shall be ignored for taxability under GST.

An Important point to be noted is that vide notification 37/2017-CTR government had notified that in case one is selling or leasing a car purchased pre 1.07.2017 then GST was payable at 65% of the rates notified in 1/2017 CTR as well as compensation cess was also payable at 65% of the applicable rate. This notification is not yet rescinded but in our view it is redundant because the new notifications (8/2018 CTR and 1/2018 cess) reduce the rates to 18% and cess to nil rate and that too only on the margin value.

Exemption from applicability of Compensation Cess on sale of Used or old Cars (Noti. 01/2018 Cess)

Central Government, has exempted taxable supply of Old or used cars from applicability of Compensation Cess subject to following conditions:

- a) Motor Vehicle must be old or used motor vehicle
- b) Supplier of such goods has not availed Input Tax Credit/Cenvat Credit under GST law or earlier tax laws.

II. Reduction in Rate of Tax for certain Services (Noti 1/2018 CTR)

Sr. No.	Description	Existing Rate	New Rate
1.	Works contract of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the "In-situ redevelopment of existing slums using land as a resource, under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban) Earlier the entry was applicable only to land being sourced through private participation, now land sourced from anywhere will be also be eligible for rate of 12%	12%	12%
2.	Works contract of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,- - a civil structure or any other original works pertaining to the "Economically Weaker Section (EWS) houses" constructed under the	18%	12%

	<p>Affordable Housing in partnership by State or Union Territory or local authority or urban development authority under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban)</p> <ul style="list-style-type: none"> - a civil structure or any other original works pertaining to the “houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/ Lower Income Group (LIG)/ Middle Income Group-1 (MIG-1)/ Middle Income Group-2 (MIG-2)” under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban) - a building owned by an entity registered under section 12AA of the Income Tax Act, 1961 (43 of 1961), which is used for carrying out the activities of providing, centralised cooking or distribution, for mid-day meals under the mid-day meal scheme sponsored by the Central Government, State Government, Union territory or local authorities. 		
3.	<p>Works contract of construction, erection, commissioning, or installation of original works pertaining to</p> <ul style="list-style-type: none"> - monorail and metro - low-cost houses up to a carpet area of 60 square metres per house in an affordable housing project which has been given infrastructure status vide notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F. No. 13/6/2009-INF, dated the 30th March, 2017 	18%	12%
4.	<p>Works contract provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) of Sr. 3 of Noti. No. 8/2017-IGST Rate, to the Cent./State/UT Government, a local authority or a Govt. Autho./Entity</p>	18%	12%
5.	<p>Works contract provided by a sub-contractor to the main contractor providing services in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area</p>	12%	5%
6.	<p>Transport of petroleum crude, Petrol, high speed diesel or aviation turbine fuel</p>	18%	5% w/o ITC & 12% with ITC
7.	<p>Time charter of vessels for transport of goods</p>	18%	5% ITC of only Ship allowed
8.	<p>Services by the Govt. or Govt. Authority/Entity by way of lease of land</p>	18%	Nil
9.	<p>Supply of land or undivided share of land by way of lease where such supply is a part of composite supply of construction of flats and amount charged for such lease is less than 1/3 of total amount charged for said composite contract</p>	18%	Nil

10.	Plumbing, carpentering services through electronic commerce operator where person supplying is not liable for registration	18%	5% (ITC not allowed)
11.	Exploration, mining or drilling services of petroleum crude or natural gas	18%	12%
12.	Job work service for manufacture of leather goods or footwear falling under Chapter 42 or 64 in the First Schedule to the Customs Tariff Act	Appli. Rate	5%
13.	Tailoring Services	18%	5%
14.	Services by Common ETP (Effluent Treatment Plant)	18%	12%
15.	Admission to amusement parks, theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet.	28%	18%

III. Increase in Scope of Exemptions (Noti 2/2018 CTR)

Sr. No.	Description	Existing Rate	New Rate
1.	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent provided to the Central/State/ UT Govt. or Govt. Authority or Entity in relation to function entrusted under article 243G and 243W of the Constitution of India	18%/12%	Nil
2.	Services received from Service Provider located in a non- taxable territory by way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of (i) pre-school education and education up to higher secondary school or equivalent; or (ii) (ii) education as a part of an approved vocational education course;	18%	Nil
3.	Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding (Earlier this exemption was up to 1 year now its extended to 3 years from commencement of operations of the regional connectivity scheme airport)	Nil	Nil
4.	Services by way of transportation of goods by an aircraft or vessel from customs station of clearance in India to a place outside India (This Exemption will be available only till 30.09.2018)	5%/18%	Nil

5.	Services by way of giving on hire motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent	Rate applicable Motor vehicle	Nil
6.	Services of life insurance provided by the Army and Air force group insurance funds to members of the Army and Air force under Group Insurance Schemes of Central Govt.	Nil	18%
7.	Services of life insurance business provided under Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of Two lacs rupees (Earlier it was restricted up to Rupees Fifty Thousand)	18%	Nil
8.	Services by way of reinsurance of the insurance schemes specified in serial numbers of 36 and 37	18%	Nil
9.	<p>Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).</p> <p>Explanation- For the purposes of this entry, the intermediary of financial services in IFSC is a person-</p> <ul style="list-style-type: none"> - (i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or - (ii) who is treated as a person resident outside India under regulation 3 of the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or - (iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or - (iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015. 	18%	Nil

10.	Services provided by and arbitral tribunal to Cent. Govt. State Govt., Local authority, Govt. Authority or Entity	18%	Nil
11.	Legal services provided by a partnership firm of advocates or an individual as an advocate including senior advocate to Cent. Govt. State Govt., Local authority, Govt. Authority or Entity	18%	Nil
12.	Services by way of fumigation in a warehouse of agricultural produce.	18%	Nil
13.	Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement (Earlier it was restricted to such services Provided by Ministry of External Affairs only)	Nil	Nil
14.	Services by way of providing information under the Right to Information Act, 2005 (22 of 2005).	18%	Nil
15.	Services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;	18%	Nil
16.	Services provided to an educational institution, by way of services relating to admission to, or conduct of examination by, such institution after higher secondary	18%	Nil
17.	Services provided to an educational institution by way of supply of online educational journals or periodicals. (But this is not applicable to Institutions providing services by way of - pre-school education and education up to higher secondary school or equivalent; or - education as a part of an approved vocational education course	18%	Nil
18.	Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution up to Rs.7000/- p.m per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex. Earlier this limit was restricted to Rupees Five Thousand	Nil	Nil
19.	Services by way of right to admission to	Nil	Nil

<p>(a) circus, dance, or theatrical performance including drama or ballet; (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;</p> <p>(c) recognised sporting event;</p> <p>(d) planetarium,</p> <p>where the consideration for right to admission to the events or places as referred to in items (a), (b), (c) or (d) above is not more than Rs 500 per person</p> <p>(Earlier there was no limit for Consideration)</p>		
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IV. Expansion of Scope of Reverse Charge Mechanism (Noti 03/2018 CTR)

Service provided by Central Government, State Government, Union Territory or Local Authority in the nature of Renting of Immovable property has been shifted to Reverse Charge Mechanism subject to following conditions:

- a) Service is provided by Central Government, State Government, Union Territory or Local Authority
- b) Service recipient shall be registered under Goods and Service Tax Act, 2017
- c) Service shall be in the nature of Renting of Immovable Property.

V. Determination of Time of Supply in case of Transfer of Development Right against the consideration in the nature of transfer of construction services (Noti 04/2018 CTR)

In case when Development Rights were transferred from a person owning the same were transferred to a developer/builder constructing a real estate project whereby the builder in consideration of receipt of TDR is giving flats / offices to the owner of TDS instead of money, issues were arising as to when would the TDR owner pay GST, when the TDR is transferred or he gets the possession of the flats.

Government has now notified time of supply in case of transfer of development right **by a Registered person** to a Developer, Builder, Construction Company or other registered against **consideration in form of Consideration Services or right in constructed property.**

Subject to following conditions, the time of supply in case of transfer of development Right by a registered person shall be the time when Developer, Builder or Construction Company or any other registered person transfers right in Constructed property to the registered person who has given Development Right by entering into a Conveyance Deed or similar Instrument like allotment letter.

- a) Supplier of Development right shall be a registered person.
- b) Developer, Builder or Construction company shall be a registered person.
- c) The consideration for transfer of development right shall be in form of construction service or right in constructed property.

VI. Exemption granted to Inter-state supply of services by way of grant of license or lease to explore petroleum crude and natural gas (Noti 5/2018 CTR)

Central Government, on the recommendation of GST Council, has exempted supply of services in the nature of grant of license or lease to explore petroleum crude or natural gas from levy of GST to the extent consideration is paid to Central Government in form of share of profit as defined in the contract entered into with Central Government.

VII. Exemption granted to Import of Services along with import of Taxable goods in the nature of temporary transfer or permitting use or enjoyment of any Intellectual Property right: (Notification No. 06/2018-IGST Rate dated 25.01.2018)

Central Government, on the recommendation of GST Council, has exempted import of services in the nature of **Temporary transfer or permitting use or enjoyment of intellectual property right** in taxable territory subject to following conditions:

- a) The consideration shall be in the nature of Royalties and License Fees.
- b) The said consideration is included in Transaction Value of imported goods as specified in Customs Valuation Rules, 2007.
- c) Appropriate Custom duties on such transaction value have been paid.

VIII. Reduction in Late fee for filing of GST Returns

Central Government, on the recommendation of GST Council, has reduced late fee filing of various GST Returns, details are as follow:

Type of Return	Existing Late Fees		Revised Late Fees – Regular Return		Revised Late Fees – Nil Return	
	CGST	SGST	CGST	SGST	CGST	SGST
GSTR - 1	Rs. 100	Rs. 100	Rs. 25	Rs. 25	Rs. 10	Rs. 10
GSTR – 5	Rs. 100	Rs. 100	Rs. 25	Rs. 25	Rs. 10	Rs. 10
GSTR - 5A	Rs. 100	Rs. 100	Rs. 25	Rs. 25	Rs. 10	Rs. 10
GSTR – 6*	Rs. 100	Rs. 100	Rs. 25	Rs. 25	Rs. 25	Rs. 25

* Due date for submission of GSTR-6 for the period from July 2017 to February 2017 have been extended to 31.03.2018

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