

09th November 2018

GST UPDATE - 14/2018

Notifications under GST

Gist of all notifications issued from **12.09.2018 to 08.11.2018**

Tax (CGST & IGST) Notifications:

Notification No. 49/2018 – Central Tax Dated 13.09.2018	Form GSTR 9C notified 9C is form for reconciliation of books of accounts and GSTR 9 (Annual Return)
Notification No. 50/2018 – Central Tax Dated 13.09.2018	TDS Provisions applicable from 01.10.2018 Who needs to comply with TDS provisions? (a) an authority or a board or any other body, - (i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with 51% or more participation by way of equity or control, to carry out any function; (b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860; (c) Public Sector Undertakings (PSUs)
Notification No. 51/2018 – Central Tax Dated 13.09.2018	TCS Provisions applicable from 01.10.2018
Notification No. 52/2018 – Central Tax Dated 20.09.2018	Rate of TCS notified 0.50% of net value of intra-State taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the e-commerce operator.

<p>Notification No. 53/2018 – Central Tax Dated 09.10.2018</p>	<p>CGST (11th Amendment) Rules, 2018 w.e.f. 23.10.2017</p> <p>Rule 96(10) of CGST Rules, 2017 substituted</p> <p>The persons claiming refund of IGST paid on exports of goods/services should not have received supplies on which the supplier has availed the benefit of</p> <ul style="list-style-type: none"> ▪ Notification No. 48/2017-Central Tax dated 18.10.2017 or ▪ Notification No. 40/2017-Central Tax (Rate) dated 23.10.2017, or ▪ Notification No. 41/2017-Integrated Tax (Rate) dated 23.10.2017 or ▪ Notification No. 78/2017-Customs dated 13.10.2017, or ▪ Notification No. 79/2017- Customs dated 13.10.2017
<p>Notification No. 54/2018 – Central Tax Dated 09.10.2018</p>	<p>CGST (12th Amendment) Rules, 2018</p> <p><u>Rule 89(4B) of CGST Rules, 2017</u></p> <p>Where the person claiming refund of unutilised ITC on account of zero rated supplies without payment of tax has –</p> <p>(a) received supplies on which the supplier has availed the benefit of Notification No. 40/2017-Central Tax (Rate) dated 23.10.2017, or Notification No. 41/2017-Integrated Tax (Rate) dated 23.10.2017, or</p> <p>(b) availed the benefit of notification No. 78/2017-Customs dated 13.10.2017 or notification No. 79/2017-Customs dated 13.10.2017</p> <p>The refund of ITC availed in respect of inputs received under the said notifications for export of goods and the ITC availed in respect of other inputs or input services to the extent used in making such export of goods shall be granted.</p> <p><u>Rule 96 (10) of CGST Rules, 2017</u></p>

	<p>The persons claiming refund of IGST paid on exports of goods/services should not have -</p> <p>(a) received supplies on which the benefit of Notification No. 48/2017-Central Tax dated 18.10.2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or Notification No. 40/2017-Central Tax (Rate) dated 23.10.2017 or Notification No. 41/2017-Integrated Tax (Rate) dated 23.10.2017 has been availed; or</p> <p>(b) availed the benefit under notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017 except so far it relates to receipt of capital goods by such person against EPCG Scheme.</p>
<p>Notification No. 55/2018 – Central Tax Dated 21.10.2018</p>	<p>Due date for furnishing GSTR 3B of September 2018 extended to 25.10.2018</p>
<p>Notification No. 56/2018 – Central Tax Dated 23.10.2018</p>	<p>Though casual taxable persons are exempted from registration (subject to aggregate turnover limit for registration), the supplier of certain notified goods shall have to obtain PAN and generate E-Way bill while supplying the notified goods.</p> <p>(a) such persons making inter-State taxable supplies of handicraft goods</p> <p>(b) such persons making inter-State taxable supplies of certain products like</p> <ol style="list-style-type: none"> i. Leather articles ii. Carved wood products iii. Bamboo Products

		<ul style="list-style-type: none"> iv. Textile v. Carpet, Rugs and Durries vi. Coir Products vii. Leather footwear, etc.
Notification No. 57/2018 – Central Tax Dated 23.10.2018	Exemption from TDS provisions to certain notified persons	Authorities under the Ministry of Defense, other than the authorities specified in the Annexure-A (List of 30 officers) and their offices, with effect from the 01.10.2018.
Notification No. 58/2018 – Central Tax Dated 26.10.2018	Extension of due date for final return upto 31.12.2018	Notifies the persons whose registration under the said Act has been cancelled by the proper officer on or before the 30.09.2018, as the class of persons who shall furnish the final return in FORM GSTR-10 of the said rules till 31.12.2018.
Notification No. 59/2018 – Central Tax Dated 26.10.2018	Extension of due date to file Form GST ITC 04 to 31.12.2018	Extends the time limit for furnishing the declaration in FORM GST ITC-04 of the said rules, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to September, 2018 till the 31.12.2018.
Notification No. 60/2018 – Central Tax Dated 26.10.2018	CGST (13th Amendment) Rules, 2018	<p>Rule 83A - Examination of GST Practitioners</p> <p>Rule 142A - Procedure for recovery of dues under existing laws</p> <ul style="list-style-type: none"> ➤ Old dues to be uploaded in Form GST DRC-07A ➤ Where Demand order is modified, summary to be uploaded in Form GST DRC 08A

	<p>Form GST REG 16 modified to</p> <ul style="list-style-type: none"> • Mandate particulars of registration of entity in which merged, amalgamated, transferred, etc. in case of transfer, merger of business and change in constitution leading to change in PAN. • In case of death of sole proprietor, application shall be made by the legal heir / successor before the concerned tax authorities. The new entity in which the applicant proposes to amalgamate itself shall register with the tax authority before submission of the application for cancellation. This application shall be made only after the new entity is registered. • Before applying for cancellation, mandated to file GST return due for the tax period in which the effective date of surrender of registration falls or furnish an application to the effect that no taxable supplies have been made during the intervening period (i.e. from the date of registration to the date of application for cancellation of registration) <p>Form GSTR 4 amended to clarify that details in table 4A (i.e. details of Purchase invoices by persons opting for composition levy) need NOT be filled.</p>
<p>Notification No. 61/2018 – Central Tax Dated 05.11.2018</p>	<p>Exemption from TDS to PSU to PSU</p> <p>Supply of goods/services/both from a PSU to another PSU, whether or not a distinct person, with effect from the 01.10.2018 is exempted from GST TDS.</p>

Tax Rate (CGST & IGST) Notifications

Notification	No.	Explanation added to Upfront fee exemption entry:
23/2018 – Central Tax (Rate) & 24/2018 – Integrated Tax (Rate) Dated 20.09.2018		Explanation. - For the purpose of this exemption, the Central Government, State Government or Union territory shall have 50 per cent. or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory

Circulars

Circular 62/36/2018-GST dated 12.09.2018	Applicability of GST to Primary Lending Certificates (PLCs) it is clarified that GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis and GST rate of 12% will be applicable on the supply
Circular 63/37/2018-GST dated 14.09.2018	Clarification regarding processing of refund claims filed by UIN entities <ul style="list-style-type: none"> • Formats for Refund Checklist, Certificate, Undertaking and Statement of Invoices prescribed • A one-time waiver from recording UIN in the invoices for the months of April, 2018 to March, 2019
Circular 64/38/2018-GST dated 14.09.2018	Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated

	<p>in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:</p> <p>a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;</p> <p>b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;</p> <p>c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;</p> <p>d) Error in one or two digits of the document number mentioned in the e-way bill</p> <p>e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;</p> <p>f) Error in one or two digits/characters of the vehicle number. penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment</p>
<p>Circular 65/39/2018-GST dated 14.09.2018</p>	<p>Guidelines for Deductions and Deposits of TDS by the DDO under GST</p> <p>Option I: Generation of challan for every payment made during the month</p> <p>Option II: Bunching of TDS deducted from the bills on weekly, monthly or any periodic manner</p>

<p>Circular 66/40/2018- GST dated 26.09.2018</p>	<p>GST on Residential programmes or camps meant for advancement of religion, spirituality or yoga by religious and charitable trusts</p> <p>Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the <i>primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga.</i></p> <p>However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable.</p> <p>Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable</p>
<p>Circular 67/41/2018- GST dated 28.09.2018</p>	<p>Modification to the Guidelines for Deductions and Deposits of TDS by the DDO under GST</p> <p>New Suspense head opened</p>
<p>Circular 68/42/2018- GST dated 05.10.2018</p>	<p>Notifications issued under CGST Act, 2017 applicable to Goods and Services Tax (Compensation to States) Act, 2017</p> <p>it is clarified that UN and specified international organizations, foreign diplomatic missions or consular posts in India, or diplomatic agents or career consular officers posted therein, having being specified under section 55 of the CGST Act, 2017, are entitled to refund of Compensation Cess payable on intra-State and inter-State supply of goods or services or both received by them subject to the same conditions and restrictions, mutatis mutandis, as prescribed</p>

	in Notification No. 16/2017-Central Tax(Rate) dated 28.06.2017.
Circular 69/43/2018-GST dated 26.10.2018	<p>Processing of Applications for Cancellation of Registration submitted in FORM GST REG-16</p> <ul style="list-style-type: none"> ○ It is clarified that the requirement to debit the electronic credit and/or cash ledger by suitable amounts should not be a prerequisite for applying for cancellation of registration. This can also be done at the time of submission of final return in FORM GSTR-10. ○ It is clarified that issuance of notice would not be required for registered persons who have not made any taxable supplies during the intervening period (i.e. from the date of registration to the date of application for cancellation of registration) and has furnished an undertaking to this effect.
Circular 70/44/2018-GST dated 26.10.2018	<p>Clarification on certain issues related to refund</p> <p><u>Status of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger</u></p> <p>it is clarified that taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in FORM GST RFD-03 is issued to taxpayers, re-credit in the electronic credit ledger (using FORM GST RFD-01B) is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself.</p> <p><u>Allowing exporters who have received capital goods under</u></p>

	<p><u>EPCG to claim refund of IGST paid on exports</u></p> <p>It is clarified that any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13.10.2017 shall be eligible to claim refund of the IGST paid on exports till the date of the issuance of the notification No. 54/2018 – Central Tax dated the 09.10.2018.</p> <p>After the issuance of notification No. 54/2018 – Central Tax dated the 09.10.2018, exporters who are importing goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13.10.2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13.10.2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18.10.2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule.</p>
<p>Circular 71/45/2018-GST dated 26.10.2018</p>	<p>Clarifications of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor</p> <p><u>Should CTP deposit 100% of estimated tax liability without considering ITC which might be eligible?</u></p> <p>It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable</p>

	<p>person.</p> <p><u>What may be procedure of registration in case of long exhibitions (say more than 180 days)?</u></p> <p>Apply for Normal Registration. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.</p> <p>He can surrender such registration once the exhibition is over.</p> <p><u>What is procedure to recover excess ITC distributed by ISD?</u></p> <p>The recipient units who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest if any by using FORM GST DRC-03. If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s) under the provisions of section 73 or 74 of the CGST Act as the case may be. FORM GST DRC-07 can be used by the tax authorities in such cases. It is further clarified that the ISD would also be liable to a general penalty under the provisions contained in section 122(1) (ix) of the CGST Act.</p>
<p>Circular 72/46/2018-GST dated 26.10.2018</p>	<p>Circular to clarify the procedure in respect of return of time expired drugs or medicines</p> <p><u>Option A</u> - Return of time expired goods to be treated as fresh supply</p> <p>➔ If returned by REGISTERED person – The person may raise an invoice, pay GST on the supply and the recipient</p>

	<p>wholesaler/manufacturer avails ITC on the invoice.</p> <ul style="list-style-type: none"> ➔ If returned by person registered under COMPOSITION scheme – Pay 1% on value of expired goods and question of ITC doesn't arise ➔ If returned by UNREGISTERED person - He may return the said goods by issuing any commercial document without charging any tax ➔ Where Expired goods are destroyed - reverse the ITC availed on the return supply as per Sec. 17(5) (h) of CGST Act 2017 <p><u>Option B</u> - Return of time expired goods by issuing Credit Note</p>
<p>Circular 73/47/2018-GST dated 05.11.2018</p>	<p>Scope of principal and agent relationship under Schedule I of CGST Act, 2017</p> <p>in the context of del-credere agent</p> <p><u>Who is a DCA?</u></p> <p>A DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier. In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent.</p> <p><u>Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?</u></p>

In case where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of agent.

In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent.

Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?

Where DCA is not considered as agent, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply. Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier.

Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?

In cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the

	<p>supply of the goods by the DCA to the recipient. It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per section 15 (2) (d) of the CGST Act.</p>
<p>Circular 74/48/2018- GST dated 05.11.2018</p>	<p>Collection of tax at source by Tea Board of India</p> <p>The buyers in the said auction make payment of a consolidated amount to an escrow Account maintained by the Tea Board. The said consolidated amount is towards the value of the tea, the selling and buying brokerages charged by the auctioneers and also the amount charged by the Tea Board from sellers, auctioneers and buyers. Thereafter, Tea Board pays to the sellers (i.e. tea producers), from the said escrow account, for the supply of goods made by them (i.e. tea) and to the auctioneers for the supply of services made by them (i.e. brokerage). Under no circumstances, the payment is made by the Tea Board to the auctioneers on account of supply of goods i.e., tea sold at auction.</p> <p>Question is <u>whether they should collect TCS under section 52 of the CGST Act from the sellers of tea (i.e. the tea producers), or from the auctioneers of tea or from both?</u></p> <p>it is hereby clarified, that TCS at the notified rate, in terms of section 52 of the CGST Act, shall be collected by Tea Board respectively from the -</p> <p>(i) sellers (i.e. tea producers) on the net value of supply of goods i.e. tea; and</p> <p>(ii) auctioneers on the net value of supply of services (i.e. brokerage).</p>

Orders

<p>Order No. 4/2018-GST dated 17.09.2018</p>	<p>GST TRAN 1 filing date extended in certain cases</p> <p>Extends the period for submitting FORM GST TRAN-1 till 31.01.2019, for the class of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and whose cases have been recommended by the Council.</p>
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Press Release

<p>Dated 18.10.2018</p>	<p>Last date to avail input tax credit in respect of invoices or debit notes relating to such invoices pertaining to period from July, 2017 to March, 2018</p> <p>With taxpayers self-assessing and availing ITC through return in FORM GSTR-3B, the last date for availing ITC in relation to the said invoices issued by the corresponding supplier(s) during the period from July, 2017 to March, 2018 is the last date for the filing of such return for the month of September, 2018 i.e. 20.10.2018.</p> <p>It is clarified that the furnishing of outward details in FORM GSTR-1 by the corresponding supplier(s) and the facility to view the same in FORM GSTR-2A by the recipient is in the nature of taxpayer facilitation and does not impact the ability of the taxpayer to avail ITC on self-assessment basis in consonance with the provisions of section 16 of the Act.</p>
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For any further clarifications on the subject, feel free to write us @ bcoakp@gmail.com.