

Government issues rules for credit, valuation, transition and composition under GST and makes amendments in registration, invoicing, payment, refunds and returns rules issued earlier

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In brief

The Central Government has issued draft rules for credit, valuation, transition and composition and amended rules relating to registration, invoicing, payment, refunds and returns issued earlier. With this, the Government has issued most of the rules for Goods and Services Tax (GST) regime.

In detail

Some of the salient features of the rules are as below:

Credit rules

- The documents to claim credit are specified.
- In case, the payment has not been made to the supplier of goods/ services within one hundred and eighty days from the date of invoice, such payments need to be disclosed in form GSTR 2 and the amount of input credit claimed would be added to the output tax liability. Such liability would need to be discharged with interest.
- Specific procedures have been prescribed for the following:
 - Claiming credit by a banking company or a

financial institution, including a non-banking financial company.

- Claim of credit for stock in hand and capital goods acquired before obtaining registration, shifting from composition to regular scheme and exempted supplies becoming taxable.
- Distribution of credit by an input service distributor. The procedure is largely similar to the present procedure. Some additional points are as under:
 - Input tax credit available for distribution on same month are to be

distributed in the same month.

- A negative credit balance (due to receipt of credit note by the input service distributor) and ineligible credit will also need to be distributed.
- Credit of Central GST (CGST), State GST (SGST), Union Territory GST (UTGST) and Integrated GST (IGST) will be distributed separately.
- Claim of credit where taxable as well as exempt supplies are made. The procedure is largely similar to the present procedure. However, the

turnover pertaining to petroleum products which are outside GST regime, tobacco and tobacco products and alcoholic liquor for human consumption is not to be considered.

- Recovery of credit in case of person opting to pay tax under composition.
- Recovery of credit in case of a person whose registration is cancelled.
- On sale, transfer, merger, demerger etc. of a business, the transferor shall transfer the input tax credit lying in his credit by applying on common portal in form GST ITC 02. The transferee will need to accept the details furnished by the transferor and upon his acceptance, the credit would be transferred.
- Goods are to be supplied to a job worker under the cover of challan, including in the cases where goods are sent directly to job worker.

Valuation rules

Case where price is not sole consideration (Rule 1):

Where the supply is made for a consideration, not wholly in money, then the value of the supply would be the open market

value of such supply. In case open market value is not available, then the value of supply would be the sum total of consideration in money and money value of nonmonetary consideration. Further, value of supply of like kind or quality would be adopted if the value cannot be determined by previous two methods. ‘Open market value’ of a supply of goods or services or both is defined in rules as to mean the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction, where the supplier and the recipient of the supply are not related and price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.

Supplies made to related persons/ distinct persons (Rule 2):

The value of supply between different establishments of same person or between related persons would be open market value, or the value of supply of goods or services of like kind or quality if the open market value is not available. However, where the recipient is eligible for full input tax credit, the value declared in the invoice would be deemed to be open market value of such supply.

Principal to Agent supplies (Rule 3):

Value of supply between a principal to agent is the open market value or at the option of the supplier, ninety percent of the price charged by the goods of the like kind and quality by the recipient to his customer, not being a related person and where the goods are intended for the further supply by recipient.

Valuation on cost plus method (Rule 4):

If the value of supply cannot be determined by any of the previous rules, the value shall be one hundred and ten percent of the cost of production or manufacture or cost of acquisition of such goods or cost of provision of such services.

Valuation on the basis of reasonable method (Rule 5)

Where the value of supply cannot be determined under any previous rules, the same shall be determined using reasonable means consistent with the principles and general provisions of section 15 of GST Act and the valuation rules. Further, a supplier of services may opt for this rule, disregarding the rule for valuing supply by cost construction method.

In case of specified supplies, the valuation would be done in the specified manner provided below:

Sr. No.	Nature of supply	Valuation
1	Purchase or sale of foreign currency, including money changing	<p>Difference in buying/selling rate and Reserve Bank of India (RBI) reference rate for the currency at that time. In case, RBI reference rate is not available, 1% of the gross amount received in INR by person changing money.</p> <p>Where neither of currencies exchanged is INR, value will be 1% of lesser of the two amounts the person changing the money would have received by converting any of the two currencies into INR at reference rate provided by RBI.</p> <p>The supplier also has option to value the services as under:</p>

Sr. No.	Nature of supply	Valuation
		<ul style="list-style-type: none"> • One percent of currency exchanged upto INR 0.1 million, subject to minimum of INR 250. • One thousand rupees and half a percent of currency exchanged for amount between INR 0.1 million and INR 1 million. • Five thousand and one tenth of a percent of currency exchanged for amount exceeding INR 1 million, subject to a maximum of INR sixty thousand.
2	Booking of tickets for air travel by air travel agent	Five percent of basic fare in domestic bookings and ten percent of basic fare in case of international booking of passage for travel by air.
3	Life insurance	<ul style="list-style-type: none"> • Gross premium charged reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such amount is separately intimated • Single premium annuity policies other than mentioned above – ten percent of the single premium charged from the policy holder • Twenty five percent of premium in the first year and twelve and a half percent of the premium charged in subsequent years in all other cases <p>The above method of valuation will not apply where entire premium paid by policy holder is only towards the risk cover in life insurance.</p>
4	Taxable supply provided by a person dealing in buying and selling second hand goods	<p>Difference between selling and purchasing price. In case, such amount is negative, it is to be ignored.</p> <p>No input tax credit has to be availed on purchase of goods by such supplier.</p>
5	Value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both	The money value of the goods or services or both, redeemable against such token, voucher, coupon, or stamp.

- The concept of pure agent, as per the current service tax provisions, has been continued for supply of services. There are minor changes in the applicable conditions.
- The rate of exchange for determination of value of taxable goods or services or both shall be the applicable reference rate for that currency as determined by the Reserve Bank of India on the date when point of taxation arises in respect of such supply in terms of the GST Act.

Transition rules

- Every registered person entitled to carry forward or claim various credits at the time of transition will have to submit an application electronically in Form GST TRAN-1 within sixty days of the appointed day, specifying therein, separately, the amount of tax or duty to the credit of which the person is entitled.
- In case of inputs received from an EOU, the credit of excise

- duty contained in such goods shall be allowed in line with the present provision of the CENVAT Credit Rules, 2004.
- For carry forward of accumulated credit of value added tax (VAT)/ entry tax, the details of various concessions claimed by the person under CST Act in the financial year and details of corresponding declaration forms/certificates (Form C, Form F, Form H etc) submitted in support of such

- claims would need to be mentioned in the application.
- In case of claim of unclaimed CENVAT credit on capital goods, the amount of credit availed/ utilised and yet to be availed/ utilised under existing laws till the appointed day needs to be mentioned separately for each item.
- For claim of unclaimed credits on all other goods held in stock, the details of stock held on the appointed day will need to be mentioned in the application.
- For claim of credit of tax/ duty in the cases where person has received the goods/ services after the appointed day but the supplier has already paid the tax/duty, invoice wise details, as specified, will need to be furnished in application.
- A person who is not registered in the present regime but registered in the GST regime will be allowed to claim input tax credit on the goods in stock where documents evidencing payment of excise duty are not available. Such credit would be available as under:
 - Credit would be available at the rate of forty percent of CGST applicable on supply of goods after appointed date and shall be credited after payment of CGST on such supplies.
 - Such credit would be available only for first six tax periods from the appointed date.
 - The following conditions would need to be fulfilled by the person claiming credit:
 - Such goods should not be exempted or nil-rated under excise.

- Document for procurement of such goods is available.
- At the end of each tax period, the person would need to submit the details of supplies made of such goods in opening stock.
- The amount of eligible credit would be credited in the credit ledger of the assessee on the common portal.
- The stock of goods on which the credit is claimed is stored in a way that such goods can be easily identified by the person.

Similar credit of SGST is available for VAT paid on the opening stock, where the opening stock is subjected to VAT only on the first sale in the State and subsequent sale is exempted. The manner, quantum of eligible credit and applicable conditions are same as above.

- Every person, who has removed any goods for further process or finished goods for carrying test or other process not amounting to manufacture and no excise duty has been paid on such removals, shall within sixty days of the appointed day, submit an application in form GST TRAN-1, specifying therein the details of the stock or capital goods held by him on the appointed day separately for each locations, where such goods are held.
- In case of goods sent on approval under the existing regime without payment of tax within specified period, the person who has sent such goods submit details of such goods in form GST TRAN-1.

Composition rules

- Person opting to pay tax under composition should file an intimation on the common portal within specified dates.
- The person opting for composition can exercise such option only at the time of registration or before beginning of the year. In case of migration to GST, the option can be exercised at the time of at the time of migration.
- The person opting for composition is required to fulfill following major conditions:
 - He should not be a casual taxable person or a non-resident taxable person;
 - Goods held in stock by him on the appointed day should not have been purchased in the course of inter-State trade or commerce or imported or received from his branch situated outside the State or from his agent/ principal outside the State, where the option is exercised at the time of migration to GST;
 - The goods held in stock by him have not been purchased from an unregistered person unless, he pays the tax on such purchases. Further, he pays tax on any other inward supply of goods or services or both received from un-registered persons;
 - He was not engaged in the manufacture of goods as notified, during the preceding financial year;
 - He is required to mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him and mention the words “composition

taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

- A person who intends to withdraw from the scheme shall file an application in form GST CMP-04 before the date of such withdrawal.
- A person exiting from the composition scheme is required to furnish a

statement in form GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date of exit.

- Rate of tax for composition are as under:

Sr. No.	Category of person	Rate of tax
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government	One percent.
2	Supply of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) in any manner for a consideration	Two and a half percent.
3	Any other supplier eligible for composition levy	Half percent.

In addition, minor changes have been made in the previously issued rules such as registration rules, invoice rules, payment rules, return rules and refund rules to bring it in line with the various amendments made in the GST Act after issuance of these rules.

The takeaways

PwC Comments:

The Rules provide much needed clarity on several critical aspects such as mechanism of credit of tax paid on opening stock across the distribution chain, valuation of inter-state stock transfers and certain specific services which currently enjoy lower service tax incidence such as air travel agents and life insurance. This would now enable the industry in planning for the transition and process/ technology related

changes.

While rules for transition stock provide some clarity, deemed credit of only 40% of CGST liability might be lower than expected for majority of the sectors and there is a need for reconsideration of this percentage. Further, the conditions for grant of such credit is quite restrictive. Industry should represent for any suggestions/ comments on or before 10 April 2017.

It has been mentioned that declared invoice value shall be accepted for valuation of inter-State supplies within the same entity, it needs to be clarified as to whether any value declared by the companies would be acceptable to the authorities. The industry may also represent to the Government

to keep invoice value as taxable value even in cases involving any nonmonetary consideration to avoid any subjectivity, which would lead to disputes.

The GST Council, in its next meeting scheduled to be held on 18-19 May, 2017, is expected to finalise all the rules and the rate structure. This is the last leg in the journey towards GST and the Government is moving at lightning speed to introduce GST with effect from 01 July, 2017. The industry would have to put all efforts to be prepared within time.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

Our Offices

Ahmedabad

1701, 17th Floor, Shapath V,
Opp. Karnavati Club,
S G Highway,
Ahmedabad – 380051
Gujarat
+91-79 3091 7000

Hyderabad

Plot no. 77/A, 8-2-624/A/1, 4th
Floor, Road No. 10, Banjara Hills,
Hyderabad – 500034
Telangana
+91-40 44246000

Gurgaon

Building No. 10, Tower - C
17th & 18th Floor,
DLF Cyber City,
Gurgaon – 122002
Haryana
+91-124 330 6000

Bengaluru

6th Floor
Millenia Tower 'D'
1 & 2, Murphy Road, Ulsoor,
Bengaluru – 560 008
Karnataka
+91-80 4079 7000

Kolkata

56 & 57, Block DN.
Ground Floor, A- Wing
Sector - V, Salt Lake
Kolkata – 700 091
West Bengal
+91-033 2357 9101/
4400 1111

Pune

7th Floor, Tower A - Wing 1,
Business Bay, Airport Road,
Yerwada, Pune – 411 006
Maharashtra
+91-20 4100 4444

Chennai

8th Floor
Prestige Palladium Bayan
129-140 Greams Road
Chennai – 600 006
Tamil Nadu
+91 44 4228 5000

Mumbai

PwC House
Plot No. 18A,
Guru Nanak Road (Station Road),
Bandra (West), Mumbai – 400 050
Maharashtra
+91-22 6689 1000

For more information

Contact us at
pwctr.knowledgemanagement@in.pwc.com

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