

GOODS & SERVICES TAX

Central/State Goods & Services Tax Act, 2017

“Transport Services”

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Transport Services

Coverage

- ✓ Definition of GTA
- ✓ Defining Consignor and Consignee who take GTA Services
- ✓ Who is liable to pay tax for GTA Service?
- ✓ Exemptions
- ✓ Registration
- ✓ Composite Supply
- ✓ Enrolment
- ✓ Accounts and records
- ✓ Penalty, Fine and prosecution
- ✓ Some other relevant definitions and provisions of law

DEFINITION

“Goods Transport Agency” means

- i. any person*
- ii. who provides service in relation to transport of goods*
- iii. by road and*
- iv. issues consignment note, by whatever name called;*

[As defined at serial no 2(ze) vide Notification no 12/2017 of Central Tax (Rate) dated 28.06.2017]

HEADING 9965	HEADING 9965	HEADING 9967	HEADING 9967	HEADING 9966
GTA	Other than GTA	GTA	Supporting service other than GTA	Rental service of Transport Vehicle
5%	18%	5%	18%	18%

Who is liable to pay tax for GTA Service?

Under Reverse Charge



Services provided to below consignor/ consignee as per section 9(3) of CGST



Notification No. 13/2017- Central Tax (Rate) dated 28.06.2017

Under Forward Charge



Services provided to below consignor/ consignee



Individual, HUF & Prop. Firm, NR
(Not registered under GST)

GTA providing Goods transportation of goods service by road (Notification 13/2017 CGST(Rate))

Supply Of Services

Supply of Services by a GTA In respect of Transportation of goods by road to-

(A) Any Factory Registered Under Or Governed By The Factories Act, 1948;

(B) any Society Registered Under The Societies Registration Act, 1860

(C) Any Co-operative Society Established By Or Under Any Law;

(D) any Person Registered Under CGST/SGST/UTGST Act;

(E) Any Body Corporate Established, By Or Under Any Law; Or

(F) Any Partnership Firm Including Association Of Persons.

(G) Any Casual Taxable Person

Recipient Of Services

(A) Any Factory Registered Under Or Governed By the Factories Act, 1948

(B) any Society Registered Under The Societies Registration Act, 1860

(C) Any Co-operative Society Established By Or Under Any Law;

(D) any Person Registered Under CGST/SGST/UTGST Act;

(E) Any Body Corporate Established, By Or Under Any Law; Or

(F) Any Partnership Firm Including Association Of Persons.

(G) Any Casual Taxable Person; Located In The Taxable Territory

Input Tax Credit under section 17(5)

**Service Provider
(GTA)**

**ITC
Allowed**

If under
forward
charge @
18%

**No ITC
Allowed**

If under
forward
charge @
5%

**No ITC
Allowed**

If provided
under
Notification
13/2017

Service Recipient

Person who pay or liable to pay
freight for transp. of goods by road
& located in taxable territory

Any person defined under
Notification 13/2017 of
CGST(Rate)

ITC Allowed for Payment
under reverse charge to
recipient

5%

Condition to Notification 11 dated 28.06.17 of CGST (Rate) and Notification 08 dated 28.06.17 of IGST (Rate)

EXPLANATION 4

(iv) Credit of input tax charged on goods or services used in supplying the services has not been taken, it shall mean that,-

(a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken by service provider; and

(b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions which states that ITC should be restricted to taxable supplies only.

Services with 5% rate
(**NO ITC on Input goods to
Transport Service Provider**)

[Notification 11/2017 CGST/UTGST (Rate) Dt. 28/06/17]

Services

Transport of goods by **Indian railways**
(Not individual containers by other person)

Charge 5% from customer and will deposit 100 % as it is to the government after adjusting credit of any input service; If any.

Services with 5% rate

(NO ITC on goods to transport Service Provider)

(Notification 11/2017 CGST/UTGST (Rate) Dt. 28/06/17)

Services	Condition
Transport of goods in a vessel including services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	(other than on ships, vessels including bulk carriers and tankers) <i>Explanation:</i> No ITC Adjustment condition will not apply where the supplier of service is located in non taxable territory.
Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use).	

ITC Fully Available

Services	Rate
(iv) Transport of goods in containers by rail by any person other than Indian Railways.	12
(v) Goods transport services other than (i), (ii), (iii) and (iv) above.	18

Practical issues...

X – a Company, registered under the Companies Act is transporting goods to an Individual Y, on “To Pay” basis.

Whether GST would be applicable or not:-

YES

Who is liable for payment of GST?

Since the consignor is a Company, the liability is on the person paying the freight i.e. “Y”, notwithstanding that he is an individual.

X – a Company, registered under the Companies Act is transporting goods to an Individual Y, on payment of freight. Who is liable for payment of GST?

Since the consignor is a Company, the liability is on the person paying the freight i.e. the company, “X”._

Practical issues...

Y – an individual is transporting goods to a company, “X” on payment of freight. Who is liable for payment of GST?

Since the consignee is a Company, the liability is on the person paying the freight i.e. “Y”, notwithstanding that he is an individual.

Y – an individual is transporting goods to a company, “X” on “To pay” basis. Who is liable for payment of GST?

Since the consignee is a Company, the liability is on the person paying the freight i.e. the company “X”._

Practical issues...

"X", a Company based in Chennai, has its consignment Agent at Delhi. The Company transports goods to him, on "To Pay" basis. The Transport Agency raises the bill in the name of X, but the freight is paid by the consignment agent, directly to the GTA. Who is liable for payment of GST?

In as much as the bills are raised against "X", the consignment agent is paying the freight, only on behalf of "X". In other words, "X" is paying the freight, through the consignment agent. As such, the liability for payment of GST is on "X".

Practical issues...

"X", a Company sells the goods to "Y". The freight for the movement of the goods has been paid by "X". "X" collects this freight from "Y", by showing it in the invoice, which is paid by "Y", to "X". Who is liable for payment of GST?

Since this is a case of pure sale, "X" cannot be said to be paying the freight on behalf of "Y". "X" is only getting reimbursement of the freight paid by him, initially. As such, the liability for payment of GST will only be on "X".

Practical issues.

“X”, an individual is transporting goods to another Individual, “Y”. Who is liable for payment of GST?

Since, both the consignor and the consignee are not falling under the specified categories, the liability is on the Goods Transport Agency.

EXEMPT SERVICE

(As per heading 9965 or 9967 of CGST/IGST):

NIL TAX is payable on services provided by a GTA,
by way of transport in a goods carriage of,-

Agricultural Produce; Milk, Salt, Food Grain Including Flour, Pulses & Rice

Goods, Where Gross Amount Charged For The Transportation Of Goods On A Consignment Transported in a **Single Carriage** \leq **Rs1500/-**;

Goods, Where Gross Amount Charged For Transportation of All Such Goods for a **Single Consignee** \leq **Rs750/-**;

Organic Manure; Defence Or Military Equipment's

Newspaper Or Magazines Registered With The Registrar Of Newspapers;

Relief Materials Meant For Victims Of Natural Or Man-made Disasters, Calamities, Accidents Or Mishap

EXEMPT SERVICES

Services by way of transportation of goods (Heading 9965)

- (i) by road except the services of—
 - (A) a goods transportation agency; or
 - (B) a courier agency;
- (ii) by inland waterways;

Services by way of giving on hire -

- (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or
- (b) to a goods transport agency, a means of transportation of goods;

(Hiring is a contract by which one person grants to another either the enjoyment of a thing or the use of the labor and industry, either of himself or his servant, during a certain time, for a stipulated compensation, or where one contracts for the labor or services of another about a thing bailed to him for a specified purpose. CodeGa. 1S82) as per Black's Law Dictionary.

Exemptions...

Questions:- "A" transports his goods in a goods carriage. No other goods are loaded in the goods carriage. A pays a freight of Rs.1300.

Answer:- A is not liable for payment of any GST.

Questions:- "A" transports his goods in a goods carriage. He pays a freight of Rs.1300. Some other goods are also being transported in the same goods carriage, involving a freight of Rs.500.

Answer:- A is not eligible for this exemption.

How A will know about the other goods being transported together?

Example.

The following goods are transported together in a goods carriage.

Consignor	Consignee	Freight	Eligibility for Exemption
A	X	Rs.500	NO.
A	X	Rs.500	
B	Y	Rs.700	YES.
C	Z	Rs.800	NO.
D	P	Rs.600	NO.
E	P	Rs.600	

Registration

- Who is exempt from registration?
- Who is liable to take registration?

Section 22(1)

Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds 20 Lacs (10 Lacs :- Specified states)

Section 9(3) of CGST states that

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Notification No. 5/2017 – Central Tax dtd 19 June 2017

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 under sub-section (3) of section 9 of the said Act as the category of **persons exempted from obtaining registration** under the aforesaid Act.

2(6) CGST define Aggregate turnover includes exempt and exports supplies

Liable to register in below scenarios:-

1. Providing service to individual, HUF, Prop. firm (Not registered under GST) consignor and consignee
2. Providing commercial rental service or any taxable supply (If aggregate turnover exceeds 20 Lakhs)
3. If trucks are provided on rent to companies (because companies are not GTAs)

Composite Supply

Definition

- CGST 2 (30) “composite supply” means a supply made by a taxable person to a
- recipient consisting of two or more taxable supplies of goods or services or both,
- or any combination thereof, which are naturally bundled and supplied in conjunction
- with each other in the ordinary course of business, one of which is a principal supply;

Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Enrolment u/s 35(2)

Section 35(2)

- Every owner or operator of warehouse or godown or any other place
- used for storage of goods and
- every transporter, irrespective of whether he is a registered person or not,
- shall maintain records of the consigner, consignee and other relevant details of the goods
- in such manner as may be prescribed.

Form ENR-01

Rule 58 (Records)

58. Records to be maintained by transporters.-

(1) Every person required to maintain records and accounts in accordance with the provisions of sub-section (2) of section 35, if not already registered under the Act, shall **submit the details regarding his business electronically** on the common portal in **FORM GST ENR-01**, upon validation of the details furnished, a **unique enrolment number** shall be **generated** and communicated to the said person.

(2) The person enrolled under sub-rule (1) as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.

(4) Subject to the provisions of rule 56,-

(a) any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him alongwith the Goods and Services Tax Identification Number of the registered consigner and consignee for each of his branches.

GTA (Invoicing for supply of GTA service)

Supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing

1. Gross weight of the consignment, name of the consigner and the consignee,
2. Registration Number of goods carriage in which the goods are transported, details of goods
3. Transported, details of place of origin and destination, Goods and Services Tax Identification
4. GSTIN of the person liable for paying tax whether as consigner, consignee or goods transport agency, and
5. Also containing other information as mentioned under rule 46 (tax invoice).

Power of inspection, search and seizure. Under section 67(1)(b)

any person engaged in the

1. business of transporting goods
2. which have escaped payment of tax, or
3. has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,
4. he may authorise in writing any other officer of central tax
5. to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods

Penalties

Penalty for non-compliance

Penalty u/s 122 of CGST Act:

Clause (xi) -Not taking registration

Clause (xii) –Furnishing incorrect particulars

₹10,000/-

Penalty for offences u/s 122 on transporter

Where a transporter who

- (1) Section 122(xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;
- (2) Section 122(~~xviii~~) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;

CGST (Section 129)

Detention, seizure & release
of
goods & conveyances in transit.

where the owner of the goods comes forward for payment of such tax and penalty;

Goods detention or seizure and after detention or seizure, shall be released,—

- on payment of the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods and,
- in case of exempted goods, on payment of an amount equal to 2% of the value of goods or Rs25000/-, whichever is less,

where the owner of the goods does not come forward for payment of such tax and penalty;

Goods detention or seizure and after detention or seizure, shall be released,—

- on payment of the applicable tax and penalty equal to the 50% of the value of the goods reduced by the tax amount paid thereon and,
- in case of exempted goods, on payment of an amount equal to 5% of the value of goods or Rs25000/-, whichever is less,

FINE

Fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:

MISCELLANEOUS PROVISIONS

NIL SERVICE

A.) Taxable services by Government or a local authority

1. Services by the department of posts by way of speed post, express parcel post, life insurance, and
2. Agency services provided to a person other than government;
3. Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
4. Transport of goods or passengers; or
5. Any service, other than services covered under clauses (I) to (iii) above, provided to business entities

B.) Services provided by way of transportation of a patient in an ambulance

Tax Invoices provided to transporter by consignor/ consignee(Rule 48)

The tax invoice shall be prepared in

1. Triplicate,
2. Duplicate copy being marked as DUPLICATE FOR TRANSPORTER,
3. Serially numbered on invoices issued during a tax period
4. Furnished electronically through the common portal in FORM GSTR-1 by consignor or consignee as per the contract.

Rule 55

Transportation of goods without issue of invoice.-

(1) For the purposes of-

(a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,

(b) transportation of goods for job work,

(c) transportation of goods for reasons other than by way of supply, or

(d) such other supplies as may be notified by the Board,

Delivery Challan includes

1. Date and number of the delivery challan;
2. Name, address and GSTIN of the consigner, if registered;
3. name, address and GSTIN or UIN of the consignee, if registered;
4. HSN and description of goods; quantity (provisional, where the exact quantity being supplied is not known);
5. Taxable value;
6. Tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;
7. Place of supply, in case of inter-State movement; and
8. Signature

Rule 55

(4) Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

(5) Where the goods are being transported in a semi knocked down or completely knocked down condition -

- (a) the supplier shall issue the complete invoice before dispatch of the first consignment;
- (b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
- (c) each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
- (d) the original copy of the invoice shall be sent along with the last consignment.

Heading 9968 Postal and courier services (GST-18%)

“courier agency” means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;

Definitions

- ❖ The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
- ❖ “Body Corporate” has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.
- ❖ “Principal” means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;
- ❖ “supplier” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied

Definitions

- ❖ “Agent” means a person, including a factor, broker, commission agent, *arhatia*,
- ❖ *Del credere* agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;
- ❖ “output tax” in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;
- ❖ “place of business” includes a place where a taxable person is engaged in business through an agent, by whatever name called;

IGST Exemption under GST

Technical Exemptions for Temporary import/Re-Import

- **No exemption at present on such services in customs**

Inter-state movement of any mode of conveyance between distinct persons as defined under section 25(4) of the CGST Act, including Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers

a) Carrying goods or passengers or both; or

b) For repairs and maintenance,

[except in cases where such movement is for further supply of the same conveyance] shall be treated neither as a supply of goods or supply of service and therefore, not be leviable to IGST.

However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done.

- the issue of inter-state movement of goods like
- movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including.
- Trains,
- ii. Buses,
- iii. Trucks,
- iv. Tankers,
- v. Trailers,
- vi. Vessels,
- vii. Containers,
- viii. Aircrafts,
- (a) carrying goods or passengers or both; or (b) for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council's meeting held on 11th June, 2017 and the Council recommended that such inter-state movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.
- 4. In view of above, it is hereby clarified that "the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017, including the ones specified at (i) to (viii) of para 3, may not be treated as supply and consequently IGST will not be payable on such supply.
- 5. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

Supply on Reverse Charge basis

- service of Radio taxi or Passenger Transport Services provided through electronic commerce operator **Provider of service**- Taxi driver or Rent a cab Operator
- **Percentage of GST payable by service provider**-Nil
- **Recipient of Service** -Any person
- **Percentage of GST payable by any person other than the service provider** - 100% by Electronic Commerce Operator

Supply on Reverse Charge basis

Services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India

service provider :- A person located in non-taxable territory to a person

- **Percentage of GST payable by service provider is Nil**
- Importer as defined under clause (26) of section 2 of the Customs Act, 1962 is recipient of service
- **Percentage of GST payable by any person other than the service provider is 100%**

Supply on Reverse Charge basis

- service of transport of goods or passengers by Government or local authority to any business entity (recipient of service)
- **Percentage of GST payable by any person other than the service provider is 100%**

THANK YOU

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