

Levy of and Exemption from Tax

Q 1. Where is the power to levy GST derived from?

Ans. Article 246A of the Constitution, which was introduced by the Constitution (101st Amendment) Act, 2016 confers concurrent powers to both, Parliament and State Legislatures to make laws with respect to GST i. e. central tax (CGST) and state tax (SGST) or union territory tax (UTGST). However, clause 2 of Article 246A read with Article 269A provides exclusive power to the Parliament to legislate with respect to inter-State trade or commerce i.e. integrated tax (IGST).

Q 2. What is the taxable event under GST?

Ans. Taxable event under GST is supply of goods or services or both. CGST and SGST/UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.

Q 3. Whether supplies made without consideration will also come within the purview of supply under GST?

Ans. Yes, but only those activities which are specified in Schedule I to the CGST Act / SGST Act. The said provision has been adopted in IGST Act as well as in UTGST Act also. In cases where the inputs/ capital goods sent for job work are not returned within the specified time limit, the supplies made by the principal to job worker will also be deemed to be a supply.

Q 4. Will activities of charitable institutions be taxable under GST?

Ans. Services of charitable activities by an entity registered under Section 12AA of the Income Tax Act, 1961 is exempt vide Notification no.12/2017-Central Tax (Rate) dated 28.06.2017.

Q 5. Who can notify a transaction to be supply of goods or services?

Ans. Central Government or State Government, on the recommendations of the GST Council, can notify an activity to be the supply of goods and not supply of services or supply of services and not supply of goods or neither a supply of goods nor a supply of services.

Q 6. What are composite supply and mixed supply? How are these two different from each other?

Ans. Composite supply is a supply consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are bundled in natural course and are supplied in conjunction with each other in the ordinary course of business and where one of which is a principal supply. For example, when a consumer buys a television set and he also

gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance service are ancillary.

Mixed supply is combination of more than one individual supplies of goods or services or any combination thereof made in conjunction with each other for a single price, which can ordinarily be supplied separately. For example, a shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold separately.

Q 7. What is the treatment of composite supply and mixed supply under GST?

Ans. Composite supply shall be treated as supply of the principal supply. Mixed supply would be treated as supply of that particular goods or services which attracts the highest rate of tax.

Q 8. Are all goods and services taxable under GST?

Ans. Supplies of all goods and services are taxable except alcoholic liquor for human consumption. Supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be taxable with effect from a future date. This date would be notified by the Government on the recommendations of the GST Council.

Q 9. Does the GST Law empower the Government to exempt supplies from the levy of GST?

Ans. Yes. In the public interest, the Central or the State Government can exempt either wholly or partly, on the recommendations of the GST council, the supplies of goods or services or both from the levy of GST either absolutely or subject to conditions. Further the Government can exempt, under circumstances of an exceptional nature, by special order any goods or services or both. It has also been provided in the SGST Act and UTGST Act that any exemption granted under CGST Act shall be deemed to be exemption under the said Act.

Q 10. When exemption from whole of tax on goods or services or both has been granted absolutely, can a person pay tax?

Ans. No. Furthermore, if the goods are partly exempted, the person supplying exempted goods or services or both shall not collect the tax in excess of the effective rate.

Q 11. What is meant by Reverse Charge?

Ans. It means the liability to pay tax is on the recipient of supply of goods and services instead of the supplier of such goods or services in respect of notified categories of supply.

Q 12. Is the reverse charge mechanism applicable only to services?

Ans. No, reverse charge applies to supplies of both goods and services, as notified by the Government on the recommendations of the GST Council. Notification no. 4/2017-Central Tax (Rate) dated 28/06/2017 as amended by notification no.43/2017-Central Tax (Rate) dated 14/11/2017 & notification no.11/2018-Central Tax (Rate) dated 28/05/2018 and 13/2017- Central Tax (Rate) dated 28/06/2017 as amended by notification no.33/2017-Central Tax (Rate) dated 13/10/2017 & notification no.03/2018-Central Tax (Rate) dated 25/01/2018 have been issued. Similar notifications have been issued under IGST Act also.

Reverse charge also applies to supplies received by a registered person from unregistered persons. However, the provision of reverse charge liability on supplies received from unregistered persons, as provided in sections 9 (4) and 5 (4) of the CGST Act and the IGST Act respectively, have been kept in abeyance till 30.09.2019.

Further as the recent CGST (Amendment) Act, 2018, section 9(4) shall only be applicable for specified class of registered persons which shall be notified by the government. However, the notification to bring the Act into effect is yet to be issued.

Q 13. What are the supplies of goods under RCM?

Ans. Supplies of goods under reverse charge mechanism:

S/No.	Description of Supply of goods	Supplier of goods	Recipient of Goods
1	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3	Tobacco leaves	Agriculturist	Any registered person
4	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person

4A Raw cotton	Agriculturist	Any registered person.
	State Government, Union Territory or any local authority	Lottery distributor or selling agent
5 Supply of lottery	Central Government, State Government, Union territory or a local authority	
Used vehicles, seized and confiscated goods, old and used goods, waste and scrap		Any registered person

Q 14. What will be the implications in case of receipt of supply from unregistered persons?

Ans. In case of receipt of supply from an unregistered person, the registered person who is receiving goods or services shall be liable to pay tax under reverse charge mechanism. However, this provision (of reverse charge on supplies received from unregistered persons) have been kept in abeyance till 30.09.2019. Further as the recent CGST (Amendment) Act, 2018, section 9(4) shall only be applicable for specified class of registered persons which shall be notified by the government. However, the notification to bring the Act into effect is yet to be issued.

Q 15. Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?

Ans. The “estimated net tax liability” only and not the gross tax liability, after considering the due eligible ITC which might be available to such taxable person needs to be paid as advance tax by a casual taxable person(CTP) while taking registration.

Q 16. Can any person other than the supplier or recipient be liable to pay tax under GST?

Ans. Yes, the Government can specify categories of services the tax on which shall be paid by the electronic commerce operator, if such services are supplied through it and all the

provisions of the Act shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services. Notification No. 17/2017-Central Tax (rate) dated 28/06/2017 as amended by notification no.23/2017-Central Tax (rate) dated 22/08/2017 and Notification No. 14/2017-Integrated Tax (Rate) dated 28/06/2017 as amended by notification no. 23/2017-Integrated Tax (rate) dated 22/08/2017 have been issued under the CGST Act and the IGST Act respectively in this regard. The following categories of services have been notified for the purpose:

- a. services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;
- b. services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act;
- c. services by way of house-keeping, such as plumbing, carpentering etc., except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.