

GST Council recommends revision in GST rate for certain Goods & Services and policy related changes

In the 25th meeting held on 18th January 2018, the GST Council has recommended further revision of GST rates for specified list of goods and services. In addition, the Council has also recommended clarifications on issues relating to GST rates and taxability of certain goods and services and policy related changes. These changes will be given effect through Gazette notifications / circular and is likely to be effective from 25th January 2018. In this update, we have summarised major recommendations as under:

Reduction in GST rates for services

Main services	Old GST Rate	New GST Rate
Construction of metro and monorail projects (construction, erection, commissioning or installation of original works)	18%	12%
Services by way of admission of theme parks, water parks, joy rides, merry-go-rounds and ballet	28%	18%
Works contract services provided by sub-contractor to the main contractor providing works contract services to Central / State Government, UT, a local authority, a Governmental authority, Government entity	18%	12%
Works contract services provided by main contractor which attract 5% will have same GST treatment to sub-contractor	18%	5%
Transportation of petroleum crude and petroleum products (MS, HSD, ATF)	18%	5% without ITC or 12% with ITC



Common Effluent Treatment Plants services of treatment of effluents	18%	12%
Mining or exploration services of petroleum crude and natural gas and for drilling services of said goods	18%	12%
Tour operator services	5% without ITC	5% with ITC to the extent of input services in the same line of business

Exemption to specified services

<u>Services</u>	<u>Exemption</u>
Legal services	Legal services provided to Government, Local Authority, Governmental Authority and Government Entity
Transportation of goods by air	Services by way of transportation of goods from India to a place outside India by air – exemption with sunset clause upto 30 th September 2018
Transportation of goods by sea	Services by way of transportation of goods from India to a place outside India by sea and value of such service to be excluded from the value of exempted services for the purpose of reversal of ITC – exemption with sunset clause upto 30 th September 2018
Royalty and License fee for use or enjoyment of any intellectual property (import of services)	IGST exemption on import of services in relation to temporary transfer or permitting the use or enjoyment of any intellectual property right to the extent of aggregate of duties and taxes leviable under Customs Tariff Act, 1975 on part of consideration declared under Section 14(1) of the Customs Act, 1962 towards royalty and license fee includible in transaction value as specified under Rule 10(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2017
Exemption limit for individual contribution to resident welfare association	Increase in exemption limit of Rs. 5000 per month per member to Rs. 7500 in respect of services provided by Resident Welfare Association (unincorporated or non-profit entity) to its members against their individual contribution
Fumigation services	Services by way of fumigation in a warehouse of agricultural produce

Comments

- The exemption for transportation of goods from India to a place outside India by sea will be beneficial for export shipments originating from India.



- The industry was grappling with duality of customs duty and service tax / GST on import of intellectual property and the IGST exemption brings a welcome relief. The exemption is likely to be prospective in nature and implication for the past transactions could still be open to interpretation.

Rationalization of certain exemption entries

Matter	Rationalization
Value of exempt services for ITC reversal under Section 17(2) of CGST Act, 2017	To provide for amendment in CGST Rules, 2017 that value of exempt supply under Section 17(2) of the CGST Act, 2017 shall not include value of deposits, loans or advances on which interest or discount is earned. This will not be applicable to a banking company and a financial institution including a non-banking financial company engaged in providing services by way of extending deposits, loans or advances)
GST liability in case of TDR against consideration in form of construction service or vice versa	To defer the liability to pay GST in case of TDR against consideration in the form of construction service and on construction service against consideration in the form of TDR to the time when the possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument (eg. allotment letter). No deferment in point of taxation in respect of cash component.
Renting of immovable property by government	Renting of immovable property by government or local authority to a registered person under reverse Charge while renting of immovable property by government or local authority to un-registered person shall continue under forward charge
Definition of insurance agent	Insurance agent in the reverse charge notification to have the same meaning as assigned to it in clause (10) of section 2 of the Insurance Act, 1938, so that corporate agents get excluded from reverse charge.
Value of lottery	Insertion in provision in GST Rules under Section 15 of the GST Act that the value of lottery shall be 100/112 or 100/128 of the price of lottery ticket notified in the Gazette (the same is currently notified in the rate notification).
GST rate @ 28% on betting and gambling including horse race	Actionable claim in the form of chance to win in betting and gambling including horse racing to be added in GST rate schedule for goods at 28%
Value of supply of betting and gambling	Insertion in Section 15 of the CGST Act, 2017 for value of supply of betting & gambling shall be 100 % of the face value of the bet or the amount paid into the totalizator.

Comments

Ambiguity on whether value of exempt services would include value of deposit, loans or advances on which interest or discount is earned for the purpose of input tax credit reversal calculation under Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules



has now been suitably clarified and restores the position as under erstwhile CENVAT Credit Rules.

Revision in GST rates for goods

HSN	Item Description	Old GST Rate	New GST Rate
87	Old and used motor vehicles <u>on the margin of the supplier</u> , subject to the condition that no input tax credit of central excise duty/value added tax or GST paid on such vehicles has been availed by the supplier: <ul style="list-style-type: none"> - Medium and large cars and SUVs - Other than medium and large cars and SUVs 	28%	18%
		28%	12%
1704	Sugar boiled confectionary	18%	12%
2711	LPG supplied for supply to household domestic consumers by private LPG distributors	18%	5%
7102	Diamonds and precious stones	3%	0.25%
HSN	Item Description	Old Compensation Cess Rate	New Compensation Cess Rate
87	Old and used motor vehicles <u>on the margin of the supplier</u> , subject to the condition that no input tax credit of central excise duty/value added tax or GST paid on such vehicles has been availed by the supplier: <ul style="list-style-type: none"> - Medium and large cars and SUVs - Other than medium and large cars and SUVs 	Applicable Rate	Nil
		Applicable Rate	Nil

Comments

The reduced GST rate for supply of old and used vehicle appears to be limited to second-hand vehicle dealers under the profit margin scheme and it needs to be seen, once Notification is issued, whether it will be available for other taxpayers, such as a Company selling its used vehicles if they have not availed input tax credit of central excise duty or VAT or GST.



Recommendations for Policy Changes

- Reduce late fee payable by any registered person for failure to furnish GSTR-1 (supply details), GSTR-5 (Non-resident taxable person) or GSTR-5A (OIDAR), GSTR-6 (Input Service Distributor).
- The facility for generation, modification and cancellation of e-way bills is being provided on trial basis on the portal www.ewaybill.nic.in and once fully operational, will be provided on the portal www.ewaybillgst.gov.in
- Modifications to the e-way bill rules for inter-State movement will be effective from 01st February 2018 and for intra-State movement with effect from a date to be announced separately by each State but not later than 1st June 2018
- Taxable persons who have obtained voluntary registration will be permitted to apply for cancellation of registration even before the expiry of one year from the effective date of registration
- For migrated taxpayers, the last date for filing FORM GST REG-29 for cancellation of registration is being extended by further three months till 31st March 2018



ADDRESS

Mumbai

1101 One India Bulls Centre,
11th Floor, Tower 2B, 841, Senapati Bapat Marg,
Elphinstone Road (West),
Mumbai 400 013
Tel: +91 22 6108 1000 / 1900

Ahmedabad

B3, 3rd Floor, Safal Profitaire,
Near Auda Garden,
Prahladnagar, Corporate Road,
Ahmedabad - 380 015
Tel: +91-79-6134 3434

Bengaluru

Prestige Terraces, 2nd Floor,
Union Street, Infantry Road,
Bengaluru 560 001
Tel: +91-80-4660 2500

Delhi / NCR

101 & 102, 1st Floor, Tower 4B,
DLF Corporate Park, M G Road,
Gurgaon, Haryana - 122 002
Tel: +91-124-668 7000

New York

Dhruva Advisors USA, Inc.
340 Madison Avenue, 19th Floor,
New York, New York 10173 USA
Tel: +1-212-220-9494

Singapore

Dhruva Advisors (Singapore) Pte. Ltd.,
20 Collyer Quay, #23-01,
Singapore 049319
Tel: +65 9105 3645

Dubai

U-Bora Tower 2, 11th Floor,
Office 1101, Business Bay,
P.O.127165,
Dubai, UAE.
Tel: + 971 56 900 5849

KEY CONTACTS

Dinesh Kanabar (Mumbai)

Chief Executive Officer
dinesh.kanabar@dhruvaadvisors.com

Ritesh Kanodia (Mumbai)

Partner
ritesh.kanodia@dhruvaadvisors.com

Niraj Bagri (Mumbai)

Partner
niraj.bagri@dhruvaadvisors.com

Srinath S (Bengaluru)

Associate Partner
srinath.s@dhruvaadvisors.com

Lawrence Zlatkin (New York)

Partner
lawrence.zlatkin@dhruvaadvisors.com

Mahip Gupta (Singapore)

Partner
mahip.gupta@dhruvaadvisors.com

Pratik Shah (Dubai)

Partner
pratik.shah@dhruvaadvisors.com

Dhruva Advisors was named **“India Tax Firm of the Year 2017”** at International Tax Review’s Asia Tax Awards 2017

www.dhruvaadvisors.com

Follow us on:   

Disclaimer:

This information contained herein is in summary form and is therefore intended for general guidance only. This publication is not intended to address the circumstances of any particular individual or entity. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. This publication is not a substitute for detailed research and opinion. Before acting on any matters contained herein, reference should be made to subject matter experts and professional judgment needs to be exercised. Dhruva Advisors LLP cannot accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication