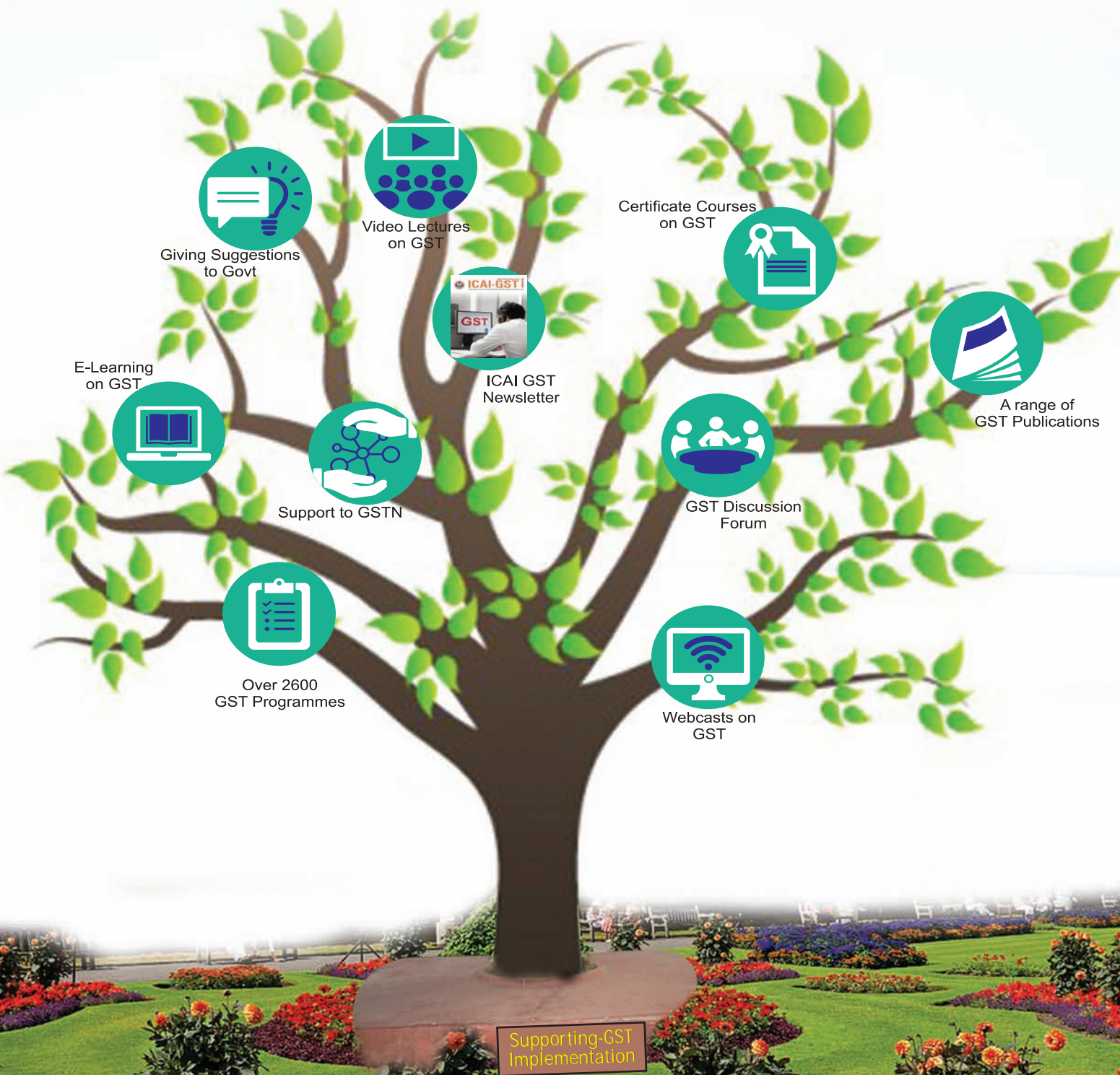




# ICAI-GST

A Newsletter from The Institute of Chartered Accountants of India on GST





Certificate Course on GST at Dindigul, Madurai



Certificate Course on GST at Ernakulam



Certificate Course on GST at Kakinada



Certificate Course on GST at Tirupathi



Certificate Course on GST at Vijayawada



Residential Workshop on GST at Bhubneshwar



Workshop on GST at Bhilai



Three Days Residential Seminar on GST at Ernakulam

# President's Communication



*My Esteemed professional colleagues,*

Goods and Services Tax GST implemented in India from 1st July, 2017 is bringing uniformity in the Indian market along with a shift from multiple levy on goods and services to single levy. In the first three months of implementation, though industries are facing teething problems while working on the GSTN portal, Government is working on the same to resolve the issues and giving relaxation in due dates for filing returns in order to avoid difficulties and providing sufficient time to understand procedures under GST regime to execute effectively.

GST Council in its 21<sup>st</sup> Meeting recommended various relaxations to facilitate the taxpayers such as continuation of filing of Form GSTR-3B for the period of August to December, extension in due date for opting Composition scheme till 30<sup>th</sup> September, option to revise form GSTRAN-1 and extension of time period till 31<sup>st</sup> October, reduction in rate of tax for certain services, etc.

With the objective of supporting Nation in implementation of GST, ICAI is undertaking several initiatives from time to time to help members in understanding law and help in suitable compliance. ICAI has recently launched a publication "FAQs & MCQs on GST, 2017" which adds to the existing list of ICAI GST specific publications. The publication aims at bringing comprehensive coverage of the GST Acts in question answer format as an easy & lucid way

to understand the law.

It is important to note that UAE is also implementing VAT (similar to GST in India) w.e.f 1<sup>st</sup> January 2018. In this regard, ICAI, marking its global presence, through its Dubai Chapter is supporting the VAT implementation there by developing a Background Material on UAE VAT, planning courses, seminars etc. to help the members as well as stakeholders of UAE. The details of this initiative is available at <http://idtc.icai.org/vat-in-uae.html>.

To update further, more than 2700 workshops, seminars and conferences on GST, 55 Certificate Courses (classroom sessions) have been organized across the country in 2017. All stakeholders may get themselves registered at the website [www.idtc.icai.org](http://www.idtc.icai.org) to get regular updates on GST. I sincerely hope the readers to make good of all the learning opportunities and be abreast with latest GST developments.

Lets' participate in the ICAI's vision of making GST a great success.

With best wishes,

**CA. Nilesh S. Vikamsey**  
President, ICAI

25 September 2017



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# GST UPDATES

## Extension of Time limit for filing details in FORM TRANS 1 for month of July

The Central Government vide Order No-03/2017-GST, dated. 21st September, 2017 has extended the time limit for filing of details in form TRANS 1 under Rule 117 (Form for submission of details by persons entitled to take credit of input tax carried forward in the return relating to the period ending with the day immediately preceding the appointed day under section 140) for the month of July 2017 up to 31st October 2017. Prior to this notification, such details were required to be furnished within 90 days from the appointed date i.e 28th September.

Earlier, the Commissioner, on the recommendations of the Council, vide Order No. 02/2017-GST dated 18th September, 2017 extended the period for submitting the declaration under Rule 120A of the CGST Rules (revised declaration) in FORM GST TRAN-1 till 31st October, 2017.

It may be noted that Order no. 2 has extended the time limit for revised return only. Now, the ambiguity in the order regarding original return has been corrected through Order no. 3.

## Substitution in description of service and tax rates

Central Government vide Notification No. 24/2017-Central Tax (Rate) dated 21st September, 2017 and Notification No. 24/2017-Integrated Tax (Rate) dated 21st September, 2017 has amended the rates and description of the service specified in Notification No.11/2017 - Central Tax (Rate) dated the 28th June, 2017 and Notification No. 8/2017- Integrated Tax (Rate), dated the 28th June, 2017 respectively by the following description of service:

S. No. (1)	Description of service (2)	CGST and UTGST/SGST in % (3)	IGST in % (4)
3	(vi) Services provided to the Central Government, State Government, Union Territory, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or (c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.	6	12
	(vii) Construction services other than (i), (ii), (iii), (iv), (v) and (vi) above.	9	18

## Amendment to list of Exempted Services

Central Government vide Notification No.12/2017- Central Tax (Rate), dated the 28th June 2017 and Notification No.9/2017- Integrated Tax (Rate), dated the 28th June, 2017 provided the list of services exempted under GST regime.

In this regard, Central Government vide Notification No. 25/2017- Central Tax (Rate) dated 21st September, 2017 and Notification No. 25/2017-Integrated Tax (Rate) dated 21st September, 2017 has amended the aforesaid notification to provide exemption from GST to the following service:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
82	Chapter 9996	Services by way of right to admission to the events organized under FIFA U-17 World Cup 2017.	Nil	Nil

## Exemption from CGST on intra state supply of heavy water and nuclear fuels by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd

Central Government vide Notification No. 26/2017-Central Tax (Rate) dated 21st September, 2017 and Notification No. 26/2017-Integrated Tax (Rate) dated 21st September, 2017 has exempted the supply of heavy water and nuclear fuels (falling in Chapter 28 of the First Schedule to the Customs Tariff Act) by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd, 1975 from the whole of the central tax leviable thereon under section 9 of the Central Good and

Services Tax Act or the integrated tax leviable thereon under section 5 of the Integrated Good and Services Tax Act, 2017.

## Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 120A of the Central Goods and Service Tax Rules, 2017

In exercise of the powers conferred by rule 120A of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, the Commissioner, on the recommendations of the Council, vide Order No. 02/2017-GST dated 18th September, 2017 hereby extends the period for submitting the declaration in FORM GST TRAN-1 till 31st October, 2017.

#### **Exemption from registration to a casual taxable person/ person making inter-state taxable supplies of handicraft goods**

Central Government vide Notification No. 32/2017-Central Tax, dt. 15-09-2017 & Notification No. 8/2017 – Integrated Tax, dt. 14-09-2017 has provided that the casual taxable persons as well as the persons making inter-State taxable supplies of handicraft goods as the category of persons exempted from obtaining registration if the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of Rs. 20 lakhs in a financial year (Rs. 10 lakhs for Special Category States other than J&K).

The casual taxable persons or the persons making inter-State taxable supplies, as the case may be, will be required to obtain a Permanent Account Number and generate an e-way bill in accordance with the provisions of rule 138 of the Central Goods and Services Tax Rules, 2017.

The list of eligible 'handicraft goods' and their respective HSN codes for the purpose of aforesaid notifications has also been provided for when they are made by the craftsmen predominantly by hand even though some machinery may also be used in the process.

#### **Job-workers making inter-State supply of services to a registered person exempted from obtaining registration**

Central Government vide Notification No. 07/2017-Integrated Tax, dt. 14-09-2017 has provided that the job workers engaged in making inter-State supply of services to a registered person are exempted from obtaining registration.

However, said exemption is not available to a job-worker –

- (a) who is liable to be registered under sub-section (1) of section 22 or who opts to take registration voluntarily under sub-section (3) of section 25 of the said Act; or
- (b) who is involved in making supply of services in relation to the goods mentioned against serial number 151 in the Annexure to rule 138 of the Central Goods and Services Tax Rules, 2017. This means that this exemption will not be available to job work in relation to jewellery, goldsmiths' and silversmiths' wares as covered under Chapter 71 which do not require e-way bill.

#### **Section 51 of the CGST Act, 2017 notified**

Central Government vide Notification No. 33/2017-Central Tax, dt. 15-09-2017 has provided that section 51 of the CGST Act, 2017 will be effective w.e.f 18th September 2017 with respect to the persons specified below:

- (a) an authority or a board or any other body, -



**"@ <http://idtc.icaai.org/cc/apps/register-for-update>"**

- (i) set up by an Act of Parliament or a State Legislature; or
  - (ii) established by any Government, with fifty-one percent or more participation by way of equity or control, to carry out any function;
- (b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
  - (c) public sector undertakings

However, the date from which the tax needs to be deducted from the payment made or credited to the supplier of taxable goods or services or both will be notified separately.

#### **Last Date for filing FORM GSTR 3B extended for the months from August to December 2017**

Central Government vide Notification No. 35/2017-Central Tax, dt. 15-09-2017 has extended the due date of filing FORM GSTR 3B electronically through the common portal as provided below:

S. No.	Month	Last Date for filing of return in FORM GSTR-3B
1.	August 2017	20th September 2017
2.	September 2017	20th October 2017
3.	October 2017	20th November 2017
4.	November 2017	20th December 2017
5.	December 2017	20th January 2018

Every registered person furnishing the return in FORM GSTR-3B will be required, subject to the provisions of section 49 of CGST Act, to discharge his liability towards tax, interest, penalty, fees or any other amount payable by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date on which he is required to furnish the said return.

#### **Amendments to Central Goods and Services Tax Rules, 2017**

Central Government vide Notification No. 34/2017-Central Tax, dt. 15-09-2017 has amended the Central Goods & Services Tax Rules, 2017 as follows:

Rule No.	Existing Provision	Revised Provision	Impact
3 (3A)	-	“(3A) Notwithstanding anything contained in sub-rules (1), (2) and (3), a person who has been granted registration on a provisional basis under rule 24 or who has applied for registration under sub-rule (1) of rule 8 may opt to pay tax under section 10 with effect from the first day of October, 2017 by electronically filing an intimation in FORM GST CMP-02, on the common portal either directly or through a Facilitation Centre notified by the Commissioner, before the said date and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of sub - rule (4) of rule 44 within a period of ninety days from the said date: Provided that the said persons shall not be allowed to furnish the declaration in FORM GST TRAN-1 after the statement in FORM GST ITC-03 has been furnished.”	This sub rule is inserted to give effect to the extension provided for opting for Composition Scheme upto 30th September 2017.
3(5)	(5) Any intimation under sub-rule (1) or sub-rule (3) in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.	Any intimation under sub-rule (1) or sub-rule (3) or sub-rule (3A) in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.	To give effect to the newly implemented sub-rule 3A
New Rule 120A	-	120A. Every registered person who has submitted a declaration electronically in FORM GST TRAN-1 within the time period specified in rule 117, rule 118, rule 119 and rule 120 may revise such declaration once and submit the revised declaration in FORM GST TRAN-1 electronically on the common portal within the time period specified in the said rules or such further period as may be extended by the Commissioner in this behalf.	To give effect to the GST council decision that GST TRANS -1 can be revised once.
122(b)	(b) four Technical Members who are or have been Commissioners of State tax or central tax or have held an equivalent post under the existing law, to be nominated by the Council.	(b) four Technical Members who are or have been Commissioners of State tax or central tax for at least one year or have held an equivalent post under the existing law, to be nominated by the Council.	
124(3)	The Technical Member shall be paid a monthly salary of Rs. 2,05,400 (fixed) and shall be entitled to draw allowances as are admissible to a Government of India officer holding Group 'A' post carrying the same pay: Provided that where a retired officer is selected as a Technical Member, he shall be paid a monthly salary of Rs. 2,05,400 reduced by the amount of pension.	The Technical Member shall be paid a monthly salary and other allowances and benefits as are admissible to him when holding an equivalent Group 'A' post in the Government of India: Provided that where a retired officer is selected as a Technical Member, he shall be paid a monthly salary equal to his last drawn salary reduced by the amount of pension in accordance with the recommendations of the Seventh Pay Commission, as accepted by the Central Government.	To provide for revised salary norms for the technical members of the Anti-Profitteering authority.
1 2 4 ( 4 ) -Second Proviso	-	Provided further that upon the recommendations of the Council and subject to an opportunity of being heard, the Central Government may terminate the appointment of the Chairman at any time.	To rest the rights of termination of Chairman of Anti-Profitteering authority with GST Council.

124 (5) -Second Proviso	-	Provided further that upon the recommendations of the Council and subject to an opportunity of being heard, the Central Government may terminate the appointment of a Technical Member at any time.	To rest the rights of termination of Technical Member of Anti-Profiteering authority with GST Council.
127 (iv) - Second Proviso	-	to furnish a performance report to the Council by the tenth of the close of each quarter	Setting up of performance appraisal norms.
138	-	<p>Provided that where goods are sent by a principal located in one State to a job worker located in any other State, the e-way bill shall be generated by the principal irrespective of the value of the consignment:</p> <p>Provided further that where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.</p> <p>Explanation – For the purposes of this rule, the expression “handicraft goods” has the meaning as assigned to it in the Government of India, Ministry of Finance, notification No.32/2017-Central Tax dated 15.09.2017 published in the Gazette vide number G.S.R 1158 (E) .”;</p>	To give effect to e-way bill requirements cited in Notification No.32/2017-Central Tax dated 15.09.2017

### Extension of time limit for filing Return for the month of July, 2017

The Central Government vide Notification No. 31/2017- Central Tax dated 11-09-2017 has extended the time limit for filing the details in form GSTR-1 (Form for furnishing details of outward supplies), GSTR-2 (Form for furnishing details of inward supplies) and GSTR-3 (Form for furnishing consolidated details of inward and outward supplies) for the month of July 2017 till the time period as follows:

Sl. No.	Details>Returns	Class of taxable/registered persons	Time period for furnishing of details/Return
1.	FORM GSTR-1	Having turnover of more than one hundred crore rupees	Upto 3rd October, 2017
		Having turnover of upto one hundred crore rupees	Upto 10th October, 2017
2.	FORM GSTR-2	All	Upto 31st October, 2017
3.	FORM GSTR-3	All	Upto 10th November, 2017

Further, Central Government vide Notification No. 30/2017-Central Tax dated 11-09-2017 has extended the time limit for furnishing the return by an Input Service Distributor undersub-section (4) of section 39 of the said Act read with rule 65 of the Central Goods and Services Tax Rules, 2017, for the month of July, 2017 upto the 13th October, 2017.

However, the extension of the time limit for furnishing the details or return, as the case may be, for the month of August, 2017 shall be subsequently notified in the Official Gazette.

### Key Take aways of 21st meeting of GST Council held on 9th September 2017

21st meeting of GST Council was held on 9th September 2017 at Hyderabad wherein the following decisions were taken:

1. Rate of following services has been reduced from 18% to 12%:

Services provided to the Government, a local authority or a governmental authority by way of construction, erection,

commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –

- (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
- (b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or



- (c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the CGST Act, 2017 (namely, MPs/Members of State Legislatures, Panchayats, Municipalities, other local authorities, persons holding constitutional posts, chairperson/member/director in a body established by Central Government, State Government or local authorities etc.).
2. Place of supply of satellite launch services by ANTRIX to international customers would be outside India in terms of section 13(9) of IGST Act, 2017 and where such supply meets the requirements of section 2(6) of IGST Act and thus constitutes export of service will be zero rated. Where satellite launch service is provided to a person in India, the place of supply of satellite launch service would be taxable.
  3. Services by way of admission to FIFA U-17 Football World Cup- 2017 events have been exempted from GST.
  4. Presently, any person making inter-state taxable supplies is not eligible for threshold exemption of Rs. 20 lacs (Rs. 10 lacs in special category states except J & K) and is liable for registration. It has been decided to allow an exemption from registration to persons making inter-State taxable supplies of handicraft goods upto aggregate turnover of Rs. 20 lacs as long as the person has a Permanent Account Number (PAN) and the goods move under the cover of an e-way bill, irrespective of the value of the consignment.
  5. Presently, a job worker making inter-State taxable supply of job work service is not eligible for threshold exemption of Rs. 20 lacs (Rs. 10 lacs in special category states except J & K) and is liable for registration. It has been decided to exempt those job workers from obtaining registration who are making inter-State taxable supply of job work service to a registered person as long as the goods move under the cover of an e-way bill, irrespective of the value of the consignment. This exemption will not be available to job work in relation to jewellery, goldsmiths' and silversmiths' wares as covered under Chapter 71 which do not require e-way bill.
  6. The registration for persons liable to deduct tax at source (TDS) and collect tax at source (TCS) will commence from 18th September 2017. However, the date from which TDS and TCS will be deducted or collected will be notified by the Council later.

[Release ID: 170642 – [www.pib.nic.in&http://www.cbec.gov.in/resources//htdocs-cbec/gst/decisions-gst-council%20on%20Services-9-Sept-2017.pdf](http://www.pib.nic.in&http://www.cbec.gov.in/resources//htdocs-cbec/gst/decisions-gst-council%20on%20Services-9-Sept-2017.pdf)]

#### **Late fee waived for all tax-payers who could not file the GSTR-3B for the month of July 2017**

The due date for filing FORM GSTR-3B for month of July 2017 was 25th August and as per section 47 of CGST Act, 2017 and respective SGST Act of states a registered person on failure to furnish a return shall pay late fee of Rs. 100 for every day during which failure continues subject to maximum of Rs. 5000/-.

The Central Government vide Notification No.28/2017-Central

Tax, dated. 01-09-2017 has waived off the late fee payable under section 47 for failure to furnish the Return FORM GSTR-3B by due date for the month of July.

Taxpayers who have committed errors in GSTR 3B will be able to put the correct details in GSTR 1-2-3. However, interest will be leviable from all taxpayers who have not discharged their complete Tax liability for July 2017 by 25-08-2017. Mere payment in cash ledger will not be considered as payment, settlement of the same is necessary.

#### **System based reconciliation of information furnished in form GSTR-1 and form GSTR-2 with Form GSTR-3B**

As per the provisions of sub-rule (5) of Rule 61 of CGST Rules, 2017, the return in Form GSTR 3B was required to be furnished when the due dates for filing the Form GSTR-1 and Form GSTR-2 have been extended. After the return in Form GSTR-3B has been furnished, the process of reconciliation of information furnished in Form GSTR-3B with that furnished in Form GSTR-1 and Form GSTR-2 would be carried out in accordance with the provisions of sub-rule (6) of Rule 61 of CGST Rules, 2017.

In this regard, Central government vide Circular No.7/7/2017-GST dated 01-09-2017 has provided the detailed procedure for reconciliation of information furnished in form GSTR-3 and Form GSTR-3B which covers the following:

- Furnishing of information in FORM GSTR- 1 & FORM GSTR-2

It may be noted that after the registered person has filed his return in Form GSTR-3B and the statement of outward supplies in Form GSTR-1, the inward supplies shall be auto drafted and made available to him in form GSTR-2A than the registered person shall prepare the statement of inward supplies in GSTR 2 by adding, deleting or modifying the invoice details which has been communicated in form GSTR 2A ,adding information pertaining to details of imports, supplies attracting reverse charge received by registered person, supplies received from composition suppliers and exempt, nil rated & non-GST inward supplies.

- Correction of erroneous details furnished in FORM GSTR-3B

If the details of outward supplies and inward supplies have been under reported or excess reported in Form GSTR 3B the same may be correctly reported in the Form GSTR 1 & GSTR 2 respectively.

- Action on the system-based reconciliation

After the registered person, has furnished the statement of inward supplies in Form GSTR-2, the common portal shall auto draft Part A of return in Form GSTR-3 for the said month based on the information furnished in Form GSTR-1 and Form GSTR-2. Based on the revised figures of output tax liability and eligible input tax credit, table 12 of Part B of form GSTR-3 shall be made available. The common portal would populate the correct figure of tax payable in column(2) of table 12 of Form GSTR-3, based on the information furnished in Form GSTR 1 and Form GSTR2.

- Additional payment of taxes

Where tax payable as per Form GSTR 3 is more than what

has been paid as per GSTR-3B the common portal would show another instance of table 12 for making additional payment of taxes, the additional amount of tax payable can be paid by debiting the electronic cash or credit ledger along with applicable interest.

- Additional claim of eligible ITC

Where eligible ITC claimed by taxpayer in GSTR 3B is less than ITC eligible as per the details furnished in Form GSTR 2, the additional amount of ITC shall be credited to electronic credit ledger of the registered person when he submits the Return in Form GSTR-3

- Reduction in output tax liability

Where the output tax liability of registered person as per GSTR1 and GSTR-2 is less than the output tax liability as per the details furnished in GSTR-3B the excess shall be carried forward to the next month's return to be offset against output tax liability of the next month.

- Submission of GSTR-3B without payment of taxes

Where for some reason registered person has only submitted the return GSTR-3B and has not made payment of tax, the return shall still be subject to reconciliation process.

- Processing of information furnished

After submission of information in Form GSTR 1 and GSTR-2, the process of matching as per Sec 41,42,43 of act read with Rules 69 to 76 shall be carried out.

The detailed procedure as covered by aforesaid points are available at [www.cbec.gov.in](http://www.cbec.gov.in).

#### Procedure for generation of E-way Bill

Rule 138 of CGST Rules, 2017 provides the power to Central Government to specify the documents that the person in charge of a conveyance carrying any consignment of goods shall carry till the E-bill system is developed.

Now the Central Government vide Notification no.27/2017-Central Tax, dated. 30-08-2017 has substituted Rule 138 of CGST Rules, 2017 and prescribed the detailed procedure to be followed for generation of E-way bill and information to be furnished prior to commencement of movement of goods. The detailed procedure is available at [www.cbec.gov.in](http://www.cbec.gov.in). However, the date on which the E-way bill be implemented will be notified later.

#### Cabinet approves promulgation of the Goods and Services Tax (Compensation to States) Ordinance, 2017

The Union Cabinet has given its approval to the proposal of the Finance Ministry to promulgate an ordinance to suitably amend the Goods and Services Tax (Compensation to States) Act, 2017.

The approval would allow to increase the maximum rate at which the Compensation Cess can be levied from 15% to 25% on:

- a) motor vehicles for transport of not more than thirteen persons, including the driver falling under sub-headings 870210, 8702 20, 8702 30 or 8702 90; and

- b) motor vehicles falling under headings 8703.

The GST Council, in its meeting held in August 2017, taking into consideration the fact that post introduction of GST, the total incidence on motor vehicles [GST + Compensation Cess] has come down vis-a-vis pre-GST, had recommended increase in the maximum rate at which Compensation Cess can be levied on motor vehicles falling under headings 8702 and 8703 from 15% to 25%.

The issue regarding the increase in effective rate of Compensation Cess on motor vehicles will be examined by the GST Council in due course.

#### Procedure for electronic sealing of containers

Central government had previously issued Circular No. 26/2017-Customs dated 1st July, 2017 which provided for a simplified procedure for stuffing and sealing of export goods in containers under self-sealing procedure where exporter shall seal the container with the tamper proof electronic-seal of standard specification.

Further to aforesaid circular, the Central Government vide Circular no. 36/2017 dated 28th August, 2017- Customs has now prescribed the detailed procedure to be followed while electronic sealing of containers by exporters under self-sealing procedure. The said procedure is available at [www.cbec.gov.in](http://www.cbec.gov.in).

#### Sector Specific FAQ on GST released by CBEC

To guide taxpayers in relation to GST matters, CBEC has issued a range of frequently asked questions related to GST law, procedures, tax rates, specific industry or sector. The information is available on CBEC GST portal <https://cbec-gst.gov.in/under Services section>. Taxpayers can search for information using key words or a topic like Textiles, Restaurants, Composition levy scheme, Registration procedure, Return filing, Job work, input tax credit etc. For any further information taxpayers, may reach out to CBEC twitter handle, or helpat [cbecmitra.helpdesk@icegate.gov.in](mailto:cbecmitra.helpdesk@icegate.gov.in) or 1800-1200-232. Taxpayers may also look for latest information on GST at CBEC portals [www.cbec.gov.in](http://www.cbec.gov.in) and [www.cbec-gst.gov.in](http://www.cbec-gst.gov.in)

#### Normal charge on GTA service when opted to pay central tax @ 6% with full ITC

Central Government vide Notification no.22/2017 has provided that the goods transport agency opting to pay central tax @ 6% to avail full ITC in respect of transportation of goods by road needs to pay the tax under normal charge. However, service provided by goods transport agency to specified categories of recipient on which GTA has opted to pay central tax at the rate of 2.5% with non avilment of input tax credit charged on goods and services used for providing such GTA service need to pay tax under reverse charge.

It has further been provided that Limited Liability Partnership formed and registered under the provision of Limited Liability Partnership Act,2008 will be considered as partnership firm. Therefore, when GTA provides services to LLP then being specified recipient LLP would be liable to pay tax under Reverse Charge.

# VAT- UAE- AREA OF SERVICE OPPORTUNITIES



## Background:

The implementation of excise tax from 1st October in a small measure and VAT in an all pervasive manner in the GCC countries with UAE & Saudi taking the lead is a major change in the economy of the middle east. Manufacturers/ processors, traders, importers and service providers would be covered under this law who have a commercial intent. This provides a unique service possibility to enable smooth implementation of the new laws in a Country where taxes were not there.

## Understanding business impact through initial impact study

Introduction of VAT would not only bring change in the tax structure of the GCC countries, but it could change the way business is done. It would be a significant move with far reaching implications. VAT could impact almost every aspect and function of the business. Therefore, it is time for the business entities to assess the impact of VAT on their business. Following are few of the important aspects to be considered in the initial impact study which could be undertaken by professionals having good knowledge of business and VAT concepts:

- Understanding impact of VAT on key business functions.
- Requirement of realignment of key business processes i.e. supply chain, finance, cash flow, procurement, standard operating procedures in line with VAT.
- Identification of stress on cash flow due to change in mechanism of taxation.
- Understanding need for adaptation / changes in Information

Technology system.

- Impact of change in credit mechanism and understanding credit restrictions.
- Vendor management including educating the vendors.
- Understanding requirement of contracts / agreement modification in line with VAT.
- Understanding the transitional challenges.
- Understanding impact on registration and the responsibilities.

The business strategy, organizational structure, IT infrastructure, transaction or process flow would need revisiting and may need to be changed. There would be key decisions to be taken by the entities during transitional phase i.e. before VAT is implemented. All these would need good amount of time to be spent by the entities core group along with professionals to advice suitably. Therefore, it is time to act as soon as possible to get advantage in the market and retain the business post implementation of VAT. Initial impact study could be value additive

Initial impact study could add lot of value to business entities. In addition to understanding the impact of VAT on the business, the entities could get following advantages through VAT impact study.

- a) Identification of export benefits now and later.
- b) Impact of tax payable in the initial 2-3 months and ensuring that deductions available are availed.
- c) Measures to mitigate the impact by completing transactions already contracted before 1st January 2018.

## The CA Advantage

The knowledge of accounts, costing, and now excise tax and VAT would make a CA's quite complete service provider whether he is in employment or practice. This coupled with the experience from understanding businesses through conduct or audit, providing opinions, preparation/ certifying of financial statements, etc would make the CA the natural choice for most businesses.

The total number of CAs in this region as we understand is about 11,000. By the end of December 2017, it is expected that at least 2000 would have knowledge at awareness levels and 500 would have a good grasp of the subject after undergoing certificate courses.

The CAs in India already practicing in GST now had previous experience in VAT, Service Tax and Excise / Customs would be able to support their counterparts and clients in GCC countries. The VAT law as it appears to be simple and clear and regulations are also expected to be the same. [ Saudi Regulations are in public domain] Industries / Businesses who have not had to pay any taxes till date may choose to get support of professions to ensure compliances and also ensure the following:

- Continue their business post 1st January 2018,
- Safeguard their margins by amending contracts prior to implementation,
- Configure their ERP/ Accounting systems to be compliant with the law and
- Avail of the input tax as available.

### All in all be ready for VAT.

#### Service Opportunity under VAT

The distinction can be made between the pre / post VAT period openings / service streams.

#### Role - Pre-VAT period

This is a one - time opportunities focused on VAT preparedness of clients. Specific contribution by the professional could be:

- Analyze the industry impact considering the global and UAE situation of the product / service. This study may also have to be done for the major vendors and customers;
- In case of unintended hardship to some sectors- representation to the Government through the appropriate routes available;
- CA could be part of the core team of client for transiting into VAT smoothly without business disruption and safeguarding of the margins as a knowledge advisor;
- Understanding legacy tax systems at client workplaces so as to provide appropriate advice on migrating to better systems/ ERP or suggest modification to make the existing systems VAT compliant;
- Assisting in preparation of a strategic plan for procurement and marketing systems of clients needed under VAT. Illustration:

registration decisions; in house/ outsourcing the distribution function to logistic companies; sourcing inputs; linking to the ERP of the customer etc.;

- Changes in accounting software and internal control systems to suit VAT. Test and confirm the robustness;
- VAT awareness at initial stages and training for management, staff, customers, vendors of clients on ongoing basis especially the operational team consisting of the marketing and purchase.
- Vetting and suggestion to modify agreements/ contracts/ major purchase orders overlapping or supplies to be made in VAT regime;
- The reconciliation of the credit as per books to the returns before VAT is implemented can be a value-added activity. This would include validating the accounts as on 31st December 2017.

Reviewing the various business transactions to examine whether closing out the transaction in the pre-VAT or post VAT period is advantageous;

Many CAs have specialization in information technology and some even hand on consulting skills in ERP environment. These skills could ensure that the client would get his IT integrated and able to comply with the complex needs of VAT compliance;

#### Role - Post-VAT

The implementation of VAT would bring many challenges and for us opportunities to serve:

- In the initial stages of VAT implementation, there would be many doubts which are not covered in the new law. There may also be gaps in knowledge of VAT at various levels in the organization. These are likely to result in denial of registration, interruption to do business, loss of eligible deduction, and inadvertent non-compliance in VAT. There would a period of uncertainty and need for someone to confirm the issues arising. The internet (Google) at such times may not be effective as too much of inaccurate/ incorrect suggestions in the initial stages are expected. The proactive professional handholding and quick response may not only ensure continuation of the client's business but enable them to take advantage of the changes in the business structures;
- Regular online service to the functional head of client's business;
- Assisting in the filing of the 1st return;
- Review the compliances in transition;
- A one-time comprehensive review post January 2018 to ensure VAT compliance;
- Regular review and reconciliation of tax payment and deductions;
- Once VAT stabilizes, the focus would be more on compliance which means a regular internal audit of VAT;

The VAT audit by CAs in the year 2018 would be a challenging

year for the professionals in UAE to demonstrate that we as CAs are competent and knowledgeable;

Routine tax assignments for payment and filing of returns would see a spike at least in the initial stages of uncertainty;

It is true that if one can avoid a dispute in tax it is better. Therefore, a preventive exercise of early correction/ disclosure could avoid or mitigating the disputes allowing clients to concentrate on their core activities;

#### Training of Employees/ Accountants who Outsource

The training of internal staff gains importance as VAT is going to be an additional compliance which has cost impact immediately. Training is required for following departments:

- ◆ **Accounts and Finance:** This department is responsible for maintaining records, proper accounting and ensuring statutory compliance. All employees are required to undergo in-depth training to ensure error free compliance during pre, during and post transition to VAT and Excise Tax.
- ◆ **Procurement:** Proper selection of vendor assumes significance to optimize the tax benefits. Procurement team needs to be trained to inter alia consider tax aspect in identification of vendors, explaining benefit of taking registration to vendors, guiding them to file return before due date so that credit is not lost. This can substantially support accounts and finance function in discharging their obligations.
- ◆ **Operations:** Knowledge of VAT would be important for operational personnel assigned with the following job responsibilities:
- ◆ **Raising bills:** Personnel responsible for raising bills are expected to know basics of VAT to enable them to fill up all the fields of system for raising of invoice, identify nature of tax to be charged, tax rate to be applied, sorting out queries of the customers etc.
- ◆ **Raising purchase order and receiving bills from vendors:** Purchase orders are issued and bills are verified by various departments in respect of expenditures incurred by them. It is

necessary to identify taxes applicable on purchases, mention appropriate tax in purchase order and cross verification of the same with the tax charged by vendors.

- ◆ **Marketing:** Marketing team is responsible for business development. They should know taxes applicable on various services rendered by XYZ so that negotiation can be made with potential customers accordingly.
- ◆ **Legal:** This department is responsible for drafting/amending agreements with vendor and customers. Their training is also important so that all tax related clauses are properly incorporated in the agreements.

As there would be numerous developments in the indirect tax laws, it is suggested to have proper training program for concerned employees in the initial period to ensure better compliance. The payoff of the training could be a) decrease of costs, b) avoiding penalties and 3) increase in the profit margin along with empowering the executives.

Proper understanding and right interpretation of the provisions of the law are key for each and every stakeholder. All employees of the organization even if not directly involved must be knowledgeable in order to ensure quality compliance and avoiding penalties and persecution for violations.

Likewise, all the professionals who are providing services to its clients should be equipped with right and complete knowledge to serve its clients and don't misguide them due to lack of knowledge or unclear about certain provision / requirements.

#### Conclusion

This new excise/ VAT levy is bound to come up with obvious challenges due to the law being new. There could also be many different interpretations which necessarily should always be in favour of law. The extent of making use of the opportunities would largely depend on understanding the law and preparedness for what is not covered in the law. In the words of Abraham Lincoln – "Give me six hours to chop down a tree and I will spend the first four sharpening the axe".

## FORTHCOMING CERTIFICATE COURSE ON GST

S. NO.	HOSTING BRANCH/ REGION	START DATE	END DATE
1	Kolkata Branch of EIRC of ICAI	7-Oct-2017	12-Nov-2017
2	Alleppey Branch of SIRC of ICAI	14-Oct-2017	12-Nov-2017
3	Ahmedabad Branch of WIRC of ICAI	3-Jun-2017	25-Jun-2017
4	Bangalore Branch of SIRC of ICAI	5-Jun-2017	16-Jun-2017

# GST ON IMPORTED GOODS

With the introduction of the much awaited Goods and Services Tax (GST), the basic fundamentals of taxation under the indirect taxes has undergone a massive change. Transactions which would have ordinarily been inter-State sale under the VAT/CST regime may get treated as intra-State supply. For illustration, goods billed to a party within the State, but delivered to a party outside the State, would have been an inter-State sale under VAT/CST regime. However, the said transaction is an intra-State supply as per certain fictions created under Section 10(1)(b) of the Integrated Goods and Services Tax Act (IGST Act).

Another fundamental concept under the VAT/CST regime was the taxability of goods sold in the course of import and High Sea Sales. As per Section 5(2) of the Central Sales Tax Act (CST Act), a sale in the course of import was deemed to have taken place when such sale either occasions the import of goods into the territory of India or such sale is effected by transfer of documents of title to the goods before such goods have crossed the customs frontiers of India. A sale in the course of import as referred to under Section 5(2) of the CST Act was not liable to CST. In this article, we will analyse whether such and similar transactions continue to be outside the purview of taxation or are liable to GST.

In order to understand the taxability of such transaction under GST, reference to few provisions of CGST Act and IGST Act is imperative. Section 9 of the Central Goods and Services Tax Act (CGST) / State Goods and Services Tax Act (SGST) Act levies CGST/SGST on all intra-State supplies of goods and/or services. Section 5 of the IGST Act levies IGST on all inter-State supplies of goods and/or services. Section 7 to 9 of the IGST lays down the principles for determining the nature of supply.

Section 7(1) of the IGST Act defines an inter-State supply of goods where the location of the supplier and the place of supply are in two different States/Union territories or in a State and a Union territory.

Section 7(2) provides that the goods imported into territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce. This implies that the levy of GST on such transactions will be governed by the provisions of IGST Act alone and the CGST and SGST Act has no jurisdiction over such transactions.

Section 7 to 9 of the IGST lays down the principles for determining the nature of supply, whereas the charge of IGST is created by section 5 of the IGST Act. Albeit a transaction may get characterised as inter-State by virtue of the principles laid down in section 7 to section 9 of the IGST Act, however, in order to impose IGST, it still has to pass through the test of section 5 of the IGST Act, failing which IGST cannot be imposed. For example, goods imported into India gets characterised as an inter-State supply, however, the levy and collection would still be governed by the proviso to Section 5(1) of the IGST, which would happen only upon customs clearance.

Proviso to Section 5 (1) of the IGST Act states that the IGST on goods

imported into India shall be levied and collected in accordance with Section 3<sup>2</sup> of the Customs Tariff Act (CT Act). This would imply that in case of good imported, IGST can be levied and collected only and alongwith the Customs duty and cannot be collected prior to that. It would not be out of context to mention that Customs duty is collected when goods clear the Customs frontier.

In order to understand the implications of Section 7(2)<sup>3</sup>, reference to few definitions are made hereunder-

Section 2(4) of IGST Act - "customs frontiers of India" means the limits of a customs area as defined in section 2 of the Customs Act, 1962 (the Customs Act).

Section 2(11) of the Customs Act - "customs area" means the area of a customs station or a warehouse and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities;

Section 2(25) of the Customs Act - "imported goods" means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption

The phrase 'goods imported' as used in section 7(2) of the IGST Act, has not been defined anywhere. What has been defined under the Customs Act, 1962 (the Customs Act) is the phrase "imported goods". It is very interesting to observe that the goods imported may not remain imported goods for Customs purposes, once they clear customs frontier in terms of section 2(25) of the Customs Act but would continue to be goods imported under the IGST Act. The word "import" has been defined under IGST Act which is aligned with the definition provided under the Customs Act. The word "imported" also has not been defined anywhere but actually is the past tense of the word "import". Considering the stated provisions, it may be said that once there is an import of goods, imported goods comes into existence and remain so under IGST Act, not with standing they do not remain so under Customs Act post customs clearance.

By implication imported goods would cover all goods which are brought into India from a place outside India. It will include goods which are not cleared from the customs port, goods which are

<sup>1</sup> Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

<sup>2</sup> Section 3(7) of the CT Act was introduced with effect from 01.07.2017 to levy IGST on goods imported into India. Section 3(7) subsumes the Additional Duty of Customs levied under Section 3(1) (popularly known as CVD) and the Special Additional Duty of Customs levied under Section 3(5) of the CT Act (popularly known as SAD).

<sup>3</sup> Section 7(2) of IGST Act - Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce

cleared from the customs station and stored in a warehouse by filing In-bond bill of entry (Bill of entry for warehousing) and goods procured by Special Economic Zone (SEZ) units for its authorized operations.

On a conjoint reading of the above provisions, it may be said that the taxability of goods, imported into India pending customs clearance, is governed by the proviso to Section 5(1) and not by the main Section 5(1) of the IGST Act. Accordingly, when goods imported, pending customs clearance, are supplied, the supplier

is not liable to pay IGST. The taxability is determined by proviso to Section 5(1) and accordingly, the IGST as leviable under Section 3(7) of the CTA. Further, the IGST under Section 3(7) of the CTA is leviable at the point when the Customs Duty under Section 12 of the Customs Act is leviable. Therefore, till the point of time Customs Duty is not leviable, IGST under Section 3(7) of CTA read with proviso to Section 5(1) of the IGST Act is not leviable.

In view of the above, we proceed to examine the taxability under GST for the following situations:-

Nature of Transaction	Whether IGST under Section 5(1) payable	Whether IGST under proviso to Section 5(1) payable	Remarks
High Sea Sale of imported goods / Sale in the course of Import	No	Yes	Goods pending customs clearance. Transaction governed by the proviso to Section 5(1). The person clearing the goods for home consumption liable to pay IGST under Section 3(7) of CTA read with Customs Circular no 33/2017. Supplier of goods making High Sea Sale not liable to pay IGST on such sale.
Supply made from a Bonded Warehouse to another Bonded Warehouse	No	No	Goods pending customs clearance. Transaction governed by proviso to Section 5(1).
Supply made from a Bonded Warehouse to EOU	No	Yes	Goods are cleared for home consumption. Transaction governed by proviso to Section 5(1). W.e.f. 13.08.2016 (notification no. 44/2016-Cus), EOU's delicensed. The person clearing the goods for home consumption liable to pay IGST under Section 3(7) of CTA read with Customs Circular no 33/2017. Basic Customs duty is exempted vide Notification 52/2003. Supplier of goods in the Bonded Warehouse not liable to pay IGST on such sale.
Supply made from a Bonded Warehouse to a unit in Domestic Tariff Area	No	Yes	Goods are cleared for home consumption. Transaction governed by proviso to Section 5(1). The person clearing the goods for home consumption liable to pay IGST under Section 3(7) of CTA read with Customs Circular no 33/2017. Supplier of goods in the Bonded Warehouse not liable to pay IGST on such sale.
Supply made from a SEZ to another SEZ	No	No	Goods pending customs clearance. Transaction governed by proviso to Section 5(1).
Supply made from a SEZ to a unit in Domestic Tariff Area (Goods)	No	Yes	Goods are cleared for home consumption. Transaction governed by proviso to Section 5(1). The person clearing the goods for home consumption liable to pay IGST under Section 3(7) of CTA. Supplier of goods in the SEZ not liable to pay IGST on such sale.
Supply made from a SEZ to a EOU	No	Yes	Goods are cleared for home consumption. Transaction governed by proviso to Section 5(1). W.e.f. 13.08.2016 (notification no. 44/2016-Cus) EOU's are not considered as private licensed warehouse. Therefore, premises of EOU will be treated as a place outside the customs frontiers of India. The person clearing the goods for home consumption liable to pay IGST under Section 3(7) of CTA. Basic Customs duty is exempted vide Notification 52/2003. Supplier of goods in the SEZ not liable to pay IGST on such sale.
Supply made from a SEZ to Bonded Warehouse	No	No	Goods pending customs clearance. Transaction governed by proviso to Section 5(1).

From the above illustrations, it can be concluded that IGST under Section 5(1) is leviable only upon goods getting cleared from customs frontier. Till the time the goods have not been cleared from customs frontier, IGST under Section 5(1) will not be leviable or collectible. This view is further strengthened by the clarification issued by the Ministry of Finance vide Circular no. 33/2017 dated 01.08.2017. The Circular states that IGST on High Sea Sale transactions of imported goods, shall be levied and collected only when the import declarations are filed before the Customs Authorities. This implies that the dealer effecting the High Sea Sales of imported goods is not liable to IGST. The person clearing the goods from customs frontier is liable to IGST under Section 3(7)

of the CT Act and for the purpose the value addition done in all previous sales would be forming part of the assessable value.

<sup>4</sup> Section 2(10) "import of goods" with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India

<sup>5</sup> Section 53 of the SEZ Act, 2005 provides that SEZ area, for the purposes of Customs Act, shall be deemed to be a territory outside the customs territory of India.

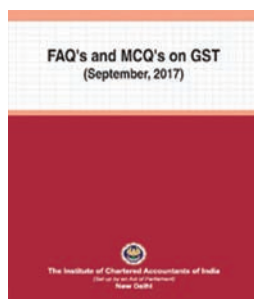
A SEZ is deemed to be a port, airport, inland container depot, land depot and land customs station under Section 7 of the Customs Act.

<sup>6</sup> dated 01.08.2017

*Contribution by Bangalore Study Group*

## PUBLICATIONS

The Indirect Taxes Committee of ICAI keeps the members updated with the changes through its publications. The following publication have been published by the Committee:



### FAQ's and MCQ's on GST

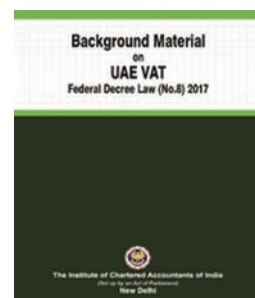
"FAQ's and MCQ's on GST" aims to provide a comprehensive coverage of the GST Acts, rules and recent notifications issued by the Government in a question answer format which will enable the readers to understand the law in an easy & lucid way.

### E-Handbook on Jobwork under GST

"E-Handbook on Jobwork under GST" is designed to provide in depth knowledge about the provisions pertaining to job work including procedure, conditions and restriction for supplying goods to job worker, provisions relating to removal of inputs / semi-finished goods/capital goods by principal to a job worker, duration within which goods to be returned by job worker, disposal of Waste & Scrap generated during job work.

### Background Material on UAE VAT Federal Decree Law (No.8) 2017

Background Material on UAE VAT Federal Decree Law (No.8) 2017 provides a comprehensive coverage of VAT law in simple and easy manner with tables, flow charts and illustrations etc. which allows the reader to easily comprehend the emerging law.



### Ordering Information

The Publication can be purchased directly from the sales counter at the ICAI's Regional Offices / Branches or at the Head Office. Member may also download from Indirect Taxes Committee [Website: http://idtc.icaic.org/publications.php](http://idtc.icaic.org/publications.php). To order by post, requisition may be sent to the Postal Sales Department of the ICAI at [postalsales@icaic.in](mailto:postalsales@icaic.in) or can be order online at <https://icaionlinestore.org/indirect-taxes-committee>



# FAQS ON GOVERNMENT SERVICES

## Q 1 Are all services provided by the Government or local authority exempted from payment of tax ?

Ans. No, all services provided by the Government or a local authority are not exempt from tax. As for instance, services, namely, (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Government; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of an airport or a port; (iii) transport of goods or passengers; or (iv) any service, other than services covered under (i) to (iii) above, provided to business entities are not exempt and that these services are liable to tax.

That said, most of the services provided by the Central Government, State Government, Union Territory or local authority are exempt from tax. These include services provided by government or a local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under Article 243W of the Constitution and services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.

## Q 2 Are Government or local authority or governmental authority liable to pay tax?

Ans. Yes. The Government or a local authority or a governmental authority is liable to pay tax on supply of services other than the services notified as exempt or notified as neither a supply of goods nor a supply of services under clause (b) of sub-section (2) of section 7 of the CGST Act, 2017. In respect of services other than – (i) renting of immovable property; (ii) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Government; and (iii) services in relation to an aircraft or a vessel, inside or outside the precincts of an airport or a port, the service recipients are required to pay the tax under reverse charge mechanism.

## Q 3 What is the meaning of 'Government' ?

Ans. As per section 2(53) of the CGST Act, 2017, 'Government' means the Central Government. As per clause (23) of section 3 of the General Clauses Act, 1897 the 'Government' includes both the Central Government and any State Government. As per clause (8) of section 3 of the said Act, the 'Central Government', in relation to anything done or to be done after the commencement of the Constitution, means the President. As per Article

53 of the Constitution, the executive power of the Union shall be vested in the President and shall be exercised by him either directly or indirectly through officers subordinate to him in accordance with the Constitution. Further, in terms of Article 77 of the Constitution, all executive actions of the Government of India shall be expressed to be taken in the name of the President. Therefore, the Central Government means the President and the officers subordinate to him while exercising the executive powers of the Union vested in the President and in the name of the President. Similarly, as per clause (60) of section 3 of the General Clauses Act, 1897, the 'State Government', as respects anything done after the commencement of the Constitution, shall be in a State the Governor, and in an Union Territory the Central Government. As per Article 154 of the Constitution, the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or indirectly through officers subordinate to him in accordance with the Constitution. Further, as per article 166 of the Constitution, all executive actions of the Government of State shall be expressed to be taken in the name of Governor. Therefore, State Government means the Governor or the officers subordinate to him who exercise the executive powers of the State vested in the Governor and in the name of the Governor.

## Q 4 Who is a local authority?

Ans. Local authority is defined in clause (69) of section 2 of the CGST Act, 2017 and means the following:

- a "Panchayat" as defined in clause (d) of article 243 of the Constitution;
- a "Municipality" as defined in clause (e) of article 243P of the Constitution;
- a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
- a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
- a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
- a Development Board constituted under article 371 of the Constitution; or
- a Regional Council constituted under article 371A of the Constitution;

**Q 5 Are all local bodies constituted by a State or Central Law regarded as local authorities for the purposes of the GST Acts?**

Ans. No. The definition of 'local authority' is very specific and means only those bodies which are mentioned as 'local authorities' in clause (69) of section 2 of the CGST Act, 2017. It would not include other bodies which are merely described as a 'local body' by virtue of a local law.

For example, State Governments have setup local developmental authorities to undertake developmental works like infrastructure, housing, residential & commercial development, construction of houses, etc. The Governments setup these authorities under the Town and Planning Act. Examples of such developmental authorities are Delhi Development Authority, Ahmedabad Development Authority, Bangalore Development Authority, Chennai Metropolitan Development Authority, Bihar Industrial Area Development Authority, etc. Such developmental authorities formed under the Town and Planning Act are not qualified as local authorities for the purposes of the GST Acts.

**Q 6 Would a statutory body, corporation or an authority constituted under an Act passed by the Parliament or any of the State Legislatures be regarded as 'Government' or "local authority" for the purposes of the GST Acts?**

Ans. A statutory body, corporation or an authority created by the Parliament or a State Legislature is neither 'Government' nor a 'local authority'. Such statutory bodies, corporations or authorities are normally created by the Parliament or a State Legislature in exercise of the powers conferred under article 53(3)(b) and article 154(2)(b) of the Constitution respectively. It is a settled position of law (Agarwal Vs. Hindustan Steel AIR 1970 Supreme Court 1150) that the manpower of such statutory authorities or bodies do not become officers subordinate to the President under article 53(1) of the Constitution and similarly to the Governor under article 154(1). Such a statutory body, corporation or an authority as a juridical entity is separate from the State and cannot be regarded as the Central or a State Government and also do not fall in the definition of 'local authority'. Thus, regulatory bodies and other autonomous entities would not be regarded as the government or local authorities for the purposes of the GST Acts.

**Q 7 Would services provided by one department of the Government to another Department of the Government be taxable?**

Ans. Services provided by one department of the Central Government/State Government to another department of the Central Government/State Government are exempt under notification No. 12/2017-Central Tax (Rate), dated 28.06.2017 [S No 8 of the Table].

However, this exemption is not applicable to:

(a) services provided by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, the State Government and Union Territory;

(b) services in relation to a vessel or an aircraft inside or outside the precincts of a port or an airport;

(c) services of transport of goods and/or passengers.

**Q 8 What are the transport services provided by the Government or local authorities exempt from tax?**

Ans. Transport services provided by the Government to passengers by — (i) railways in a class other than— (a) first class; or (b) an air-conditioned coach; (ii) metro, monorail or tramway; (iii) inland waterways; (iv) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and (v) metered cabs or auto rickshaws (including E-rickshaws) are exempt from tax.

**Q 9 Are various corporations formed under the Central Acts or State Acts or various government companies registered under the Companies Act, 1956/2013 or autonomous institutions set up by special Acts covered under the definition of 'Government'?**

Ans. No. The corporations formed under the Central or a State Act or various companies registered under the Companies Act, 1956/2013 or autonomous institutions set up by the State Acts will not be covered under the definition of 'Government' and therefore, services provided by them will be taxable unless exempted by a notification.

**Q 10 Are various regulatory bodies formed by the Government covered under the definition of 'Government'?**

Ans. No. A regulatory body, also called regulatory agency, is a public authority or a governmental body which exercises functions assigned to them in a regulatory or supervisory capacity. These bodies do not fall under the definition of Government.

Examples of regulatory bodies are - Competition Commission of India, Press Council of India, Directorate General of Civil Aviation, Forward Market Commission, Inland Water Supply Authority of India, Central Pollution Control Board, Securities and Exchange Board of India.

**Q 11 Will the services provided by Police or security agencies of Government to PSUs or corporate entities or sports events held by private entities be taxable?**

Ans. Yes. Services provided by Police or security agencies of Government to PSU/private business entities are not exempt from GST. Such services are taxable supplies and the recipients are required to pay the tax under reverse charge mechanism on the amount of consideration paid to Government for such supply of services.

Illustration: The Karnataka Cricket Association, Bangalore

requests the Commissioner of Police, Bangalore to provide security in and around the Cricket Stadium for the purpose of conducting the cricket match. The Commissioner of Police arranges the required security for a consideration. In this case, services of providing security by the police personnel are not exempt. As the services are provided by Government, Karnataka Cricket Association is liable to pay the tax on the amount of consideration paid under reverse charge mechanism.

**Q 12 The Department of Posts provides a number of services. What is the status of those services for the purpose of levy of tax?**

Ans. The services by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Government or Union territory are not exempt. In respect of these services the Department of Posts is liable to pay tax without application of reverse charge.

However, the following services provided by the Department of Posts are not liable to tax.

- (a) Basic mail services known as postal services such as post card, inland letter, book post, registered post provided exclusively by the Department of Posts to meet the universal postal obligations.
- (b) Transfer of money through money orders, operation of savings accounts, issue of postal orders, pension payments and other such services.

**Q 13 What is the scope of agency services provided by the Department of Posts mentioned in the Notification No. 12/2017-Central Tax(Rate) dated 28.06.2017?**

Ans. The Department of Posts also provides services like distribution of mutual funds, bonds, passport applications, collection of telephone and electricity bills on commission basis. These services are in the nature of intermediary and generally called agency services. In these cases, the Department of Posts is liable to pay tax without application of reverse charge.

**Q 14 Would services received by Government, a local authority, a governmental authority from a provider of service located outside India be taxable?**

Ans. No tax is payable on the services received by the Government/ local authority/ governmental authority from a provider of service located outside India. However, the exemption is applicable to only those services which are received for the purpose other than commerce, industry or any other business or profession. In other words, if the Government receives such services for the purpose of business or commerce, then tax would apply on the same.

**Q 15 Whether the exemption is applicable to online information and database access or retrieval services received by Government or local authorities from**

**provider of service located in non taxable territory?**

Ans. No. Online information and database access or retrieval services received by Government or local authorities from non taxable territory for any purpose including furtherance of business or commerce are liable to tax.

**Q 16 What are the functions entrusted to a municipality under Article 243W of the Constitution**

Ans. The functions entrusted to a municipality under the Twelfth Schedule to Article 243W of the Constitution are as under:

- (a) Urban planning including town planning.
- (b) Regulation of land-use and construction of buildings.
- (c) Planning for economic and social development.
- (d) Roads and bridges.
- (e) Water supply for domestic, industrial and commercial purposes.
- (f) Public health, sanitation conservancy and solid waste management.
- (g) Fire services.
- (h) Urban forestry, protection of the environment and promotion of ecological aspects.
- (i) Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
- (j) Slum improvement and upgradation.
- (k) Urban poverty alleviation.
- (l) Provision of urban amenities and facilities such as parks, gardens, playgrounds.
- (m) Promotion of cultural, educational and aesthetic aspects.
- (n) Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
- (o) Cattle pounds; prevention of cruelty to animals.
- (p) Vital statistics including registration of births and deaths.
- (q) Public amenities including street lighting, parking lots, bus stops and public conveniences.
- (r) Regulation of slaughter houses and tanneries.

**Q 17 What are the functions entrusted to a Panchayat under Article 243G of the Constitution?**

Ans. The functions entrusted to a Panchayat under the Eleventh Schedule to Article 243G of the Constitution are as under:

- (i) Agriculture, including agricultural extension. (ii) Land improvement, implementation of land reforms, land

consolidation and soil conservation. (iii) Minor irrigation, water management and watershed development. (iv) Animal husbandry, dairying and poultry. (v) Fisheries. (vi) Social forestry and farm forestry. (vii) Minor forest produce.

- (viii) Small scale industries, including food processing industries. (ix) Khadi, village and cottage industries. (x) Rural housing. (xi) Drinking water. (xii) Fuel and fodder.
- (xiii) Roads, culverts, bridges, ferries, waterways and other means of communication. (xiv) Rural electrification, including distribution of electricity. (xv) Non-conventional energy sources. (xvi) Poverty alleviation programme. (xvii) Education, including primary and secondary schools. (xviii) Technical training and vocational education. (xix) Adult and non-formal education. (xx) Libraries. (xxi) Cultural activities.
- (xxii) Markets and fairs. (xxiii) Health and sanitation, including hospitals, primary health centres and dispensaries. (xxiv) Family welfare. (xxv) Women and child development. (xxvi) Social welfare, including welfare of the handicapped and mentally retarded. (xxvii) Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes. (xxviii) Public distribution system. (xxix) Maintenance of community assets.

**Q 18 What is the significance of services provided by Government or a local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Government or the local authority ?**

Ans. Non-performance of a contract or breach of contract is one of the conditions normally stipulated in the Government contracts for supply of goods or services. The agreement entered into between the parties stipulates that both the service provider and service recipient abide by the terms and conditions of the contract. In case any of the parties breach the contract for any reason including non-performance of the contract, then such person is liable to pay damages in the form of fines or penalty to the other party. Non-performance of a contract is an activity or transaction which is treated as a supply of service and the person is deemed to have received the consideration in the form of fines or penalty and is, accordingly, required to pay tax on such amount.

However non performance of contract by the supplier of service in case of supplies to Government is covered under the exemption from payment of tax. Thus any consideration received by the Government from any person or supplier for non performance of contract is exempted from tax.

Illustration: Public Works Department of Karnataka entered into an agreement with M/s. ABC, a construction company for construction of office complex for certain amount of consideration. In the agreement dated

10.7.2017, it was agreed by both the parties that M/s. ABC shall complete the construction work and handover the project on or before 31.12.2017. It was further agreed that any breach of the terms of contract by either party would give right to the other party to claim for damages or penalty. Assuming that M/s. ABC does not complete the construction and handover the project by the specified date i.e., on or before 31.12.2017. As per the contract, the department asks for damages/penalty from M/s. ABC and threatened to go to the court if not paid. Assuming that M/s ABC has paid an amount of Rs. 10,00,000/- to the department for non performance of contract. Such amount paid to department is exempted from payment of tax.

**Q 19 Whether services in the nature of change of land use, commercial building approval, utility services provided by a governmental authority are taxable?**

Ans. Regulation of land-use, construction of buildings and other services listed in the Twelfth Schedule to the Constitution which have been entrusted to Municipalities under Article 243W of the Constitution, when provided by governmental authority are exempt from payment of tax.

**Q 20 Whether fines and penalty imposed by Government or a local authority for violation of a statute, bye-laws, rules or regulations liable to tax?**

Ans. No. This gets covered under the exemption by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Government or the local authority.

**Q 21 Whether services provided by Government or a local authority to a business entity located in a special category State are subject to tax?**

Ans. The expression "special category States" provided in Explanation (iii) to section 22 of the CGST Act, shall mean the States as specified in sub-clause (g) of clause (4) of Article 279A of the Constitution. As per the said clause, the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand have been given the status of special category States for the purpose of GST Acts. Notification No. 12/2017-Central Tax(Rate), dated 28.06.2017 (Sl. No. 7 of the Table) provides for exemption from payment of tax in respect of services provided to a business entity located in a special category State with a turnover up to Rs. 10 lakh rupees. However, this exemption is not be applicable to (a) services -

- (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Government; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of an airport or a port; (iii) of transport

of goods or passengers and (iv) services by way of renting of immovable property.

**Q 22 A small business entity is carrying on a business relating to consulting engineer services in Delhi. Does it need to pay tax on the services received from Government or a local authority?**

Ans. If turnover of the entity is less than the limit of Rs. 20 lakhs in a financial year, no tax would be payable. The exemption from payment of tax is applicable to services provided to a business entity having a turnover up to Rs. 20 lakh rupees. However, this exemption is not applicable to (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Government; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of an airport or a port; (iii) services of transport of goods or passengers and (iv) services by way of renting of immovable property.

**Q 23 What is reverse charge in GST?**

Ans. As per 2(98) of the CGST Act, 2017, "reverse charge" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9 of the CGST Act, 2017, or under sub-section (3) or subsection (4) of section 5 of the IGST Act, 2017.

**Q 24 Whether reverse charge is applicable to services provided by Government or local authorities?**

Ans. Yes, reverse charge is applicable in respect of services provided by Government or local authorities to any person whose turnover exceeds Rs.20 lakhs (Rs.10 lakhs for Special Category States) excluding the following services:

- (i) renting of immovable property;
- (ii) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Government;
- (iii) services in relation to an aircraft or a vessel, inside or outside the precincts of an airport or a port;
- (iv) transport of goods or passengers.

Thus, the recipient of supply of goods or services is liable to pay the entire amount of tax involved in such supply of services or goods or both.

**Q 25 What is the scope of 'pure services' mentioned in the exemption notification No. 12/2017-Central Tax (Rate), dated 28.06.2017?**

Ans. In the context of the language used in the notification, supply of services without involving any supply of goods would be treated as supply of 'pure services'. For example, supply of man power for cleanliness of roads,

public places, architect services, consulting engineer services, advisory services, and like services provided by business entities not involving any supply of goods would be treated as supply of pure services. On the other hand, let us take the example of a governmental authority awarding the work of maintenance of street lights in a Municipal area to an agency which involves apart from maintenance, replacement of defunct lights and other spares. In this case, the scope of the service involves maintenance work and supply of goods, which falls under the works contract services. The exemption is provided to services involves only supply of services and not for works contract services.

**Q 26 Would services in relation to supply of motor vehicles to Government be taxable?**

Ans. Supply of a motor vehicle meant to carry more than twelve passengers by way of giving on hire to a state transport undertaking is exempted from tax. The exemption is applicable to services provided to state transport undertaking and not to other departments of Government or local authority. Generally, such State transport undertakings/corporations are established by law with a view to providing public transport facility to the commuters. In some cases, transport undertakings hire the buses on lease basis from private persons on payment of consideration. The services by way of supply of motor vehicles to such state transport undertaking are exempt from payment of tax. However, supplies of motor vehicles to Government Departments other than the state transport undertakings are taxable.

**Q 27 Can the supplier of services claim the tax paid under reverse charge mechanism as input tax credit?**

Ans. Yes. The supplier of services may claim the input tax credit on the amount of tax paid under reverse charge mechanism subject to the provisions of Chapter V of CGST Act, 2017 read with Chapter V of the CGST Rules, 2017.

**Q 28 What is the concept called 'tax deduction at source'?**

Ans. As per section 51 of the CGST Act, 2017, the Government may mandate (a) a department or establishment of the Central Government or State Government; or (b) local authority; or (c) Governmental agencies; or (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council, to deduct tax at the rate of one per cent on account of CGST and one percent on account of SGST from the payment made or credited to the supplier where the total value of the supply under a contract exceeds two lakh and fifty thousand rupees (excluding tax payable under the GST Acts). The deductor shall remit the deducted amount to the Government and is also required to furnish a certificate to the deductee by mentioning the details of the amount deducted and payment of such deducted amount.

Illustration: ABC Ltd supplies the service valued at Rs. 3,00,000/- excluding tax to Government department. The department while making the payment of Rs. 3,00,000/- should deduct Rs. 3000/- on account of CGST and Rs. 3000/- on account of SGST and make a net payment of Rs. 2,94,000/- to ABC Ltd. Thereafter, the department shall pay the amount of Rs. 3,000/- to the Central Government and Rs. 3,000/- to the State Government and furnish a certificate to the deductee, containing the details of such deduction including the details of such deductee.

**Q 29 Whether the deductee can claim the input tax credit on the deduction of tax at source amount?**

Ans. No. The tax deducted at source is not input tax credit. However, the amount deducted shall be credited to the electronic cash ledger (upon being accepted by the deductee in his Form GSTR-2A) of the deductee and can be utilized for payment of output tax.

**Q 30 Whether an amount in the form of royalty or any other form paid/payable to the Government for assigning the rights to use of natural resources is taxable?**

Ans. The Government provides license to various companies including Public Sector Undertakings for exploration of natural resources like oil, hydrocarbons, iron ore, manganese, etc. For having assigned the rights to use the natural resources, the licensee companies are required to pay consideration in the form of annual license fee, lease charges, royalty, etc to the Government. The activity of assignment of rights to use natural resources is treated as supply of services and the licensee is required to pay tax on the amount of consideration paid in the form of royalty or any other form under reverse charge mechanism.



**Q 31 Whether a Government Department, required to deduct tax at source, is liable to take registration as a normal taxpayer?**

Ans. The Government Department is required to take registration as a normal taxpayer only if it makes a taxable supply of goods and/or services and in such cases, the registration shall be obtained on the basis of PAN but Bank account is not mandatory. However, if it is not making any taxable supply of goods and/or services, it is required to register only as a deductor of tax at source on the basis of TAN/PAN.

Note: Reference to CGST Act, 2017 includes reference to SGST Act, 2017 and UTGST Act, 2017 also.

## FORTH COMING EVENTS UNDER THE AEGIS OF INDIRECT TAXES COMMITTEE

**Title of the Seminar :** Residential Workshop on GST  
**Contact Details :** Gurgaon Branch of NIRC of ICAI  
 Ph: 0124-4268867  
 Email: gurgaon@icai.org

**1st, 2nd and 3rd October, 2017**

**Place : Shimla • CPE Hours : 18 Hours**

**14th and 15th October, 2017**

**Place : Nashik • CPE Hours : 12 Hours**

**Title of the Seminar :** Two Days Conference on GST  
**Contact Details :** Nashik Branch of WIRC of ICAI  
 Ph: (0253) 2236107, 2236012  
 Email: nashik@icai.org

# ICAI'S CONTRIBUTION FOR SMOOTH IMPLEMENTATION OF GST AS PARTNER IN NATION BUILDING

## 1. Recent Publications on GST:

The Institute has recently developed and released the following publications which have been updated with recent changes:

- FAQs and MCQs on GST– September, 2017
- Background Material on GST Acts and Rules – August, 2017
- E-Book on How to Get Registered under GST – August, 2017
- E-Handbook on Job work under GST
- Study Paper on Taxation of E-Commerce under GST– August, 2017
- Simplified GST Guide for Manufacturer– August, 2017
- Bare Law on GST Act(s) and Rule(s) – July 2017

These publications and other GST publications can be downloaded at <http://idtc.icaai.org/publications.php> and can be ordered online at <https://icaionlinestore.org/indirect-taxes-committee>.

## 2. Representation for extending date of filing GST Return form

A representation was submitted to the Government on 19th August, 2017 for giving relaxation in GST compliance considering that GST Portal was not working properly and northern States of India are facing unseen floods.

Further, a representation was submitted on 8th September, 2017 requesting for relaxation in time limit for filing GSTR 6 to be filed by Input Service Distributor for the month of July and August, 2017 considering that time limit for filing Form GSTR-1 has been extended.

## 3. Initiatives for UAE VAT:

VAT is expected to be implemented in UAE from 1st January, 2017. In this regard, ICAI is coming out a Background Material on UAE VAT. Further, it is planning to organise Certificate Course and Faculty Identification Programme for the members in UAE.

## 4. Faculty Identification Programme

The Committee has organised a new series of Faculty Identification Programme on GST in 5 cities as per following schedule:

Sl. No	Region	Branch/Region	Date* (Tentative)
1.	SIRC Region	Hyderabad	2nd September, 2017
2.	NIRC Region / CIRC Region	Delhi/NCR	2nd and 3rd September, 2017
3.	SIRC Region	Bangalore	9th September, 2017
4.	WIRC Region	Mumbai	10th September, 2017
5.	EIRC Region	Kolkata	10th September, 2017

## 5. Webcasts on GST

ICAI has been regularly organising webcasts on GST. In the last 1 year, more than 25 webcasts have been organised. Last

webcast was organised in Return filing on 11th September, 2017. The recording of the webcasts is available on webcasts and You Tube.

- GST Sahayata Desks:** ICAI has made operational 126 GST Sahayata Desks across the country to provide pro bono advice on implementation of GST and to facilitate small manufacturers/businessmen/representatives of trade and industry in this regard.
- E-Learning on GST:** Committee launched E-learning on GST through recorded video sessions covering almost the entire topics of GST on 7th July 2017. Since then, 1877 stakeholders have subscribed to this e-learning and have been benefited from this initiative and the total collection from this venture is Rs. 16.40 lacs. It can be subscribed at the link <http://idtc.icaai.org/elearning-gst-subscribe.html> available on the website [www.idtc.icaai.org](http://www.idtc.icaai.org).
- Certificate Course on GST:** With a view to facilitate the members with the specialized knowledge in the area of GST in a systematic manner and enhancing their analytical skills, the Institute has launched Certificate Course on GST. In this regard, more than 51 batches of the Course have already been commenced/organised.
- Suggestions on GST:** Comprehensive suggestions on GST Act has been submitted to the Government on 31st July 2017 as well post GST implementation issue on 22nd August 2017 which can be downloaded from the website <http://idtc.icaai.org>. Further, a copy of suggestions has also been submitted to the State VAT Commissioners.
- Workshops, Seminars and Conferences:** More than 2600 workshops, seminars and conferences on GST have been organised across the country since January 2017 wherein more than 2 lakh members have participated.
- Training Programme on GST for CBEC Commissionerate**  
With a view to support the Government in capacity building, the Institute has been regularly organising training programme on GST for the Officials of various Commissionerates/departments of the Government. During the year more than 12 such training programmes have been organised.
- Formation of Study Group for helping State Government in smooth implementation of GST:** The Institute has already formed twenty (20) State level Study Group for extending its support to the Government in smooth implementation of GST.
- Identification and Training of new speakers on GST:** 550 new speakers have been identified and trained in GST Law making the expert pool of over 700 faculties across India through Faculty identification programme undertaken at regular intervals.
- GST Discussion Forum:** With a view to help the members, ICAI has launched online moderated discussion forum wherein members post their queries, which are replied by expert members. Discussion forum is available at <http://pdicai.org/queDisp.aspx>.



Two Days Programme on GST at Patna



Awareness programme on GST at Pune



Certificate Course on GST at Calicut



Certificate Course on GST at Varanasi



GST CONCLAVE at WIRC



Workshop on GST at Bhuj



Workshop on GST at Ahmednagar



Workshop on GST at Kolkata