



INTER GST AMENDMENTS FOR MAY/JUNE 2025 EXAMS ~ CA BRINDAVAN GIRI SIR

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SUPPLY

Clarification on Taxability of ESOP/ESPP/RSU Provided by a Foreign Holding Company to Employees

Facts: Indian subsidiary companies may offer employees stock options or shares from the foreign holding company as part of their compensation package. When employees exercise these options, the foreign company issues the securities directly to them, and the Indian subsidiary typically reimburses the foreign holding company for the cost of the shares.

Issue: Whether this transfer and reimbursement would be subject to GST, also if it could be considered an import of financial services.

Clarification:

- **No GST on Transfer:** The **transfer of shares/securities** (ESOP/ESPP/RSU) by the foreign holding company to the employees **is not considered a supply** of goods or services under GST law, **as securities are not classified as goods or services**. Therefore, GST does not apply to the transaction of issuing or transferring securities.
- **No GST on Reimbursement:** The **reimbursement made** by the Indian subsidiary to the foreign holding company for the securities **is not subject to GST, as this reimbursement does not involve a supply of goods or services**.
- **Exemption for Employee Compensation:** ESOP/ESPP/RSU are part of the employee's compensation, which is not subject to GST as per Schedule III of the CGST Act. Therefore, the transfer of shares to employees as part of the employment contract does not attract GST.
- **GST on Additional Fees:** If the foreign holding company charges any additional fees (markup, commission, or other charges) to the Indian subsidiary for issuing the securities to employees, this would be considered a service. In such cases, GST would be levied on the additional fees, and the Indian subsidiary would be liable to pay GST under reverse charge.



Clarification on taxability of salvage/ wreck value earmarked in the claim assessment of the damage caused to the motor vehicle

Scenario 1: Salvage Ownership Remains with the Insurer

- If the insurance company settles the claim by deducting the salvage/wreckage value from the insured's claim amount (as per the insurance contract), the salvage remains the property of the insured.
- The insured can dispose of the wreckage independently.
- In this case, no supply is made by the insurance company concerning the salvage, and hence, no GST liability arises for the insurance company.

Deduction of Salvage Value: No GST liability for the insurance company as the salvage remains with the insured.

Scenario 2: Salvage Becomes Property of the Insurance Company

- If the insurance company settles the claim for the full Insured Declared Value (IDV) without deducting the salvage value, the salvage becomes the property of the insurance company.
- The insurance company is then responsible for disposing of the salvage.
- In such cases, the insurance company must discharge GST liability on the disposal/sale of the salvage.

Full Claim Paid (No Deduction): GST liability arises for the insurance company as the salvage becomes their property.



LEVY

Sec 9(3): Notified supply under RCM

Notified supply of Goods under RCM [N/N 4/2017]

S.N	Description of goods	Supplier	Recipient
8	Metal Scraps	Any unregistered Person	Any Registered Person

Notified supply of Services under RCM [N/N 13/2017 of CT]

Sl. No	Nature of Service	Supplier of service	Recipient (located in TT)
(5AB)	Service by way of renting of any immovable property other than residential dwelling	Any unregistered Person	Any registered person



EXEMPTION

N/N 12/2017 CT

RENTING OF IMMOVABLE PROPERTY SERVICE & HOTEL SERVICE

Entry 12	<p>Services by way of Renting of Residential Dwelling for Residence. → except where the residential dwelling is rented to a registered person</p> <p>Explanation. - For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, -</p> <ul style="list-style-type: none">(i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and(ii) such renting is on his own account & not that of the proprietorship concern. <p>Explanation 02: Nothing contained in this entry shall apply to -</p> <ul style="list-style-type: none">(a) Accommodation services for students in student residences(b) Accommodation services provided by Hostels, camps, paying guest accommodations, and the like
Entry 12A	<p>Supply of accommodation services having value of supply less than or equal to ₹ 20,000 per person per month provided that the accommodation service is supplied for a minimum continuous period of 90 days.</p>



Entry 9E	Services provided by Ministry of Railways (Indian Railways) to individuals by way of – (a) Sale of Platform Tickets (b) Facility of Retiring Rooms/Waiting Rooms (c) Cloak Room Services (d) Battery Operated Car Services
Entry 9F	Services Provided by One Zone/Division to Another Zone/Division under Ministry of Railways (Indian Railways)
Entry 9G	Services provided by Special Purpose Vehicles (SPVs) to Ministry of Railways (Indian Railways) by way of allowing Ministry of Railways (Indian Railways) to use the infrastructure built and owned by them during the concession period against consideration and services of maintenance supplied by Ministry of Railways (Indian Railways) to SPVs in relation to the said infrastructure built and owned by the SPVs during the concession period against consideration.
Entry 25A	Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.
Entry 36A	Services by way of reinsurance (reinsurance includes retrocession) of the insurance schemes specified in S.N 35 or 36. [Retrocession means a reinsurance transaction where part of the reinsured risk is further ceded to another insurer or cross-border reinsurer]
Entry 44A	Research and development services against consideration received in the form of grants supplied by – (a) a Government Entity; or (b) a research association, university, college or other institution, notified u/s 35(1)(i)/(iii) of the IT Act, 1961 Provided that the research association, university, college or other institution, notified u/s 35(1)(i)/(iii) of the IT Act, 1961 is so notified at the time of supply of the research and development service.
Entry 66A	Services of affiliation provided by a Central/State Educational Board, Council, or any other similar body to schools established, owned, or controlled by the CG, SG, UT Local Authority, Governmental Authority, or Government Entity.

→ National Council for Vocational Training (NCVT) renamed as National Council for Vocational Educational Training (NCVET).



CBIC Clarifications:

Issue: Whether the activity of providing loans by an overseas affiliate to its Indian affiliate or by a person to a related person, where there is no consideration in the form of processing fees, administrative charges, or loan granting charges, and where the consideration is represented only by way of interest or discount, will be treated as a taxable supply of service under GST?

Clarification: In the absence of processing or administration charges (other than interest or discount), the loan service between related parties is not considered a taxable supply under GST.

Doubts	Clarifications
Incidental/ ancillary services such as loading/ unloading, packing, unpacking, transshipment, temporary warehousing etc., provided in relation to transportation of goods by road by GTA	Composite supply of GTA service [Method of invoicing used by GTAs irrelevant]
What if above services were provided independently i.e, not provided in the course of transportation of goods & Invoiced separately	Independent Supply



REGISTRATION

Sec 23(2): Notified Persons not liable for registration

(A) **Persons making only reverse charge supplies (except metal scrap) [N/N 5/2017 - CT]**

Persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both u/s 9(3) have been exempted from obtaining registration.

➔ **However nothing contained in this notification shall apply to any person engaged in supply of metal scraps.**

2nd Proviso to Rule 8(4A)— Newly Inserted

Provided further that every application made under sub-rule (4) by a person, *other than a person notified u/s 25(6D), who has not opted for authentication of Aadhaar number, shall be followed by*

- ➔ **taking photograph of the applicant** where the applicant is an individual or of such individuals in relation to the applicant as notified u/s 25(6C) where the applicant is not an individual,
- ➔ **along with the verification of the original copy of the documents** uploaded with the application in FORM GST REG-01 at one of the Facilitation Centers notified by the Commissioner for the purpose of this sub-rule and

the application shall be deemed to be complete only after successful verification as laid down under this proviso

- **Biometric based Aadhar authentication extended to all over India.**

Sec 29(2)(a): Cancellation in case of defaults

Following contraventions done by the registered person [Rule 21]:

- (x) **violates the provisions of third or fourth proviso to Rule 23(1)**

3rd Proviso to Rule 23:

Provided further that **all returns due** for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration **shall be furnished by the said person within a period of 30 days from the date of order of revocation of cancellation of registration:**

4th Proviso to Rule 23:

Provided also that **where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of 30 days from the date of order of revocation of cancellation of registration.**



RETURNS

Rule 59: Form [GSTR-1] & Manner of furnishing details of Outward Supplies

Details:

Invoice wise details of all	Consolidated details of all	Debit/credit notes
<p>(i) Inter-State and Intra- State supplies made to registered persons</p> <p>(ii) Inter-State supplies made to unregistered persons with invoice value exceeding ₹2,50,000 ₹1,00,000</p>	<p>(i) Intra-State supplies made to unregistered persons for each rate of tax</p> <p>(ii) Inter-State supplies made to unregistered persons with invoice value upto ₹2,50,000 ₹1,00,000 for each rate of tax separately for each State</p>	<p>Issued during the month for invoices issued previously</p>

GSTR-1A

- Provided that the said person may, after furnishing the details of outward supplies of goods or service or both in FORM GSTR-1 for a tax period but before filing of return in FORM GSTR-3B for the said tax period, at his own option, amend or furnish additional details of outward supplies of goods or services or both in FORM GSTR-1A for the said tax period electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.
- ➔ After introduction of GSTR-1A, any reference to GSTR-1 shall mean “GSTR-1 or as amended in GSTR-1A, if any”

Sec 39: Returns

S.N	Persons	Details of	Periodicity	Time Limit
2	Registered Composition Supplier	<p>Return: GSTR - 4</p> <p>Payment: GST-CMP-08</p>	<p>ANNUALLY</p> <p>Quarterly</p>	<p>30th April</p> <p>30th June of Next Year</p> <p>18th of next Mon</p>



PAYMENT

Sec 50: Interest on delayed payment

Rule 88B: Manner of calculating interest on delayed payment of tax

(1) In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of sec 39, *except where such return is furnished after commencement of any proceedings u/s 73 or 74 in respect of the said period*, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified u/s 50(1).

Provided that where any amount has been credited in the E-Cash Ledger u/s 49(1) on or before the due date of filing the said return, but is debited from the said ledger for payment of tax while filing the said return after the due date, the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return.

Sec 51: Tax Deducted at Source (TDS)

Notified person liable to deduct TDS

Notified Persons [N/N 33/2017]

- (a) an authority or a board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government,

with 51% or more participation by way of equity or control, to carry out any function;

- (b) society established by the CG or SG or a Local Authority under Societies Registration Act, 1860;
- (c) public sector undertakings;
- (d) any person receiving supplies of metal scraps from other registered person

Provided further that nothing in this notification shall apply to the supply of goods or services or both from a PSU to another PSU, whether or not a distinct person .

Provided also that nothing in this notification shall apply to the supply of goods or services or both which takes place between one person to another person specified u/s 51 (1) (a), (b), (c) and (d) except person referred to in clause (d).

TCS Rate - Sec 52

Old Rate	CGST/SGST - 0.5% each; IGST 1%
New Rate	CGST/SGST - 0.25% each; IGST 0.5%

TIME OF SUPPLY

Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model

Issue: Under HAM model of National Highways Authority of India (NHAI), the concessionaire has to construct the new road and provide Operation & Maintenance of the same which is generally over a period of 15-17 years and the payment of the same is spread over the years. What is the time of supply for the purpose of payment of tax on the said service under the HAM model?

Facts: Under the Hybrid Annuity Model (HAM) of concession agreements, the highway development projects are under Design, Build, Operate and Transfer model (DBOT), wherein the concessionaire is required to undertake new construction of Highway, as well as the Operation and Maintenance (O&M) of Highways. The payment terms for the construction portion as well as the O&M portion of the contract are provided in the agreement between National Highways Authority of India (NHAI) and the concessionaire.

A HAM contract is a single contract for construction as well as operation and maintenance of the highway. The payment terms are so staggered that the concessionaire is held accountable for the repair and maintenance of the highway as well. The contract needs to be looked at holistically based on the services to be performed by the concessionaire and cannot be artificially split into two separate contracts for construction and operation and maintenance, based on the payment terms. The concessionaire is bound contractually to complete not only the construction of the highway but also to operate and maintain the same.

Clarifications:

In HAM contract, the payment is made spread over the contract period in installments and payment for each installment is to be made after specified periods, or on completion of an event, as specified in the contract. The same appears to be covered under the 'Continuous supply of services' as defined u/s 2(33) of the CGST Act.

Accordingly, as per Sec 13(2) read with sec 31(5), **time of supply of services under HAM contract, including construction and O&M portion, should be the date of issuance of such invoice, or date of receipt of payment, whichever is earlier, if the invoice is issued on or before the specified date or the date of completion of the event specified in the contract, as applicable.**

However, in cases, where the invoice is not issued on or before the specified date or the date of completion of the event specified in the contract, as per Sec 13(2)(b), **time of supply should be the date of provision of the service (i.e., the due date of payment as per the contract), or date of receipt of payment, whichever is earlier.** In case of continuous supply of services, the date of provision of service may be deemed as the due date of payment as per the contract, as the invoice is required to be issued on or before the due date of payment as per the provisions of Section 31(5) of CGST Act.

- It is also clarified that as the installments/annuity payable by NHAI to the concessionaire also includes some interest component, the amount of such interest shall also be includible in the taxable value for the purpose of payment of tax on the said annuity/installment as per Sec 15(2)(d) of the CGST Act



INPUT TAX CREDIT

Time limit u/s 16(4) in respect of RCM supplies from unregistered persons

Clarification: For RCM supplies from unregistered person where recipient is required to issue invoice Sec 31(3)(f), **the relevant FY for calculation of time limit for availment of input tax credit u/s 16(4) will be the FY in which the invoice has been issued by the recipient u/s 31(3)(f), subject to payment of tax.**

In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax.

Sec 16(6): Time Limit for ITC AVAILMENT in case cancellation of Reg is revoked

- (6) Where registration of a registered person is cancelled u/s 29 and subsequently the cancellation of registration is revoked by any order, either u/s 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of ITC in respect of an invoice or debit note was not restricted u/s 16(4) on the date of order of cancellation of registration, the said person shall be entitled to take the ITC in respect of such invoice or debit note for supply of goods or services or both, in a return u/s 39,—
- (i) filed up to 30th November following the FY to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or
 - (ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within 30 days from the date of order of revocation of cancellation of registration, whichever is later



Issue: Whether the input tax credit on the ducts and manholes used in network of optical fiber cables (OFCs) for providing telecommunication services is barred u/s 17(5)(c)/(d) of the CGST Act, read with Explanation to section 17 of CGST Act ?

Clarification:

*Ducts and manholes are basic components for the optical fiber cable (OFC) network used in providing telecommunication services. The OFC network is generally laid with the use of **PVC ducts/sheaths** in which OFCs are housed and **service/connectivity manholes**, which serve as nodes of the network, and are necessary for not only laying of optical fiber cable but also their upkeep and maintenance.*



In view of the Explanation in section 17, it appears that **ducts and manholes are covered under the definition of “plant and machinery”** as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another. **Moreover, ducts and manholes used in network of optical fiber cables (OFCs) have not been specifically excluded from the definition of “plant and machinery”** in the Explanation to section 17, as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.

→ **Accordingly, it is clarified that availment of input tax credit is not restricted in respect of such ducts and manhole used in network of optical fiber cables (OFCs), u/s 17(5)(c)/(d) .**



Clarification on Availability of Input Tax Credit (ITC) for Demo Vehicles

Demo Vehicles: Authorized dealers are required to maintain demo vehicles for trial runs and demonstrating features to potential buyers. These vehicles are purchased from manufacturers and reflected as capital assets in the dealer's books. They are held as demo vehicles for a certain period before being sold at a written-down value.

Input Tax Credit on Demo Vehicles:

- **Section 17(5) of CGST Act** restricts input tax credit (ITC) for motor vehicles with a seating capacity of 13 or fewer persons, unless used for specific taxable supplies like further supply of vehicles, transportation of passengers, or driving training.
- **Clarification:** Demo vehicles are used for marketing and promoting vehicle sales, thus facilitating the further supply of similar vehicles. Therefore, they can be considered as used for making the "further supply of such motor vehicles," making ITC available.
- **Exception:** If demo vehicles are used for purposes other than further supply (e.g., transporting staff), ITC will not be available.

Capitalization of Demo Vehicles:

- When demo vehicles are capitalized as per section 16(1), they are treated as "capital goods". ITC is available on these vehicles if they are used in the course of the dealer's business.
- **Conditions:** ITC on demo vehicles may be restricted if depreciation has been claimed on the tax component of the vehicle's cost under the Income-tax Act. Additionally, if a capitalized demo vehicle is sold, GST may be payable as per section 18(6) and rule 44(6).



PLACE OF SUPPLY

Circular 209/3/2024: Delivery vs Billing Address for E-Commerce transactions:

Scenario: Mr. A, an unregistered person in State X, orders a mobile phone via an e-commerce platform with delivery to State Y, providing State X as the billing address

Clarification: POS u/s 10(1)(ca) will be the **delivery address recorded in the invoice** i.e, the delivery address (State Y) recorded on the invoice.

In cases where the billing and delivery addresses differ, the **supplier should accurately record the delivery address as the recipient's address on the invoice for determining the place of supply**