

10<sup>th</sup> June 2018**GST UPDATE - 7/2018****Notifications under GST**Gist of all notifications issued from **26.04.2018 to 09.06.2018****Tax (CGST & IGST) Notifications:**

Notification 22/2018 – Central Tax Dated 14.05.2018	No.	<b>Last opportunity to file GST TRAN 1 and related GSTR 3B</b>		
		Waives the late fee payable on late filing of 3B (For October 2017 to April 2018) for the class of persons whose GST TRAN 1 is submitted but not filed on or before 27.12.2017. Such persons can file GST TRAN 1 on or before 10.05.2018 Also has to file GSTR 3B on or before 31.05.2018		
Notification 23/2018 – Central Tax Dated 18.05.2018	No.	<b>Due date for GSTR 3B of April 2018 extended</b>		
		Return	Month	Due date
		GSTR 3B	April 2018	20.05.2018
				<b>22.05.2018</b>
Notification 24/2018 – Central Tax Dated 28.05.2018	No.	<b>NACIN notified to conduct exams for GST Practitioner</b>		
		Notified National Academy of Customs, Indirect Taxes and Narcotics (NACIN), Department of Revenue, Ministry of Finance, Government of India, as the authority to conduct the examination for GST Practitioner		
Notification 25/2018 – Central Tax Dated 31.05.2018	No.	<b>Due date to file GSTR 6 extended</b>		
		Return	Month	Due date
		GSTR 6	July 2017 to June 2018	31.05.2018
				<b>31.07.2018</b>

### Tax (Rate) Notifications:

Notification	No.	Additions in RCM of GOODS			
11/2018 – Central Tax (Rate) and 12/2018 – Integrated Tax (Rate) dt 28.05.2018		Description of Goods	Supplier of Goods	Recipient of Goods	
		Priority Sector Lending Certificate (PSLC)	Any Registered Person	Any Registered Person	

### Circulars under GST

Circular	No.	<u>Issue related to taxability of 'tenancy rights' under GST</u>
44/18/2018-GST dated 02.05.2018		<p>Queries:-</p> <p><b>(i) Whether transfer of tenancy rights to an incoming tenant, consideration for which is in form of tenancy premium, shall attract GST when stamp duty and registration charges is levied on the said premium, if yes what would be the applicable rate?</b></p> <p>In <b><i>pagadi</i></b> system the tenant acquires, tenancy rights in the property against payment of tenancy premium (pagadi). The landlord may be owner of the property but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a % of the proceed with owner of land, as laid down in their tenancy agreement. This can be included in term 'Rental' in definition of 'Supply' and hence <b>liable to GST</b>.</p>

	<p>However, <b>renting of residential dwelling</b> for use as a residence is exempt. Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is <b>exempt</b>.</p> <p><b>(ii) Further, in case of transfer of tenancy rights, a part of the consideration for such transfer accrues to the outgoing tenant, whether such supplies will also attract GST?</b></p> <p>As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is <b>liable to GST</b>.</p>
<p>Circular No. 45/19/2018-GST dated 30.05.2018</p>	<p><b><u>Clarifications on refund related issues</u></b></p> <p><b>Claim for refund filed by an Input Service Distributor (ISD), a person paying tax under section 10 or a non-resident taxable person (NRTP)</b></p> <p><b><u>Issue</u></b> - ISD, Person opted composition levy, NRTP are not filing GSTR 1 which is mandate for filing refund.</p> <p><b><u>Clarification</u></b> - As per CGST Rules, ISD, Person opted for Composition or NRTP need not file GSTR1 or GSTR 3B. However, ISD to file GSTR 6, Person opted for composition levy to file GSTR 4 and NRTP to file GSTR 5. Hence, in case of a claim for refund of balance in the electronic cash ledger filed by an ISD or a composition taxpayer; and the claim for refund of balance in the electronic cash and/or credit ledger by NRTP, filing of GSTR 4/5/6, as case may is sufficient for claiming refund.</p>

**Application for refund of integrated tax paid on export of services and supplies made to a SEZ developer or a SEZ unit**

**Issue** - Many entities have shown such supplies in the Table under column 3.1(a) instead of showing them in column 3.1(b) of FORM GSTR-3B whilst they have shown the correct details in Table 6A or 6B of FORM GSTR-1 for the relevant tax period and duly discharged their tax liabilities. So, they are unable to apply for refund since system auto validates the details filled in Table 6A or 6B of GSTR 1.

**Clarification** - It is clarified that for the tax periods commencing from 01.07.2017 to 31.03.2018, such registered persons shall be allowed to file the refund application in FORM GST RFD-01A on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period.

Refund of unutilized input tax credit of compensation cess availed on inputs in cases where the final product is not subject to the levy of compensation cess

**Issue** - Cess is levied on coal, which is an input for the manufacture of aluminum products, whereas cess is not levied on aluminum products. whether an exporter is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the final product is not leviable to compensation cess?

**Clarification** - As section 17(5) of the CGST Act does not restrict the availment of input tax credit of compensation cess on coal, it is clarified that a registered person making zero rated supply of aluminum products under **bond or LUT** may **claim refund** of unutilized credit including that of compensation cess paid on coal.

Such registered persons may also make zero-rated supply of aluminum products **on payment of integrated tax** but they cannot utilize the credit of the compensation cess paid on coal for payment of integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies. Accordingly, they **cannot claim refund** of compensation cess in case of zero-rated supply on payment of integrated tax.

**Issue** - Whether bond or Letter of Undertaking (LUT) is required in the case of zero rated supply of exempted or non-GST goods and whether refund can be claimed by the exporter of exempted or non-GST goods?

**Clarification** - clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of integrated tax; LUT/bond is not required. Such registered persons exporting non-GST goods shall comply with the requirements prescribed under the existing law (i.e. Central Excise Act, 1944 or the VAT law of the respective State) or under the Customs Act, 1962, if any.

**Issue** - What is the scope of the restriction imposed by rule 96(10) of the CGST Rules, regarding non-availment of the benefit of notification Nos. 48/2017-Central Tax dated the 18.10.2017 (**Deemed Exports Notification**) , 40/2017-Central Tax (Rate) dated 23.10.2017 (**Notification for 0.005% CGST to merchant exporters**) , 41/2017-Integrated Tax (Rate) dated 23.10.2017 (**Notification for 0.01% CGST to merchant exporters**), 78/2017-Customs dated 13.10.2017 (**Notification seeks to exempt goods imported by EOUs from integrated tax and compensation cess**) or 79/2017-Customs dated 13.10.2017 (**Notification seek to amend various Customs exemption notifications to exempt Integrated Tax or Cess on import of goods under AA or EPCG. Schemes**)?

Rule 96(10) of CGST Rules seeks to prevent an exporter, who is receiving goods from suppliers availing the benefit of certain specified notifications under which they supply goods without payment of tax or at reduced rate of tax, from exporting goods under payment of integrated tax. This is to ensure that the exporter does not utilise the input tax credit availed on other domestic supplies received for making the payment of integrated tax on export of goods.

**Clarification** –

The restriction is **not applicable to an exporter who has procured goods from suppliers who have not availed the benefits of the specified notifications for making their outward supplies.**

Further, the said restriction is also **not applicable to an exporter who has procured goods from suppliers who have, in**

	<p><b>turn, received goods from registered persons availing the benefits of these notifications since the exporter did not directly procure these goods without payment of tax or at reduced rate of tax.</b></p> <p>The restriction under rule 96 (10) of the CGST Rules is only applicable to those exporters who are directly receiving goods from those suppliers who are availing the benefit under above mentioned notifications.</p> <p>Further, there might be a scenario where a manufacturer might have imported capital goods by availing the benefit of Notification No. 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017. Thereafter, goods manufactured from such capital goods may be supplied to an exporter. It is hereby clarified that this restriction does not apply to such inward supplies of an exporter.</p>
<p>Circular No. 46/20/2018-GST dated 06.06.2018</p>	<p><b><u>Applicable GST rate on Priority Sector Lending Certificates (PSLCs), Renewable Energy Certificates (RECs) and other similar scrips</u></b></p> <p>Various certificates like RECs, PSLCs etc are classified under heading <b>4907</b> and will accordingly <b><u>attract GST @ 12 %</u></b>, though duty paying scrips classifiable under the same heading will attract Nil GST</p>
<p>Circular No. 47/21/2018-GST dated 08.06.2018</p>	<p><b>Clarifications of certain issues under GST</b></p> <p><b><u>Issue 1</u></b> - Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse ITC in this case?</p>

**Clarification –**

**Whether Levaible to Tax?** - Moulds and dies owned by the OEM which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of ITC availed on such moulds and dies by the OEM.

**Regarding Valuation** - While calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer.

However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components. In such cases, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business.



**Issue 2** - How is servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, to be treated under GST?

**Clarification** - The taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case.

Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.

[This clarification didn't clarify but raised one more query as to **Where shall concept of composite supply and mixed supply , be used?**]

**Issue 3** - In case of auction of tea, coffee, rubber etc., whether the books of accounts are required to be maintained at every place of business by the principal and the auctioneer, and whether they are eligible to avail ITC?

**Clarification** –

**Regarding Maintenance of Books** - In case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional places of business at their principal place of business instead of such additional places and shall intimate their jurisdictional officer in writing about the maintenance of books of accounts relating to the additional places of business at their principal place of business.

**Regarding ITC** - the principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall be eligible to avail input tax credit subject to the fulfilment of other provisions of the CGST Act read with the rules made thereunder.

**Issue 4** - In case of transportation of goods by railways, whether goods can be delivered even if the e-way bill is not produced at the time of delivery?

**Clarification** - As per proviso to rule 138(2A) of CGST Rules, the railways shall not deliver the goods unless the e-way bill is produced at the time of delivery.

**Issue 5** - Whether e-way bill is required in the following cases-

**(a) Where goods transit through another State while moving from one area in a State to another area in the same State.**

E-way bill generation is not dependent on whether a supply is inter-State or not, but on whether the movement of goods is inter-State or not. Therefore, if the goods transit through a second State while moving from one place in a State to another place in the same State, an e-way bill is required to be generated.

**(b) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State.**

Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State, there is no requirement to generate an e-way bill, if the same has been exempted

		under rule 138(14)(d) of the CGST Rules.
Circular 3/1/2018 - dated 25.05.2018	No. IGST	<p><b>Applicability of IGST on goods supplied while being deposited in a customs bonded warehouse</b></p> <p>In case of supply of the warehoused goods, the point of levy would be the point at which the duty is collected under section 12 of the Customs Act, 1962 which is at the time of clearance of such goods under section 68 of the Customs Act.</p> <p>Further, The valuation for the purpose of levy of IGST on warehoused imported goods at the time of clearance for home consumption would be either the transaction value or the value as per section 3(8) of the CTA (i.e. valuation done at the time of filing the into-bond bill of entry), whichever is higher.</p> <p><b>Clarification</b> - It is clarified that IGST shall be levied and collected at the time of final clearance of the warehoused goods for home consumption i.e., at the time of filing the ex-bond bill of entry and the value addition accruing at each stage of supply shall form part of the value on which the IGST would be payable at the time of clearance of the warehoused goods for home consumption. In other words, the supply of goods before their clearance from the warehouse would not be subject to the levy of integrated tax and the same would be levied and collected only when the warehoused goods are cleared for home consumption from the customs bonded warehouse.</p>

## Press Releases

<b>Press Releases on Intra-State Way Bill Implementation</b>	<b>State</b>	<b>Date of applicability of Intra state E-Way Bill</b>
	Assam	16.05.2018
	Rajasthan	20.05.2018
	Maharashtra, Manipur, Andaman, Chandigarh, Dadra, Daman & Diu, Lakshadweep	25.05.2018
	Chhattisgarh, Goa, Jammu & Kashmir, Mizoram, Odisha, Punjab	01.06.2018
	Tamil Nadu	02.06.2018
	West Bengal	03.06.2018
<b>Press release on Change in the Shareholding Pattern of GSTN</b>	Council decided: Acquisition of entire 51% of equity held by the Non-Governmental Institutions in GSTN amounting to Rs. 5.1 crore, equally by the Centre and the States governments and allow GSTN Board to initiate process for acquisition of equity held by the private Companies; and GSTN Board shall be allowed to continue the existing staff at existing terms and conditions for the a period upto 5 years, and shall have the flexibility of hiring people through contract on the terms and conditions similar to those used by GSTN till now while hiring regular employees.	

<p><b>Press note on changes in GST Rates</b> <b>[Proposals of 27<sup>th</sup> GST Council Meeting]</b></p>	<p>As per discussions in the 27<sup>nd</sup> GST Council Meeting held on 4<sup>th</sup> May, 2018</p> <p><b>Proposal to incentivize to promote digital transactions -</b> Proposal of a concession of 2% in GST rate [where the GST rate is 3% or more, 1% each from applicable CGST and SGST rates] on B2C supplies, for which payment is made through cheque or digital mode, subject to a ceiling of Rs. 100 per transaction, so as to incentivise promotion of digital payment.</p> <p><b>Imposition of Sugar Cess over and above 5% GST and reduction in GST rate on ethanol:</b> The council has recommended for setting up of a Group of Ministers from State Governments to look into the proposal and make recommendations, within 2 weeks</p>
<p><b>Press note on Return Simplification</b> <b>[Proposals of 27<sup>th</sup> GST Council Meeting]</b></p>	<p>Refer GST Update 7/2018 dated 17<sup>th</sup> May 2018</p>
<p><b>Press note on issues relating to Agriculture</b></p>	<p>There has been no change in the GST law and taxation relating to farmers since July, 2017, when GST was implemented. Support services to agriculture, forestry, fishing or animal husbandry are exempt from GST. Such exempted support services include renting or leasing of vacant land with or without a structure incidental to its use. Thus, renting or leasing of land by farmers for agriculture, forestry, fishing or animal husbandry on batai (share cropping) or otherwise is exempt from GST.</p>

For any further clarifications on the subject, feel free to write us @ [bcoakp@gmail.com](mailto:bcoakp@gmail.com).