

# **GOODS & SERVICES TAX UPDATE – 13**

## **GOODS AND SERVICES TAX**

### **Last date for payment of gst and filing of return for July 2017 extended by 5 days**

The last date for payment of taxes and filing of GST Return in Form 3B for the month of July is 20th of August 2017. However, owing to various issues faced by the assesses being first return, technical glitches and requests received by flood hit states the **last date for payment of the GST for the month of July 2017 to 25th August, 2017**. For those tax payers, who do not want to avail of transitional credit in TRANS1 this month, the date for return filing will be 25th August 2017. And for those who want to fill up TRANS1 this month, the last date for filing of returns will be 28th August 2017, as announced earlier.

### **Date and Conditions for filing the return in FORM GSTR-3B for the month of July 2017 notified**

The Central Government vide *Notification No. 21/2017-Central Tax dated 08.08.2017* had notified the last date for filing of return in FORM GSTR-3B for the month of July 2017 as 20.08.2017. However, there were doubts regarding availability of transitional credit available under earlier law with the set off credit while discharging the tax liability for the month of July 2017. To put to rest these doubts, Central Government vide [\*Notification No. 23/2017-Central Tax dated 11.08.2017\*](#) has specified the date and conditions for filing the return in FORM GSTR-3B which are as follows:

<b>S. No.</b>	<b>Class of Registered Persons</b>	<b>Last date for furnishing of return in FORM GSTR-3B</b>	<b>Conditions</b>
1.	Registered persons entitled to avail input tax credit in terms of section 140 of the said Act read with rule 117 of the said Rules but opting not to file FORM GST TRAN- 1 on or before the 28th August 2017.	20th August, 2017	-
2.	Registered persons entitled to avail input tax credit in terms of section 140 of the said Act read with rule 117 of the said Rules and opting to file FORM GST TRAN-1 on or before the 28th August 2017	28th August, 2017	(i) compute the “tax payable under the said Act” for the month of July 2017 and deposit the same in cash as per the provisions of rule 87 of the said Rules on or before the 20th August 2017;  (ii) file FORM GST TRAN-1 under subrule (1) of rule 117 of the said Rules before the filing

			of FORM GSTR-3B;  (iii) where the amount of tax payable under the said Act for the month of July 2017, as detailed in the return furnished in FORM GSTR-3B, exceeds the amount of tax deposited in cash as per item (i), the registered person shall pay such excess amount in cash in accordance with the provisions of rule 87 of the said Rules on or before 28th August 2017 along with the applicable interest calculated from the 21st day of August 2017 till the date of such deposit.
3.	Any other registered person	20th August 2017	

To elaborate further, the following may be referred:

**A. Registered persons planning not to avail transitional credit for discharging the tax liability for the month of July 2017 or new registrants who do not have any transitional credit** to avail need to follow the steps as detailed below:

I. Calculate the tax payable as per the following formula:

Tax payable = (Output tax liability + Tax payable under reverse charge) – input tax credit availed for the month of July 2017;

II. Tax payable as per (i) above to be deposited in cash on or before 20.08.2017 which will get credited to electronic cash ledger;

III. File the return in FORM GSTR-3B on or before 20.08.2017 after discharging the tax liability by debiting the electronic credit or cash ledger.

**B. Registered persons planning to avail transitional credit for discharging the tax liability for the month of July 2017** need to follow the steps as detailed below:

I. Calculate the tax payable as per the following formula:

Tax payable = (Output tax liability + Tax payable under reverse charge) – (transitional credit + input tax credit availed for the month of July 2017);

II. Tax payable as per (I) above to be deposited in cash on or before 20.08.2017 which will get credited to electronic cash ledger;

III. File FORM GST TRAN-1 (which will be available on the common portal from 21.08.2017) before filing the return in FORM GSTR-3B;

IV. In case the tax payable as per the return in FORM GSTR-3B is greater than the cash amount deposited as per (II) above, deposit the balance in cash along with interest @18% calculated from 21.08.2017 till the date of such deposit. This amount will also get credited to electronic cash ledger;

V. File the return in FORM GSTR-3B on or before 28.08.2017 after discharging the tax liability by debiting the electronic credit or cash ledger.

*[Notification No. 23/2017-Central Tax dated 11.08.2017]*

*Comment: This notification clarifies the doubts regarding availability of Transitional Credit for discharging the tax liability for the month of July 2017 which would otherwise have led to blockage of working capital. Further, it appears that RCM liability can also be set off with ITC of July. But, members may kindly note that RCM cannot be paid by ITC, so payment in cash must not be less than RCM liability.*

Source: [www.cbec.gov.in](http://www.cbec.gov.in)

**Cabinet approves Scheme of Budgetary Support under GST Regime to the eligible units located in States of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North Eastern States including Sikkim**

The Cabinet Committee on Economic Affairs chaired by the Prime Minister Shri Narendra Modi has given its approval to the Scheme of providing Budgetary Support under Goods and Service Tax Regime for the eligible industrial units located in State of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North Eastern States including Sikkim. Budgetary support of Rs. 27,413 crore for the said Scheme has been approved for the period from 1.7.2017 till 31.03.2027 for such industrial units located in aforesaid States which availed the benefit of Central Excise exemption prior to coming into force of GST regime.

The Government of India was implementing North East Industrial and Investment Promotion Policy (NEIIPP), 2007 for North Eastern States including Sikkim and Package for Special Category States for Jammu & Kashmir, Uttarakhand and Himachal Pradesh to promote industrialization. One of the benefits of the NEIIPP, 2007 and Package for Special Category States was excise duty exemption for first 10 years after commencement of commercial production.

Upon repeal of the Central Excise duty laws, the Government has decided to pay a budgetary support equal to the central share of the cash component of CGST and IGST paid by the affected eligible industrial units. The support shall be available for the residual period (ten years from the date of the commercial production) in the States of North Eastern region and Himalayan States. DIPP will notify the Scheme, including detailed operational guidelines for implementation of the scheme within 6 weeks.

It is estimated that total number of 4284 eligible units located in the State(s) of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North Eastern States including Sikkim will benefit from the above scheme.

*[PIB Notification Release ID 170016 dt 07-08-2017]*

Source: [www.pib.nic.in](http://www.pib.nic.in)

**Clarification on issues related to furnishing of Bond/Letter of Undertaking for Exports**

Notification No. 16/2017 – GST dated 7th July, 2017 and Circular No. 2/2/2017 – GST dated 5th July, 2017 and Circular No. 4/4/2017 – GST dated 7th July, 2017 were issued to prescribe process of furnishing Bond/Letter of Undertaking for Exports. In order to put to rest variation in interpretation of aforesaid Notification and Circulars, Central Government vide [Circular No. 5/5/2017 – GST dated 11<sup>th</sup> August 2017](#) has clarified the following:

- a) **Eligibility to export under LUT:** Any registered person who has received a minimum foreign inward remittance of 10% of export turnover in the preceding financial year is eligible for availing the facility of LUT provided that the amount received as foreign inward remittance is not less than Rs. 1 crore. This means that only such exporters are eligible to LUT facilities who have received a remittance of Rs. 1 crore or 10% of export turnover, whichever is a higher amount, in the previous financial year. However, a status holder as specified in Foreign Trade Policy 2015-2020 is eligible for LUT facility regardless of whether he satisfies the above conditions.
- b) **Form for LUT:** Bonds are furnished on non-judicial stamp paper, while LUTs are generally submitted on the letterhead containing signature and seal of the person or the person authorized in this behalf.
- c) **Time for acceptance of LUT/Bond:** As LUT/bond is a priori requirement for export, including supplies to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority and should be accepted within a period of three working days from the date of submission of LUT/bond along with complete documents by the exporter.
- d) **Purchases from manufacturer and form CT-1:** There is lack of clarity about treatment of CT-1 form which was earlier used for purchase of goods by a merchant exporter from a manufacturer without payment of central excise duty. The scheme holds no relevance under GST since transaction between a manufacturer and a merchant exporter is in the nature of supply and the same has not been exempted under GST even on submission of LUT/bond. Therefore, such supplies would be subject to GST. The zero rating of exports, including supplies to SEZ, is allowed only with respect to supply by the actual exporter under LUT/bond or payment of IGST.
- e) **Transactions with EOUs:** Supplies to EOUs are taxable under GST just like any other taxable supplies. The EOUs, to the extent of exports, are eligible for zero rating like any other exporter.
- f) **Forward inward remittance in Indian Rupee:** Acceptance of LUT instead of a bond for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with applicable RBI guidelines. It may also be noted that supply of services to SEZ developer or SEZ unit will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.
- g) **Bank guarantee:** Circular No. 4/4/2017 dated 7th July 2017 provides that bank guarantee should normally not exceed 15% of the bond amount. However, the Commissioner may waive off the requirement to furnish bank guarantee taking into account the facts and circumstances of each case. For example, an exporter registered with recognized Export Promotion Council can be allowed to submit bond without bank guarantee on submission of a self-attested copy of the proof of registration with a recognized Export Promotion Council. Or it may so happen that a registered person may not satisfy the condition regarding foreign inward remittances in respect of one particular registration, because of splitting and account of receipts and turnover across different registered person with the same PAN. But the total amount of inward foreign remittances received by all the registered persons, having one Permanent Account Number, maybe Rs. 1 crore or more and it also maybe 10% or more of total export turnover. In such cases, the registered person can be allowed to submit bond without bank guarantee.

- h) **Jurisdictional officer:** The exporter is at liberty to furnish the bond/LUT before Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. The Central Tax officers shall facilitate all exporters whether or not the exporter was registered with the Central Government in the earlier regime.
- i) **Documents for LUT:** Documents submitted as proof of fulfilling the conditions of LUT shall be accepted unless there is any evidence to the contrary. Self-declaration shall be accepted unless there is specific information otherwise. Verification, if any, may be done on post facto basis. Similarly, Status holder exporters have been given the facility of LUT under the said notification and a self-attested copy of the proof of Status should be sufficient.

It has further been provided that all the instructions issued vide previous circular and this circular are applicable to any export made on or after the 1st July 2017.

*[Circular No. 5/5/2017 – GST dated 11<sup>th</sup> August 2017]*

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