

GST Council takes significant policy decisions and issues clarifications, extends the time limit for claiming of GST credits for financial year 2017-18, approves rate reduction on specified goods and services and extends the due date for annual return and audit report

December 25, 2018

In brief

The GST Council, in its thirty first meeting, approved reduction in rates on specified goods and services as well as the last date of claiming input credits for supplies procured in financial year (FY) 2017-18. Further, a number of clarifications were issued by the GST Council, apart from referring some issues to the Group of Ministers. This tax insight summarises the major decisions taken by the Council.

In detail

Rate of tax on goods

Reduction in rate from 28% to 18%

Monitors and TVs up to screen size of 32 inch; power banks of lithium ion batteries, digital cameras and digital camera recorders; video game consoles' pulleys, transmission shafts and cranks, gear boxes etc. falling under HSN Code 8483; and re-treaded or used pneumatic tires of rubber.

Reduction in rates from 28% to 5%

Parts and accessories for the

carriages for disabled persons.

Grant of exemption

Music books, supply of gold by 'nominated agencies' to exporters of article of gold jewelry.

Clarifications on applicable rate of tax on goods

- Renewable energy devices & parts for their manufacture (bio gas plant/ solar power based devices, solar power generating system (SGPS) etc. falling under chapter 84, 85 or 94 of the Tariff) attract GST @ 5%. It was recommended that where such goods are supplied

conjointly with services of construction etc., 70% of the gross value should be deemed to be value of supply of goods attracting 5%, and remaining 30% should be deemed to be the value of services, attracting the standard rate.

- Movement of rigs, tools & spares and all goods on wheels on their own account, where such movement is not intended for further supply of such goods but for provision of service, does not involve a supply (e.g., movement of testing equipment etc.) and will not be liable to GST.

- Concessional GST rate of 5% applies to the LPG supplied in bulk to an OMC by refiners/ fractioners for bottling for further supply to household domestic consumers.

Reduction in rates on services

Grant of exemption

- Services provided by banks to basic saving bank deposit account holders under Pradhan Mantri Jan Dhan Yojana.
- Services provided by GTA to Government departments which have taken registration only for the purpose of deducting tax under section 51 of the CGST Act.
- Services provided by the Government to their undertakings or PSUs by way of guaranteeing loans taken by them from banks.

Reduction in rates

- Rate of tax on cinema tickets above INR 100 reduced from 28% to 18% and tickets up to INR 100 from 18% to 12%.
- Rate of tax on third party insurance premium of goods carrying vehicles reduced from 18% to 12%.
- Air travel of pilgrims by non-scheduled/ charter operations, for religious pilgrimage facilitated by the Government of India under bilateral arrangements to attract the same rate of GST as applicable to similar flights in economy class [i.e. 5% with input tax credit (ITC) of input services].

Rationalisation and reverse charge

- Parliament and State legislatures to be extended the same tax treatment for payment of tax under reverse charge mechanism (RCM) as

available to Central and State Governments.

- Security services (supply of security personnel) provided to a registered person, except Government Departments which have taken registration for tax deducted at source (TDS) and entities registered under composition scheme, to be subjected to RCM.
- Services provided by unregistered business facilitator to a bank and agent of a business correspondent (BC) to a BC to be subject to RCM.

Clarifications on applicable rate of GST on services

- With effect from 31 January, 2018 degrees/ diploma awarded by IIMs under IIM Act, 2017 will be exempt from GST.
- Services provided by IFC and ADB are exempt from GST in terms of provisions of IFC Act, 1958 and ADB Act, 1966.
- Leasing of pumps and reservoirs by the oil marketing companies to petrol pump dealers is a mixed supply and the licence fee for the same will attract GST @ 28%, i.e. at the rate applicable to pumps. Leasing of land and buildings along with equipment will attract GST @18%.
- Incentives paid by RBI to banks under the Currency Distribution and Exchange Scheme are taxable.
- Scope of entry for multi-modal transport with GST rate of 12% covers only transport of goods from a place in India to another place in India, i.e., only domestic multi-modal transportation.
- Nature of business establishment making supply of food, drinks and other

articles for human consumption will not determine whether such supply is a supply of goods or services but will depend on the constituents of each individual supply and whether it satisfies the conditions of a 'composite supply' or 'mixed supply'.

- GST is exempt on supply of food and drinks by an educational institution when provided by the institution itself to its students, faculty and staff, but is leviable to GST @ 5% when provided by any other person based on a contractual arrangement with such institutions.
- The banking companies are liable to pay GST on the entire value of service charge or fee charged to customers *via* business facilitator or BC whether or not actually received.

Announcements relating to compliances

- ITC in relation to invoices issued by the supplier during FY 2017-18 can be availed by the recipient till the due date for furnishing of **FORM GSTR-3B** for the month of March, 2019 subject to specified conditions.
- There would be a single cash ledger for each head. The modalities for its implementation is yet to be finalised.
- A scheme for a single authority for disbursement of the refunds sanctioned by either the Centre or State tax authorities to be implemented on pilot basis.
- The new return filing system to be introduced on a trial basis from 1 April, 2019 and on a mandatory basis from 1 July, 2019.

- The due date for furnishing the annual returns and GST Audit report/ reconciliation statement for the FY 2017 –18 further extended till 30 June, 2019.
- Certain clarificatory changes to be introduced in the annual return and reconciliation statement. Some of the changes are as under:
 - Annual return would contain the data of supplies etc. ‘made during the year’ and not ‘as declared in returns filed during the year’.
 - All returns in form GSTR 1 and GSTR 3B or GSTR 4 to be filed before filing annual return and reconciliation statement.
 - HSN code may be declared only for inward supplies whose value independently accounts for 10% or more of the total value of inward supplies.
 - Additional liability, if any, required to be paid only in cash.
 - ITC cannot be availed through annual return or reconciliation statement.
- Due date for submitting **Form GSTR-8** by e-commerce operators for the months of October, November and December, 2018 to be extended to 31 January, 2019.
- Due date for submitting **Form GST ITC-04** for the period July, 2017 to December, 2018 to be extended to 31 March, 2019.
- The procedures to claim refunds have been amended. Further clarifications to be issued on some of the refund related matters.
- For taxpayers who did not migrate to the GST regime, an

additional window would be allowed up to 31 January, 2019.

- The compliance due dates for submission of Form GSTR 1 and GSTR3B for the periods up to February, 2019/ quarter ending on December, 2018 to be extended to 31 March, 2019.
- Late fee to be completely waived for all taxpayers if **Forms GSTR-1, GSTR-3B and GSTR-4** for the months/ quarters July, 2017 to September, 2018 are furnished after 22 December, 2018 but on or before 31 March, 2019.
- Taxpayers who have not filed the returns for two consecutive tax periods would be restricted from generating e-way bills. This provision shall be made effective once GSTN/ NIC make available the required functionality.
- Amendments made in the law, which have already been approved by the Parliament and have received presidential assent would be notified with effect from 1 February, 2019.

Proposed amendments to GST laws

The GST Council gave in-principle approval to the following changes in the law which would need to be incorporated by statutory amendments:

- Creation of a Centralised Appellate Authority for Advance Ruling to address cases where conflicting decisions are given by two or more State Appellate Advance Ruling Authorities on the same issue.
- Amendment of section 50 of the CGST Act to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the admissible ITC,

i.e. interest would be leviable only on the amount payable through the electronic cash ledger.

Reference of issues to Group of Ministers/ committees

The GST Council decided to refer the following issues to Group of Ministers (GoM)/ various committees to:

- Study the trends, including analysing the reasons for structural patterns affecting the revenue collection (shortfalls) in some of the States for which a new 7 Member GoM would be formed.
- Review the threshold limit of exemption under the GST regime by the GoM on MSMEs.
- Review of taxation of residential property in real estate sector by Law Committee and Fitment Committee.
- Review the tax rate on lotteries by the Committee of States.
- Analyse the extension of composition scheme to small service providers, the rate of tax and threshold limit to be proposed by the Law Committee Fitment Committee.

The takeaways

The GST Council has taken a number of major decisions in this meeting. While the decision should resolve the ongoing debate on the applicable tax rate for solar power projects; the 70:30 formulae (in the range of that applied for the construction business) seems to be different from the solar EPC business where a 90:10 formulae may have been more appropriate given that goods attracting 5% rate form a major portion of such projects.

Another important decision, allowing businesses to claim ITC

on invoices pertaining to FY 2017-18 till the due date for furnishing Form GSTR-3B for March 2019, is a significant relief for the industry, given the huge amount of unreconciled credits lying at stake.

Decisions like creating a single ledger for all tax and other payments, single authority for disbursement of refunds, formation of centralised Appellate Authority for Advance Ruling to

resolve conflicting judgments of State Authority for Advance Rulings, extension of due date for filing of annual return/ GST audit report etc. are also steps in right direction which will provide relief to the industry.

Compliance enforcement measures like restricting taxpayers who have not filed returns for two consecutive tax periods from generating e-way bill will be interesting. The

proposal to bring in a composition kind of scheme for real estate sector needs to be evaluated from a policy standpoint and needs detailed deliberation.

Let's talk

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

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