

S&J **Shah & Jhalawadia**
Chartered Accountants



GST UPDATE

Recent Notifications and Circulars issued under GST

From 01-03-2019 to 10-03-2019

YEAR

2019

GST Updates

From 01-03-2019 to 10-03-2019

This presentation contains all the amendments and clarifications issued during 01-03-19 to 10-03-19 under GST.

This presentation has been prepared topic wise and references of relevant notifications and circulars have been given at the end of each topic. As well it contains the comparison with the old provisions with our analysis and our comment wherever is necessary.

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1. Threshold limit for registration increased

Threshold limit for registration increased to Rs 40 lakhs for the those who supply only goods

- Any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed forty lakhs rupees is exempt from registration.
- However this threshold limit shall not be applicable in following cases
 - persons required to take compulsory registration under section 24 of CGST Act
 - Persons engaged in making supply of
 - Ice cream and other edible ice, whether or not containing cocoa
 - Pan masala
 - All goods, i.e. Tobacco and manufactured tobacco substitutes
 - persons engaged in making intra-State supplies in the state of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand;
 - Person taking voluntary registration under Section 25(3) of CGST Act

[Notification 10/2019 Central Tax dated 07.03.2019. Applicable from 01.04.2019]

2. Due dates specified

Details	Nature of Return/Statement	Period	Notified Due Date
For registered persons having aggregate turnover of up to 1.5 crore rupees	GSTR-1	April to June 2019	31.07.2019
For registered persons having aggregate turnover more than 1.5 crore rupees	GSTR-1	April, 2019	11.05.2019
		May, 2019	11.06.2019
		June, 2019	11.07.2019
Due date of return and Due date of payment	GSTR-3B	April, 2019	20.05.2019
		May, 2019	20.06.2019
		June, 2019	20.07.2019

[Notification 11/2019, 12/2019, and 13/2019 Central Tax dated 07-03 2019]

3. Amendments in relation to Composition Scheme

Limit for composition scheme increased

- Section 10(1) of CGST Act is already amended by CGST (Amendment) Act, 2018. As per this amended section maximum limit of composition scheme can be increased up to Rs 1.50 cr. by issue of notification
- Notification 08/2017 Central Tax has already mentioned limit for composition scheme of Rs 1cr and Rs 75 lakhs for Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh
- Now this notification has been superseded by new Notification 14/2019 –Central Tax dated 07.03.2019.
- Now this new notification has increased composition scheme limit to Rs 1.50 cr from 1cr as per the power mentioned in Section 10(1) of CGST Act.
- However limit of Rs 75 lakhs not increased, but now this limit shall be applicable to states Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Uttarakhand

Analysis of Impact of this Amendment

- For state of Assam and Himachal Pradesh, limit for composition scheme was Rs 75 lakhs. But now after this amendment, limit for these states shall be Rs 1.50 cr,
- For state of Uttarakhand, composition limit was Rs 1 cr before amendment. But after the amendment it shall be Rs 75 lakhs.
- In recent CGST (Amendment) Act, 2018, Section 10(1) of CGST Act was amended and now as per the amended Section a registered person can opt to pay tax under composition scheme in lieu of tax payable by him under Section 9(1) of CGST Act. Earlier it was the status that registered person can opt to pay tax under composition scheme in lieu of tax payable by him. As now, composition scheme can be opted only in lieu of Section 9(1); we can say that composition dealer will have to pay tax now under RCM. That is to say under Section 9(3) and 9(4).

[Notification 14/2019 Central Tax dated 07.03.2019. Applicable from 01.04.2019]

4. New Scheme of 6%

First supply of goods or services or both up to RS 50 Lakhs – Option to pay tax @6%

- A new scheme has been recently introduced wherein an intra-state supplier can now pay GST at the rate of 6% (3% for Central and 3% for respective State) on first supplies of goods or services for Rs. 50 lakhs.
- With effect from April 1, 2019 the benefit of this scheme can be availed
- This scheme shall be available only if the following conditions are satisfied
 - Aggregate turnover in the preceding financial year was fifty lakhs rupees or below;
 - Not eligible for composition scheme under sub-section (1) of section 10
 - Not engaged in making any supply which is not leviable to tax under the said Act;
 - Not engaged in making any inter-State outward supply;
 - Neither a casual taxable person nor a non-resident taxable person;
 - Not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52
 - Not engaged in supply of the following goods
 - Ice cream and other edible ice, whether or not containing cocoa
 - Pan masala
 - All goods, i.e. Tobacco and manufactured tobacco substitutes
 - Where more than one registered persons are having the same Permanent Account Number, issued under the Income Tax Act, 1961(43 of 1961), central tax on supplies by all such registered persons is paid at the rate 6%
 - Not to collect any tax from the recipient
 - No entitlement for ITC
 - Liable to pay @ 6% tax on all outward first supplies of goods or services or both up to an aggregate turnover of fifty lakhs rupees notwithstanding any other notification issued under sub-section (1) of section 9 or under section 11 of said Act
 - Bill of supply to be issued (section 31(3)(c)
[As per Removal of Difficulty Order No. 03/2019 – Central Tax dated 08.03.2019]
 - Mention the following words at top of the bill of supply
 - “Taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019 not eligible to collect tax on supplies”
 - RCM shall be applicable

The expression “first supplies of goods or services or both” shall, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

[Notification 02/2019 Central Tax (Rate) dated 07.03.2019. Applicable from 01.04.2019]
[Removal of Difficulty Order No. 03/2019 – Central Tax dated 08.03.2019]

Please see next page

5. Applicability of registration, composition scheme and new scheme explained by example

Example applicable with effect from 01.04.2019

Nature of supply	Turnover or Receipts	Registration	Composition Scheme/New Scheme	Rate of tax	Notes
Supplier of only goods	Up to Rs 40 lakhs	-	-	-	1
	More than 40 lakhs but up to 1.5 crore	Yes	Composition Scheme	1% of the turnover	
	More than 1.5 crore	Yes	-	Tax rate as applicable	
Supplier of only services (other than restaurants services)	Up to Rs 20 lakhs	-	-	-	2
	More than 20 lakhs but up to 50 lakhs	Yes	New Scheme	6% of the turnover	
	More than 50 lakhs	Yes	-	-	
Supplier of both goods and services (supply services of value not exceeding 10% of turnover in preceding financial year or five lakh rupees, whichever is higher)	Up to Rs 20 lakhs	-	-	-	3
	More than 20 lakhs but up to 1.5 crore	Yes	Composition Scheme	1% of the turnover	
	More than 1.5 crore	Yes	-	Tax rate as applicable	
Supplier of both goods and services (supply services of value exceeding 10% of turnover in preceding financial year or five lakh rupees, whichever is higher)	Up to Rs 20 lakhs	-	-	-	4
	More than 20 lakhs but up to 50 lakhs	Yes	New Scheme	6% of the turnover	
	More than Rs 50 lakhs	Yes	-	Tax rate as applicable	
Restaurant Services	Up to Rs 20 lakhs	-	-	-	5
	More than 20 lakhs but up to 1.5 crore	Yes	Composition Scheme	5% of the turnover	
	More than 1.5 crore	Yes	-	Tax rate as applicable	

Note-1

Supplier of only goods

- Suppliers of only goods are liable for registration only if aggregate turnover exceeds Rs 40 lakhs [Notification 10/2019 Central Tax]
- Such Suppliers are eligible for composition scheme (Section 10(1)) up to aggregate turnover of Rs 1.5 cr. Therefore they will never opt for new schemes as conditions in composition (section 10(1)) and new schemes (Notification No 02/2019 Central Tax (Rate)) are similar excepting rate of GST which is higher in new scheme.
- Moreover suppliers who are eligible under composition scheme cannot opt for new scheme even if new scheme is beneficial for them. Because there is condition in the new scheme that if suppliers is eligible for composition scheme then he cannot opt for this scheme.

Note-2

Supplier of only services

- Suppliers of only services other than restaurant services can opt for new scheme up to aggregate turnover of Rs 50 lakhs as they are not eligible for composition scheme under Section 10(1) of CGST Act

Note-3

Supplier of both goods and services

- In the case of supply of both goods and services If value of service is **not** exceeding 10% of turnover in preceding financial year or five lakh rupees, whichever is higher, then such suppliers are eligible for composition scheme (Section 10(1)) up to aggregate turnover of Rs 1.5 cr. Therefore they will never opt for new schemes as conditions in composition (section 10(1)) and new schemes (Notification No 02/2019 Central Tax (Rate)) are similar excepting rate of GST which is higher in new scheme.
- Moreover suppliers who are eligible under composition scheme cannot opt for new scheme even if new scheme is beneficial for them. Because there is condition in the new scheme that if suppliers is eligible for composition scheme then he cannot opt for this scheme.

Note-4

Supplier of both goods and services

- In the case of supply of both goods and services if value of service is exceeding 10% of turnover in preceding financial year or five lakh rupees, whichever is higher, then such suppliers are **not** eligible for composition scheme (Section 10(1))
- However Such supplier shall be eligible for new scheme up to aggregate turnover Rs 50 lakhs under Notification 02/2019 Central Tax (Rate).

Note-5

Supplier of restaurant service

- Supplier of restaurant services are eligible for composition scheme (Section 10(1)) up to aggregate turnover of Rs 1.5 cr.
- As eligible for composition scheme, such supplier cannot opt for new scheme under notification 02/2019 Central Tax (Rate)

Our comment

In order to opt for the new scheme under notification 02/2019 Central Tax (Rate) there is condition that such supplier should not be eligible under composition scheme (Section 10(1)). Therefore Supplier of only goods or supplier of both goods and services (value of service is **not** exceeding 10% of turnover in preceding financial year or five lakh rupees, whichever is higher) shall not be able eligible for the new scheme as such suppliers are eligible for composition scheme. In other words we can say that ultimately this new scheme is for suppliers of only services other than restaurant services or goods and services both (value of service is exceeding 10% of turnover in preceding financial year or five lakh rupees, whichever is higher) as such suppliers are not eligible for Composition Scheme.

6. Clarification on free samples and gifts

- It is clarified that samples which are supplied free of cost, without any consideration, do not qualify as “supply” under GST, except where the activity falls within the ambit of Schedule I of the said Act.
- Further it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. [Section 17(5)(h) of CGST Act 2017]
- However, where the activity of distribution of gifts or free samples falls within the scope of “supply” on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

[Circular No 92/11/2019 –GST dated 07.03.2019]

7. Clarification on Buy One, Get One free offer

- It is clarified that buy one get one free offer is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

- Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act

[Circular No 92/11/2019 –GST dated 07.03.2019]

8. Clarification on Discount

A. Discounts including ‘Buy more, save more’ offers: (discounts which are know at the time of supply)

- It is clarified that discounts offered by the suppliers to customers (including staggered discount under “Buy more, save more” scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.
- It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.
- In simple words, GST shall be only on value after deduction of discount provided conditions mentioned under Section 15(3) are satisfied

B. Secondary Discounts

- These are the discounts which are not known at the time of supply-Credit note can be issued as a commercial transactions, but however such discount cannot be excluded while calculating the value of supply.
- In simple words credit note will be without GST and therefore GST shall be on value without deduction of discount. Reason is that condition mentioned in Section 15(3) (b) is not satisfied.

[Circular No 92/11/2019 –GST dated 07.03.2019]

9. GST Annual Return Forms GSTR-9 and 9A are now live on portal

Annual return in Form GSTR-9 and 9A are now live on portal. The last date for filing of Annual Return for the Financial Year 2017-18 is June 30, 2019.

10. CBIC released proposed Returns formats

CBIC have released new following returns formats.

- GST RET-1 (Regular/Quarterly(Normal))
- GST ANX-1 Annexure of Outward supplies, import and inward supplies attracting reverse charge
- GST ANX-2 Annexure of inward supplies
- GST ANX-1A Amendments to GST ANX-1
- GST RET-1A Amendments to GST RET-1

[It will be applicable from the date notified. Up to June 2019, existing returns formats applicable as dates for GSTR-1 and 3B notified up to 30.06.2019]

11. No GST on Tax Collected at Source (TCS) under Income Tax Act, 1961

- CBIC has vide Circular No.76/2018 dated 31-12-2018 clarified that the taxable value for the purposes of GST shall include the TCS amount collected under the provisions of the Income Tax Act since the value to be paid to the supplier by the buyer is inclusive of the said TCS. There was ambiguity among taxpayers that how Indirect Tax can be levied on the amount of Tax Collected at Source (TCS) collected under the Income Tax Act, 1961.
- However on 07-03-2018, CBIC has issued Corrigendum to the Circular 76/2018 dated 31-12-2018 that CBDT has clarified that Tax collection at source (TCS) is not a tax on goods but an interim levy on the possible "income" arising from the sale of goods by the buyer and to be adjusted against the final income- tax liability of the buyer.
- Hence there is no requirement to pay GST on the amount collected as Tax Collected at Source (TCS) under the Income Tax Act, 1961.

[Corrigendum to the Circular No 76/2018 dated 31.12.2018. Effect from 01.07.2017 as per our view]

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