

GOODS & SERVICES TAX

Amendments in this section includes relevant notifications and circulars issued between 01.05.2019 to 31.10.2019.

Note- Relevant amendments made by the Finance (No.2) Act, 2019 are not applicable for May 2020 Exam, as the same have not become effective till 31.10.2019.

Chapter 1

RELEVANT AMENDMENTS

1. Supply & chargeability under GST

Nature	Treatment
<ul style="list-style-type: none"> • Service by way of grant of alcoholic liquor licence by State Govt. 	<p>Neither a supply of goods nor a supply of service:</p> <p>Condition - Such service is undertaken by the State Governments in which they are engaged as public authorities, against consideration in the form of licence fee or application fee or by whatever name it is called. [Section 7(2) read with Notification No.24/2019, dated 30.9.2019]</p>
<ul style="list-style-type: none"> • Services by way of grant of other license by Govt. [Such as mining rights, spectrum etc.] against payment of consideration in the form of fee, royalty. 	<p>Treated as Supply.</p> <p>It is clarified that the above special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable. [Circular No. 121/2019, dated 11.10.2019]</p>
<ul style="list-style-type: none"> • Service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors 	<p>When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration. [Circular No. 116/2019, dated 11.10.2019]</p>

Question 1: Discuss the taxability of the following -

(a) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.

(b) "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

Answer: In both the cases, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, where all the following three conditions are satisfied GST is not leviable –

- (i) the gift or donation is made to a charitable organization,
- (ii) the payment has the character of gift or donation and
- (iii) the purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement,

2. Applicability of Composition Scheme or Notification No. 2/2019

Scheme	Not applicable to
Composition Scheme	Manufacturer of – <ul style="list-style-type: none"> • Ice cream and other edible ice, whether or not containing cocoa. • Pan masala • Tobacco and manufactured tobacco substitutes. • aerated water (tariff item 2202 1010) w.e.f 1.10.2019
Alternative Composition scheme (Notification No. 2/2019)	Supplier of – <ul style="list-style-type: none"> • Ice cream and other edible ice, whether or not containing cocoa. • Pan masala • Tobacco and manufactured tobacco substitutes. • aerated water (tariff item 2202 1010) w.e.f 1.10.2019

3. Reverse Charge Mechanism

1. Copyright Services (original literary works)

Old provisions	New provisions w.e.f 1.10.2019
Supply of service by author to Publisher was under RCM	Now, it is optional. Author can opt to pay tax under forward charge.
Accordingly, earlier entry is substituted -	
10. Copyright Services (original literary/dramatic/musical/artistic works) Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered u/s. 13(1)(a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like Publisher, music company, producer or the like, located in the taxable territory. Upto 30.9.2019
Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like	Music composer, photographer, artist, or the like Music company, producer or the like, located in the taxable territory w.e.f 1.10.2019
Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher. [w.e.f 1.10.2019]	Author Publisher located in the taxable territory. However, if the author has taken GST registration, he can opt to pay tax under forward charge by giving a declaration. Option once exercised cannot be changed within 1 year from the date of exercising the option.

Answer:

(i) The Statement is not fully correct, w.e.f 1.10.2019 the law has been amended in this regard which provides that if the author is registered under GST then he can opt to pay GST under forward charge by giving a declaration. In such a case, the Publisher has no liability to pay GST.

(ii) The statement is correct. As the said supply is a notified services u/s. 9(3), where there is no option for forward charge.

(iii) w.e.f 1.10.2019

(a) It is a exempted service, hence no GST liability.

(b) Y Pvt. Ltd. shall be liable to pay GST compulsorily u/s. 9(3) and has to get registration if not registered.

(c) X Pvt. Ltd has to pay GST on forward charge basis, if he is registered under GST.

(iv) Upto 31.09.2019: Mr. Lender shall discharge GST payable under Forward Charge.

From 1.10.2019: Mr. Borrower is liable to pay GST under reverse charge u/s. 9(3).

The nature of GST shall be IGST.

(v) A supplier of aerated water (tariff item 2202 1010) cannot opt the scheme w.e.f 1.10.2019.

4. EXEMPTION UNDER GST

1. Threshold limit provided under Exemption is now aligned with the threshold limit applicable for registration:-

Description of Services	Related amendments
1. Services provided by Central Govt/State Govt/UT/local authority to Business entity	Wherever turnover upto ₹20 lakhs/10 lakhs is given, following line shall be substituted – “turnover upto such amount in the preceding Financial Year as makes it eligible for exemption from registration under GST”.
2. Services provided by Arbitral Tribunal, advocates to business entity	

2. New Entry of exemption –

Category of services	Exemption allowed to - w.e.f 1.10.2019
1. Sports & Entertainment Event Services	<p>1. Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020, is exempted</p> <p>2. Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India, is exempted.</p> <p>Condition: Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2020.</p>
2. Storage/warehousing services	Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea, is exempted.
3. Life Insurance	Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force, is exempted

4. General Insurance	Services of general insurance business provided under Bangla Shasya Bima Scheme, is exempt.
5. Renting/Hiring Services	Services by way of giving on hire to a local authority, an Electrically operated vehicle meant to carry more than 12 passengers; shall be exempted w.e.f 1.8.2019. “Electrically operated vehicle” means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975, which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.

3. Amendment/modifications to earlier exemption:

Category of services	Old provisions	New provisions [w.e.f 1.10.2019]
1. Hotel Accommodation services	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below ₹ 1,000 per day or equivalent, is exempt.	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to ₹1,000 per day or equivalent, is exempt.
2. Transportation of goods by aircraft/vessel.	Services by way of transportation of goods by an aircraft/Vessel from customs station of clearance in India to a place outside India upto 30.9.2019, is exempt.	Services by way of transportation of goods by an aircraft/Vessel from customs station of clearance in India to a place outside India upto 30.9.2020, is exempt. [date extended]

4. Clarification on certain services

1. Circular No. 109/2019, dated 22.7.2019: Issues related to GST on monthly subscription/contribution charged by a Residential Welfare Association (RWA) from its members:

(i) GST is leviable on the entire amount where the monthly contribution exceeds ₹7500 p.m and not on the difference amount. Further, the aggregate turnover of RWA must exceeds ₹20 lakhs to charge GST. Otherwise nothing shall be taxable even if the monthly contribution exceeds ₹7500 p.m.

For example, if the maintenance charges are ₹9000/- per month per member, GST @18% shall be payable on the entire amount of ₹ 9000/- and not on [₹9000 - ₹7500] = ₹ 1500/- [Assuming the aggregate turnover of RWA exceeds ₹20 lakhs]

(ii) If a person owns two residential apartments in a residential complex the exemption from GST shall be available to each apartment and not per person.

(iii) RWAs are entitled to take ITC in accordance with provisions of ITC.

Question 3: A Resident Welfare Association (RWA) collects the following amounts from its 100 members for the month of March 2020. Determine the taxability or otherwise of the following amounts and compute Goods and services tax payable by the RWA.

Particulars	Amount in ₹
Contribution from 20 residents of ₹3,500 each	70,000
Contribution from 65 residents of 8,000 each	5,20,000
Collection towards payment of electricity bills of residents for 20 residents as per bills submitted	76,000

Collection in respect of electricity bill issued in the name of RWA towards electricity consumption for common use	48,000
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Provide brief notes and explanations for your answer. Assuming rate of GST is 18% and is separately charged. Assuming he is not availing the benefit of threshold limit.

Solution to Question 3:

Particulars	Amount in ₹
Contribution from 20 residents of ₹3,500 each [Exempt upto Rs. 7,500 p.m per member]	Nil
Contribution from 65 residents of ₹ 8,000 each [fully taxable since exceeds ₹7500]	5,20,000
Collection towards payment of electricity bills of residents for 20 residents as per bills submitted – not taxable being pure agent	Nil
Collection in respect of electricity bill issued in the name of RWA towards electricity consumption for common use – taxable	48,000
Taxable Value	5,68,000
CGST @ 9%	51,120
SGST @ 9%	51,120

2. Circular No. 117/2019, dated 11.10.2019: Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014.

Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST subject to satisfaction of other conditions.

3. Whether penal interest on late payment of EMI is considered as interest on loan/advances and therefore exempt from GST?

Circular No. 102/2019, dated 28.6.2019

Cases	Additional/penal interest on delayed payment of EMI
If such additional /penal interest is charged by the supplier of goods	Included in the value
If such additional /penal interest is charged by a third party providing the finance	Exempted [consider as interest on loan/advances]

Question 4: Mr. X sells a mobile phone to Y. The cost of mobile phone is ₹ 40,000/-. However, X gives Y an option to pay in installments, ₹11,000/- every month before 10th day of the following month, over next four months (₹11,000 x 4 = ₹44,000/-). Further, as per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional / penal interest amounting to ₹ 500/- per month for the delay.

In some instances, X is charging Y ₹40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional / penal interest amounting to ₹500/- per month for each delay in payment. Whether penal interest so charged by Mr. X shall form part of taxable value of supply of goods or not?

Answer: As per the provisions of sub-clause (d) of sub-section (2) of section 15 of the CGST Act, the amount of penal interest is to be included in the value of supply. The transaction between X and Y is for supply of taxable goods i.e. mobile phone. Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing [based CBEC Circulars]

Question 5: Mr. X sells a mobile phone to Y. The cost of mobile phone is ₹ 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s ABC Ltd. The terms of the loan from M/s ABC Ltd. allows Y a period of four months to repay the loan and an additional / penal interest @ 1.25% per month for any delay in payment. Whether penal interest so charged by Mr. X shall form part of taxable value of supply of goods or not?

Answer: The additional / penal interest is charged for a transaction between Y and M/s ABC Ltd., and the same is exempted supply of service covered under Sl. No. 27 of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017. Accordingly, in this case the 'penal interest' charged thereon on a transaction between Y and M/s ABC Ltd. would not be subject to GST. The value of supply of mobile by X to Y would be ₹ 40,000/- for the purpose of levy of GST. [based CBEC Circulars]

4. Effective date of explanation inserted in Exemption notification issued u/s. 11

Section 11(3) of CGST Act provides that the Government may insert an explanation in any notification issued under section 11, for the purpose of clarifying its scope or applicability, at any time within one year of issue of the notification and every such explanation shall have effect as if it had always been the part of the first such notification.

Question 6: Determine the effective date of applicability of Explanation inserted by virtue of Sec. 11(3), other information are as under -

- Original Notification No. 11/2017, issued on dated 28.6.2017 but effected from 1.7.2017
- A new entry NO. 3(vi) is inserted w.e.f 21.09.2017
- An Explanation is inserted w.r.t above entry on 26.7.2018.
- Effective date mentioned in the notification inserting this explanation is 27.7.2018

Answer- the effective date of explanation is 21.09.2017 and not 27.7.2018

5. Input Tax credit

RESTRICTION OF INPUT TAX CREDIT U/S. 16 READ WITH RULE 36(4)

[Notification No. 49/2019, dated 9.10.2019]

(1) The recipient can avail the eligible input tax credit fully where the details of invoices/debit notes in relation to such eligible credit are uploaded by the Supplier within the due date (i.e 11th of the following month).

(2) Where the supplier has not uploaded the details of invoices/debit notes within the due date (i.e 11th of the following month), the ITC for the month shall be restricted to 20% of the eligible credit in respect of invoices or debit notes the details of which have been uploaded by the suppliers. [Rule 36(4) w.e.f 9.10.2019]

Note: The above restriction is not available w.r.t ITC claimed on RCM, ITC received through Input service distributor.

☞ Full ITC can be availed even if total invoices are not uploaded but at least 83.33% (100/120 x100) of eligible tax credit gets uploaded.

Question 7: Mr. Kredit receives 100 invoices (for inward supply of goods or services) involving eligible input tax credit of ₹ 10,00,000 from various suppliers during the month of Oct, 2019 and has to claim input tax credit in his GST return of October, to be filed by 20th Nov, 2019. Determine the input tax credit available in the following cases-

Case	Input tax credit available to Mr. Kredit in the month of Oct'2019
Case 1: Suppliers have furnished 80 invoices involving eligible input tax credit of ₹ 6 lakhs within the due date.	₹ 6,00,000 + ₹ 1,20,000 (20% of 6 lakhs) or ₹ 10,00,000; whichever is lower = ₹7,20,000.
Case 2: Suppliers have furnished 75 invoices involving eligible input tax credit of ₹ 8.5 lakhs within the due date.	₹ 8,50,000 + ₹ 1,70,000 (20% of ₹8.5 lakhs) or ₹ 10,00,000; whichever is lower = ₹10,20,000.

[Based on CBEC Circulars]

Note: In case 1, The balance input tax credit of ₹2,80,000 [10 lakhs- 7.2 lakhs] can be claimed by 'Mr. Kredit' in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers and the aggregate input tax credit uploaded amounted to at least ₹8,33,333 (10 lakhs/120 x100).

6. Registration

1. Applying for Registration

1. Bank account details or any other information can be furnished even after obtaining the registration but not later than 45 days from the date of grant of registration or the date on which the return required u/s. 39 is due to be furnished, whichever is earlier. [Rule 10A]

However, in case of failure to furnish required information within the time provided in rule 10A, then registration is liable to be cancelled under rule 21. [Notification No. 31/2019, dated 28.06.2019]

[Earlier, it is required to be submitted at the time of applying for registration]

2. Suspension of Registration [Rule 21A]

The registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.

The said person shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.

The expression "shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension. [w.e.f 9.10.2019]

Further, where any order having the effect of revocation of suspension of registration has been passed, the provisions of revised invoice and First return (section 40) in respect of the supplies made during the period of suspension shall apply [w.e.f 9.10.2019] [Notification No. 49/2019, dated 9.10.2019]

7. Invoicing & E-way Bill

1. Special provisions for Issue of Tax Invoice

For person supplying services by way of admission to exhibition of cinematograph films in **multiplex screens** –

(i) Facility of consolidated tax invoice, where value of service is less than ₹200 is not available.

(ii) **e-ticket in multiplex deemed to be tax invoice**, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46:

Further, the supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure. w.e.f 1.9.2019. [**Notification No. 33/2019, dated 18.7.2019**]

2. Validity of the e-way bill:

Nature of Vehicle	Distance within country	Period of validity
Regular Transport Vehicle	For 100 km or part thereof	1 day
Over Dimensional Cargo	For 20km/part thereof	1 day
Multimodal shipment in which at least one leg involves transport by ship	For 20km/part thereof	1 day

Validity expires on the midnight of last day. E-way bill generated in one State is valid in other State.

Further, the validity of the e-way bill may be extended within eight hours from the time of its expiry

[Notification No.31/2019, dated 28.06.2019]

8. RETURN UNDER GST

1. Filing of annual return for F.Y. 2017-18 and 2018-19 is optional for small taxpayers whose aggregate turnover is less than ₹ 2 crores and who have not filed the said return before the due date. Provided that the said return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

[Notification No. 47/2019,dated 9.10.2019]

2. Filing of GSTR-3 has been deferred, accordingly necessary amendment has been made to consider GSTR-3B as return u/s. 39(1) and it is also provided that where a return in FORM GSTR-3B is required to be furnished by a person then such person shall not be required to furnish the return in FORM GSTR-3.

[Notification No. 49/2019, dated 9.10.2019]

Question 8: Mr. Paul an accountant of Cinopolis (a multiplex) is of the view that since the admission to exhibition of cinematograph films is ₹190 per person. Therefore he is required to issue a consolidated tax invoice at the closing of each business day for the purpose of compliance of GST law. Comment

Question 9: Goods transported in road upto 12 KM in a regular cargo at first leg, then transported in a Ship at the last leg to 100 k.m and travelled **through two states** by Mr. GTA. At the time of generation of e-way bill Mr. GTA asked you to know the period of validity of e-way bill and number of e-way bill required to be generated.

Question 10: Mr. GSTN fails to submit its annual return for the F.Y 2017-18 within the due date. His aggregate turnover for the said F.Y was ₹ 70 lakhs. Whether he is required to pay any late fee under GST Law?

Answer to Question 8: For person supplying services by way of admission to exhibition of cinematograph films in multiplex screens, facility of consolidated tax invoice, where value of service is less than ₹200 is not available. Further, he is required to issue an e-ticket which shall be considered as deemed tax invoice

Answer to Question 9: Since it is a case of Multimodal shipment where at least one leg involves transport by ship, therefore E-way bill shall be valid for 6 days [total 112 km/ 1 day per 20km and part thereof]. Further, Mr. GTA is required generate one e-way bill as e-way bill generated in one state is valid in other state.

Answer to Question 10: For non-filing of annual return a late fee of ₹ 200 (CGST+SGST) for every day during which such failure continues subject to maximum of 0.50% (CGST+SGST) of his turnover in the State. However, in the given case he is not required to pay any late fee as filling of annual return for F.Y. 2017-18 and 2018-19 is optional for small taxpayers whose aggregate turnover is less than ₹ 2 crores and who have not filed the said return before the due date. **Further, it shall be deemed to be furnished on the due date if it has not been furnished before the due date.**
