

## GST: Applicable RCM Provisions

### Reverse Charge Mechanism (RCM) under GST:

Particulars	Section/Notification
<p><b>Introduction</b></p> <p>Generally, tax is payable by the person who provides goods or services or both but under RCM the liability to pay tax has shifted to recipient in respect of certain categories of goods or services or both. The objective of RCM is to widen the scope of levy of tax on unorganized sectors and give exemption to specific class of supplier of goods/services and import of services. There are two types of reverse charge scenarios provided in law –</p> <ol style="list-style-type: none"> <li>1. Dependent on the nature of supply</li> <li>2. Dependent on nature of supplier</li> </ol>	<p><i>Section 9(3) or Section 9(4) of the CGST Act, 2017 &amp; Section 5 (3) or Section 5(4) of the IGST Act, 2017</i></p> <p><i>Section 9(3) of the CGST/SGST/UTGST Act &amp; Section 5(3) of the IGST Act</i></p> <p><i>Section 9(4) of the CGST/SGST/UTGST Act &amp; Section 5(4) of the IGST Act</i></p>
<p><b>RCM in respect of Un-Registered Person</b></p> <p>Whenever a registered person procures supplies from an unregistered supplier, he needs to pay GST on reverse charge basis.</p> <p>However, supplies where the aggregate value of such supplies of goods or services or both received by a registered person from any or all the unregistered suppliers is less than Rs. 5,000 in a day are exempted</p> <p>This provision has been deferred till 30th September, 2019 &amp; has been rescinded w.e.f. 01.02.2019. But the list of Goods or services not yet declared by the Government for implementation of the provision.</p>	<p><i>Section 9(4) of the CGST Act, 2017 &amp; Section 5(4) of the IGST Act, 2017</i></p> <p><i>Notification No. 1/2019-Integrated Tax (Rate) &amp; 1/2019-Central Tax (Rate) dated 29.1.2019</i></p>
<p><b>Input Tax Credit under RCM</b></p> <p>A supplier cannot take Input Tax Credit of GST paid on goods or services used to make supplies on which the recipient is liable to pay tax under reverse charge.</p> <p>The recipient can avail Input Tax Credit of GST amount that is paid under reverse charge on receipt of goods or services by him provided such goods or services are used or will be used for business or furtherance of business.</p>	
<p><b>When liability arises to pay GST under RCM</b></p> <p><b>1. Time of supply for Goods under reverse charge</b></p> <p>In case of supplies of <b>goods</b> in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates-</p> <ol style="list-style-type: none"> <li>(a) Date of receipt of goods; or</li> <li>(b) Date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or</li> <li>(c) Date immediately following 30 days from the date of issue of invoice or any other document, or similar other document thereof by the supplier:</li> </ol> <p>Where it is not possible to determine the time of supply by using above methods, the time of supply shall be the date of entry in the books of account of the recipient of supply.</p> <p><b>2. Time of supply for Services under Reverse Charge:</b></p> <p>In case of supplies for <b>Services</b> in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates -</p> <ol style="list-style-type: none"> <li>(a) Date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or</li> <li>(b) Date immediately following 60 days from the date of issue of invoice or any other documents, similar other document thereof by the supplier:</li> </ol> <p>Where it is not possible to determine time of supply by using above methods, the time of supply shall be the date of entry in the books of account of the recipient of supply.</p>	<p><i>Section 12(3) of the CGST Act, 2017</i></p> <p><i>Section 13(3) of the CGST Act, 2017</i></p>

<p><b>GST registration under RCM</b>          A person who is required to pay tax under reverse charge has to compulsorily register under GST <b>irrespective</b> of the threshold limit of registration (Rs. 10 lakhs/Rs. 20 lakhs/Rs. 40 lakhs).</p>	<p><i>Section 24 of the CGST Act, 2017</i></p>
<p><b>Invoicing Rules under RCM</b>          A registered person who is liable to pay tax under RCM, shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both; and shall issue a payment voucher at the time of making payment to the supplier.</p> <p>A registered person may issue a consolidated RCM invoice at the end of a month for supplies covered, if the aggregate value of such supplies exceeds Rs. 5000 in a day from any or all the supplies.</p>	<p><i>Section 31(3) of the CGST Act, 2017 read with clause (f) &amp; (g).</i></p> <p><i>Second proviso to Rule 46</i></p>
<p><b>Limit of Rs. 5000 to be checked</b>  <b>Other compliances in respect of RCM supplies</b></p> <ol style="list-style-type: none"> <li>(1) Every tax invoice has to mention whether the tax in respect of supply in the invoice is payable on reverse charge. Similarly, this also needs to be mentioned in receipt voucher and refund voucher, if tax is payable on reverse charge.</li> <li>(2) Maintenance of accounts: Every registered person is required to keep and maintain records of all supplies attracting payment of tax on reverse charge.</li> <li>(3) Any amount payable under reverse charge shall be paid by debiting the electronic cash ledger. Reverse charge liability cannot be discharged by using input tax credit.</li> </ol> <p>However, after discharging reverse charge liability, credit of the same can be taken by the recipient, if he is otherwise eligible.</p> <ol style="list-style-type: none"> <li>(4) Invoice level information in respect of all supplies attracting reverse charge, rate wise, are to be furnished separately in column 4B of GSTR-1.</li> <li>(5) Advance paid for reverse charge supplies is also leviable to GST. The person making advance payment has to pay tax on reverse charge basis.</li> </ol>	<p><i>Section 31 of the CGST Act, 2017 read with Rule 46 of the CGST Rules, 2017</i></p>
<p><b>Reverse charge on specified goods</b>          The supply of goods falls under RCM listed in Annexure -1</p>	<p><i>Notification No. 4/2017-C.T. (Rate), dated 28-6-2017 as amended from time to time and Section 9(3) of the CGST Act, 2017</i></p>
<p><b>Reverse charge on specified services</b>          The supply of services falls under RCM listed in Annexure-2</p>	<p><i>Notification No. 13/2017-C.T. (Rate), dated 28-6-2017 as amended from time to time and Section 9(3) of the CGST Act, 2017</i></p>
<p><b>Additional Services on which tax is payable by recipient on RCM basis</b>          In addition to Annexure-2 services, 2 additional services have been notified wherein tax shall be payable by the recipient on RCM basis. Refer Annexure-3.</p>	<p><i>Notification No. 10/2017-Integrated Tax(Rate) Dated 28-06-2017 and Section 5(3) of IGST Act,2017</i></p>
<p><b>Real Estate Sectors under RCM</b>          Project developer or construction of apartment by the developer, 80% of inputs and input services [other than capital goods, TDR/JDA, FSI, long-term lease (premium)] shall be purchased from registered persons. On shortfall of purchases from 80%, tax shall be paid by the builder @18% on RCM basis. However, Tax on cement purchased from unregistered person shall be paid @28% under RCM, and on capital goods under RCM at applicable rates.</p>	<p><i>Section 9(4) the CGST Act, 2017, Notification No. 7/2019-C.T. (Rate), dated 29th March, 2019.</i></p>

### Renting of motor vehicles under RCM

Government vide recent notification and circular clarified on applicability of RCM provisions on renting of motor vehicles. The clarified applicability is summarized as under -

<b>Service Covered:</b>	Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.
<b>Service Provider:</b>	Any person (other than a Body Corporate) who supplies the service to a Body Corporate and does not issue an invoice charging GST @ 12% to the service recipient.
<b>Service Recipient:</b>	Body Corporate located in the taxable territory.
<b>Applicable from:</b>	1 <sup>st</sup> October'2019.

*Notification No. 29/2019 – Central Tax (Rate) dated 31<sup>st</sup> December'2019 and F. No. 354/189/2019-TRU.*

Tabular gist of RCM applicability under various scenarios –

S. No.	Service Provider	Service Recipient	GST Rate	RCM Applicable	Person Liable to pay GST	ITC
1	Body Corporate	Any Person	12%	No	Service Provider	Available
2	Body Corporate	Any Person	5%	No	Service Provider	Restricted
3	Other than Body Corporate	Body Corporate	12%	No	Service Provider	Available
4	Other than Body Corporate	Body Corporate	5%	Yes	Service Recipient	-
5	Other than Body Corporate	Other than Body Corporate	12%	No	Service Provider	Available
6	Other than Body Corporate	Other than Body Corporate	5%	No	Service Provider	Restricted

### How to Comply with GST Provisions:

Our expert team can help you in ensuring all compliances under GST Act. You may contact us via [www.labhyansh.com](http://www.labhyansh.com) or e-mail us at [contact@labhyansh.com](mailto:contact@labhyansh.com).

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## Annexure -1

S. No.	Tariff Item, Sub-heading, or Chapter	Description of Supply of Goods	Supplier of Goods	Recipient of Supply
1.	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	1404 90 10	Bidi wrapper leaves(tendu)	Agriculturist	Any registered person
3.	2401	Tobacco leaves	Agriculturist	Any registered person
4.	5004 to 5006	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A	5201 (Effective from 15-11-2017)	Raw cotton	Agriculturist	Any registered person
5.	–	Supply of lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent. (Refer Explanation-3)
6.	Any Chapter (Effective from 13-10-2017)	Used vehicles seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a Local authority.	Any registered person
7.	Any Chapter (Effective from 28-5-2018)	Priority Sector Lending Certificate	Any registered person	Any registered person

## Annexure-2

S. No.	Category of Supply of Services	Supplier of Service	Recipient of service
1.	<p><b>GTA Services:</b> Supply of Services by a Goods Transport Agency (GTA) who has not paid GST @ 12% in respect of transportation of goods by road to –</p> <ul style="list-style-type: none"> <li>➤ Any factory registered under or governed by the Factories Act, 1948; or</li> <li>➤ Any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</li> <li>➤ Any cooperative society established by or under any law; or</li> <li>➤ Any person registered under CGST/IGST/SGST/or UTGST Act; or</li> <li>➤ Anybody corporate established, by or under any law; or</li> <li>➤ Any partnership firm whether registered or not under any law including association of persons; or</li> <li>➤ Any casual taxable person; located in the taxable territory.</li> </ul>	Goods Transport Agency (GTA)	<ul style="list-style-type: none"> <li>➤ Any factory registered under or governed by the Factories Act, 1948; or</li> <li>➤ Any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</li> <li>➤ Any cooperative society established by or under any law;</li> <li>➤ Any person registered under CGST/IGST/SGST/UTGST Act; or</li> <li>➤ Anybody corporate established, by or under any law; or</li> <li>➤ Any partnership firm whether registered or not under any law including association of persons; or</li> <li>➤ Any casual taxable person located in the taxable territory.</li> </ul>

	<p>However, this is not applicable on services provided by a GTA, by way of transport of goods by road, to, –</p> <ul style="list-style-type: none"> <li>➤ A Department or Establishment of the Central Government or State Government or Union territory; or</li> <li>➤ Local authority; or</li> <li>➤ Governmental agencies, which has taken registration under GST only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.</li> </ul>		
2.	<p><b>Legal Services:</b>          Services provide by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.</p> <p>‘Legal service’ means any service provided in relation to advice, consultancy or assistance in any manner and includes representational services before any Court, Tribunal or Authority.</p>	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3	<p><b>Arbitral Services:</b>          Services supplied by an arbitral Tribunal to a business entity.</p>	An arbitral Tribunal	Any business entity located in the taxable territory.
4	<p><b>Sponsorship Services:</b>          Service provided by way of Sponsorship Service to anybody corporate or partnership firm.</p>	Any person	Anybody corporate or partnership firm located in the taxable territory.
5	<p><b>Government Services:</b>          Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding the following:</p> <ul style="list-style-type: none"> <li>➤ Renting of immovable property service, and</li> <li>➤ Services specified below:             <ol style="list-style-type: none"> <li>I. Services by the Department of posts by way of speed post, life insurance, express parcel post and agency services provided to a person other than Central Government, State Government or Union territory or local authority;</li> <li>II. Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</li> </ol> </li> </ul>	Central Government, State Government, Union territory or Local Authority	Any Business Entity located in the taxable territory.

	III. Transport of goods or passengers.		
<b>5A</b>	<b>Services by the Government:</b> Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under GST. <i>(with effect from 25-1-2018)</i>	Central Government, State Government, Union territory or Local Authority.	Any person registered under GST
<b>5B</b>	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any Person	Promoter
<b>5C</b>	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter
<b>6</b>	<b>Services by the Director:</b> Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	A company or a body corporate located in the taxable territory
<b>7</b>	<b>Insurance Agent Service:</b> Services provided by an insurance agent to person carrying on insurance business.	An Insurance Agent	Any person carrying on insurance business, located in the taxable territory.
<b>8</b>	<b>Recovery Agent Service:</b> Services provided by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A Recovery Agent	Banking company or financial institution or a non-banking financial company, located in the taxable territory.
<b>9</b>	<b>Copyright Service:</b> Supply of Services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of Section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the like.	The Music company, producer or the like, located in the taxable territory.
<b>9A</b>	<b>Service of Author:</b> Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of subsection (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.	Author	<b>Publisher located in the taxable territory:</b> <i>Except where:</i> (i) Author has taken registration under GST and filed a declaration within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, that he exercises the option to pay GST on services

	<i>Sl.9 &amp; 9A changes carried vide <u>Notification No.22/2019-C.T (Rate) dated 30.09.2019 with effect from 1<sup>st</sup> October,2019</u></i>		under forward charge, and to comply with all the provisions of GST Act and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option; (ii) Author makes a declaration on the invoice issued by him to the publisher.
10	<b>Reserve Bank Services:</b> Supply of services by the members of Overseeing Committee to Reserve Bank of India (Effective from 13-10-2017)	Members of Overseeing Committee constituted by the Reserve Bank of India.	Reserve Bank of India
11	<b>Services by Direct Selling Agents (DSA):</b> Services supplied by individual DSA other than a body corporate partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs). (Effective from 27-7-2018)	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking company or a non-banking financial company, located in the taxable territory.
12	<b>Business Facilitator (BF):</b> Services provided by BF to a banking company.	Business facilitator (BF)	A banking company, located in the taxable territory.
13	<b>Business Correspondent (BC):</b> Services provided by an agent of BC to BC.	An agent of Business Correspondent (BC).	A business correspondent, located in the taxable territory.
14	<b>Security Services:</b> Services provided by way of supply of security personnel. provided to a registered person.  However, this shall not apply to: I. (a) A Department or Establishment of the Central Government or State Government or Union territory; or (b) Local authority; or (c) Government agencies; which has taken registration under GST only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services; or  II. A registered person paying tax under Section 10 of the said Act.  <i>Sl. No. 12 to 14 vide Notification No. 29/2018-C.T. (Rate) dated 31-12-2018. w.e.f. 1-1-2019</i>	Any person other than a body corporate.	A registered person, located in the “taxable territory.”
15	<b>Renting of any Motor Vehicle:</b> Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at	Any body corporate located in the taxable territory.

	<i>Notification No.29/2019-Central Tax (Rate), dated 31.12.2019.</i>	the rate of 6% to the service recipient.	
<b>16</b>	<p><b>Services of Lending Securities:</b>            Services of lending securities of Securities under Lending scheme, 1997 (Scheme). SEBI, as amended.</p> <p><i>Sl.16 changes have carried vide <u>Notification No.22/2019-C.T (Rate) dated 30.09.2019</u> with effect from 1<sup>st</sup> October, 2019.</i></p>	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme of SEBI.	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

### Annexure-3

S. No.	Category of Supply of Services	Supplier of Service	Recipient of service
<b>1</b>	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory.	Any person located in the taxable territory other than non-taxable online recipient.
<b>2</b>	Services supplied by 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.	A person located in a non-taxable territory.	Importer, as defined in Sec 2(26) of the Customs Act,1962, located in the taxable territory