

# *GST Newsletter*

March 2019



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## **Developments in GST Portal:**

1. Exports can be made with the option of 'Letter of Undertaking' (LUT) without payment of tax. The LUT has to be renewed for every financial year. This has been enabled on the GST Portal for FY 19-20.
2. GSTR 9 for FY 17-18 has been enabled on the portal. The due date for filing the same is June 30, 2019.

## **Recent Updates:**

### **1. Due Dates:**

Due Dates for following returns and eligible tax payers has been declared as follows–

<b>Notification No.</b>	<b>Form</b>	<b>Months</b>	<b>Due date</b>
13/2019-Central Tax, 07-03-2019	GSTR 3B	April' 19 – June' 19	20 <sup>th</sup> day of succeeding month.
12/2019-Central Tax, 07-03-2019	GSTR 1 (Turnover >Rs.1.5 crore)	April' 19 – June' 19	11 <sup>th</sup> day of succeeding month.
11/2019-Central Tax, 07-03-2019	GSTR 1 (Turnover upto	April' 19 – June' 19	Quarterly return be filed by 31 <sup>st</sup>

	Rs.1.5 crore)		July'19
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## 2. 34<sup>th</sup> Council Meet update :

The 33<sup>rd</sup> meeting had drafted a radical plan to boost the Real Estate Sector. The 34<sup>th</sup> Council Meet has devised means to implement that plan. Below mentioned are the important takeaways of the 34<sup>th</sup> Council Meet –

A one-time option will be given to promoters for paying taxes at old rates of 8% (in case of affordable housing) and 12% (in case of other than affordable housing) for the ongoing projects where construction and actual bookings have started before 01.04.2019 and which have not been completed by 31.03.2019.

This option must be opted for within a prescribed time frame **(to be notified)**, failing which the new rates shall become eligible.

- a. New rate of 1% without input tax credit (ITC) on construction of affordable houses shall be available for -
  - i. Houses with area of 60 sqmtr in metros / 90 sqmtr in non- metros and value up to Rs. 45 Lakhs.
  - ii. Houses being constructed in ongoing projects under the existing central and state housing schemes presently eligible for concessional rate of 8% GST (after 1/3<sup>rd</sup> land abatement).
- b. New rate of 5% without input tax credit shall be applicable on construction of –
  - i. Houses in ongoing projects booked prior to or after 01.04.2019.  
(Booked prior to 01.04.2019 but if installments payable on or after 01.04.2019, new rate of 5% will apply).
  - ii. All houses other than affordable houses in new projects.
  - iii. Commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

**Conditions for ITC:**

1. Input tax credit shall not be available.
2. 80% of inputs and input services must be purchased from registered persons.

On shortfall, tax shall be paid under RCM at 18%.

(Tax on cement purchased from unregistered person shall be paid @ 28% under RCM, and on capital goods under RCM at applicable rates.)

**Treatment of TDR/ FSI and Long term lease for projects commencing after 01.04.2019:**

1. Supply of above category shall be exempt only when constructed flats are sold before issuance of completion certificate and tax on same has been paid.
2. Such exemption will be withdrawn in case flats are sold after issue of completion certificate. This withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses.
3. Also, this liability is shifted from land owner to builder under the reverse charge mechanism (the date for discharging RCM will be date of issuance of completion certificate).

**Ongoing projects where construction and booking both had started before 01.04.2019 and have not been completed by 31.03.2019 opting for the new tax rate shall TRANSIT as follows:**

1. The transition formula approved by the GST Council, for residential projects extrapolates ITC as
  - Percentage completion of construction as on 01.04.2019 to arrive at ITC for the entire project.
  - Then based on percentage booking of flats and percentage invoicing, ITC eligibility is determined.
  - Thus, transition would thus be on pro-rata basis based on formula such that credit in proportion to booking of the flat and invoicing done for the booked flat is available subject to a few safeguards.
  - For a **mixed project**, transition shall also allow ITC on pro-rata basis in proportion to carpet area of the commercial portion in the ongoing projects (on

which tax will be payable @ 12% with ITC even after 1.4.2019) to the total carpet area of the project.

### 3. Composition scheme for service providers from 1<sup>st</sup> April 2019:

**Notification No. 2 of Central Tax (Rate)** dated 7<sup>th</sup> March 2019 provides to **lower tax rate to 6% (CGST + SGST) for first supplies having aggregate turnover of Rs. 50 Lakhs made on or after 1<sup>st</sup> April, 2019.**

The scheme is applicable to following categories of registered persons –

- a. Whose aggregate turnover (excluding interest or discount earned on extending loans, advances or deposits) in the **preceding financial year was Rs.50 Lakhs or below.**
- b. Who is **not eligible** to pay tax **under the composition scheme.**
- c. Who is **not engaged** in making any **supply which is not leviable to tax.**
- d. Who is **not engaged** in making any **inter-State outward supply.**
- e. Who is **neither a casual taxable person nor a non-resident taxable person.**
- f. Who is **not engaged** in making any **supply through an electronic commerce operator** who is required to collect tax at source.
- g. Who is **not engaged in making the following supplies:**

S No.	Tariff item	Description
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20	Pan Masala
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

Since this scheme is similar to the prevailing 'Composition Levy' under Section 10, following are few conditions that apply –

- a. Multiple GSTINs within the same PAN should pay taxes under the same scheme.
- b. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
- c. The registered person should issue a bill of supply (not a tax invoice)
- d. At the top of the bill of supply, it is mandatory to write - 'taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies'.
- e. Irrespective of any notification to be issued for any person under normal scheme, a person registered under this notification will continue to pay tax at the rate of 3% under this scheme.
- f. Reverse charge under Section 9(3) and 9(4) will continue to be paid separately for persons under this scheme.

#### 4. **Increase in turnover limit for composition scheme:**

As per Notification No. 14/2019 of Central Tax dated 7<sup>th</sup> March 2019, an eligible registered person, whose **aggregate turnover in the preceding financial year did not exceed one crore and fifty lakh rupees**, may opt to pay, the tax payable by him under **Composition Scheme** subject to following terms and conditions :

- a. The scheme is **effective from April, 1, 2019**
- b. The limit for aggregate turnover in the preceding financial year shall be **seventy five lakhs rupees** in the case of an eligible registered person, in any of the following States: Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand.

- c. Persons providing the following manufacturing supplies cannot opt for composition, namely-

S No.	Tariff item	Description
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20	Pan Masala
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

5. **Increase in limit for registration:**

As per **Notification No. 10/2019-Central Tax, applicable from April, 2019**, a person engaged exclusively in supply of goods and whose aggregate turnover in FY doesn't exceed **Rs. 40 Lakhs is exempted from registration under the GST Act**, except for the following class of persons:-

- a. Person required to take compulsory registration under Sec.24
- b. Person engaged in making following supplies –

S No.	Tariff item	Description
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20	Pan Masala
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

- c. Person engaged in making intra-state supplies in the states of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.
- d. Person voluntarily registered under Section 25(3).

## 6. TCS not to be included in value of Supply:

**Corrigendum to Circular No. 76/2018** has been issued as to clarify that GST on shall not be calculated on Tax collected at source (TCS) under Income Tax Act. Thus, there shall be a reduction in the value of GST charged by entities on supplies attracting TCS.

Particulars	Pre-clarification	Post-clarification	Net GST reduction
Basic Value	10,00,000	10,00,000	
TCS	10,000	10,000	
IGST @ 18%	1,81,800	1,80,000	
<b>Total</b>	<b>11,91,800</b>	<b>11,90,000</b>	<b>1,800</b>

## 7. Warehoused goods before clearance are not subject to GST:

Circular No. 91/10/2019-GST provides the clarification that from April 1, 2018, the supply of warehoused goods before their clearance from the warehouse would not be subject to the levy of integrated tax.

## 8. Treatment of sales promotion schemes under GST

Circular No. 92/11/2019-GST has been issued to clarify the treatment of sales promotion schemes under GST:

### a. Free samples and gifts –

- i. As per sub clause (a) of sub-section (1) of section 7 of the said Act, the expression “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST (except in case of activities mentioned in Schedule I of the said Act).

- ii. Furthermore, Section 17(5)(h) of CGST Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.
  - iii. However, where the activity of distribution of gifts or free samples falls within the scope of “supply” on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.
- b. Buy one get one free offer –
- iv. Section 7(1)(a) of the CGST Act provides that the goods or services which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST.
  - v. However, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as *supplying two goods for the price of one*.
  - vi. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.
  - vii. It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.
- c. Discounts including ‘Buy more, save more’ offers:
- viii. Discounts offered in the nature of ‘Buy more, save more’ scheme and post supply / volume discounts established before or at the time of supply shall be



excluded to determine the value of supply provided they satisfy the parameters laid down in Sec.15(3) of the CGST Act.

ix. Section 15(3) specifies that value of the supply shall not include any discount which is given—

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) after the supply has been effected, if—

- Such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
- Input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

x. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

d. Secondary Discounts:

xi. The natures of secondary discounts don't affect the value of supply as such discounts are not known at time of supply. Hence value of supply will not be affected and thereafter ITC also is not impacted at the hands of supplier.

9. Traders engaged in supply of services (except for services of restaurant), can opt for the composition scheme where the 'value does not exceed 10% of turnover in a State in preceding Financial Year or Rs.5 Lakhs, whichever is higher'.

10. The earlier benefit of IGST tax exemption on supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees has now been rescinded.

## Form GSTR 9 (Annual Return) Key Notes:

GSTR 9 for FY 17-18 has been enabled on the portal. The due date for filing the same is June 30, 2019.

### **Applicability:**

1. All registered tax payers
2. Except composition taxpayer (who must furnish details in GSTR 9A) and casual taxpayer / Non Resident taxpayer / ISD
3. Must mandatorily file Annual Return for each GST registration obtained.

### **Pre-requisite:**

1. An active GSTIN Registration number and Registration certificate.
2. Applicable GSTR 1 and GSTR 3B returns of relevant financial
3. Grouping of ITC claimed into ITC on input goods, input services and capital goods.
4. IT Returns and financials of the relevant financial year.
5. Export details and relevant GST refund claim details.
6. Details of Excise returns and Vat returns shall be verified to confirm ITC claimed in transition forms.

## GST Hacks for Year – End:

With the FY 18-19 coming to a close, following are some check points to be considered for GST Filing of FY end -

- \* If input has been claimed on an input supply but where payment has not been settled for the same within 180 days, the input so claimed shall be added to the value of outward supply and interest shall be payable at 24% p.a.]
- \* GSTR 2A reconciliation with books of accounts shall be prepared.
- \* Turnover shall be matched between books, GSTR 1/GSTR 4 and GSTR 3B.
- \* Reversal of common credit and reversal in case of fixed assets be matched for the year end on proportionate turnover basis of exempt and taxable supply.
- \* Goods sent on Job work shall be received within 1 year in case of inputs and within 3 years in case of fixed assets.
- \* The validity to apply for refund is 2 years from the relevant date and refunds pertaining to FY 17-18 shall be appropriately applied for.
- \* ITC pertaining to FY 17-18 which were not availed shall be availed, subject to entries reflecting in GSTR 2A and debit notes and credit notes of FY 17-18 can be amended upto filing of return of March'19.
- \* Electronic credit ledger and electronic cash ledger balances to be reconciled with the books of accounts.
- \* ITC reversed earlier on account of non-payment under the criteria of 180 days can be re-claimed on making such payment.

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This document is prepared by A. K. Lunawath & Associates solely for clients and other chartered accountants to provide updates on important amendments in GST. The information is exclusively for educational purposes, professional advice shall be taken before taking any decision based on this document.

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