EY – GST News Alert

GST Council finalizes the GST Rules and the rates of goods and services

Executive summary

The Goods and Services Tax (GST) Council, during its meeting held on 18-19 May 2017, approved seven rules pertaining to Registration, Valuation, ITC, Invoice, Payment, Refunds, and Composition under GST along with relevant formats. Rules pertaining to Returns and Transition are being vetted by legal team before they are finalized.

The Council broadly approved rates of GST and compensation cess for supplies by classifying the goods into different categories. The GST rate schedule released by the Government categorizes goods into slab rates of Nil, 5%, 12%, 18%, and 28%. The compensation cess schedule provides for rate of cess leviable on various products such as aerated water, pan masala, coal, and motor cars.

The Council also finalized the classification of various services into different tax slabs while proposing to continue with exemptions on most of the services that are currently exempt.

Some of the significant changes in the machinery provisions include prescribing simpler valuation mechanism for related party transaction under certain scenario, reducing tax incidence in case of banking and financial institutions in computing value of goods repossessed from defaulting borrowers, relaxing the time limit for re-claiming tax credits, and providing requisite clarity for taxing advances in case where either the rate or nature of supply are not determinable at the time of receiving the advance.

The next meeting of the Council is scheduled on 3 June 2017.
Background

The Goods and Services Tax (GST) Council, during its meeting held on 18-19 May 2017, approved seven rules pertaining to Valuation, ITC, Registration, Invoice, Payment, Refund and Composition under GST together with relevant formats.

Rules pertaining to Returns and Transition are being vetted by legal team before they are finalized.

Registration Rules

Application for registration

► Provision for registration of SEZ has been reworded to clarify that one separate registration would suffice for multiple units of a person in the same SEZ.

The earlier rule suggested that if more than one Unit of the person was located within the same SEZ, all such units were required to obtain separate registration.

► Proviso has been added for a separate registration to be obtained by the Input Service Distributor (ISD)

► An option is provided to applicant to submit an application in prescribed format by using electronic verification code (EVC).

Previously, only a duly signed application was required to be submitted.

Grant of registration to the non-resident taxable person

► A non-resident taxable person shall submit application for registration along with self-attested copy of his valid passport.

► If the applicant is entity incorporated or established outside India, then application for registration needs to be submitted along with its tax identification number or unique number on the basis of which the entity is identified by Government of that country or the PAN, if available.

► Acknowledgement for making an advance deposit will be issued electronically only after the said amount is deposited in the electronic cash ledger.

Suo moto registration

► Person to whom a temporary registration has been granted shall within 30 days from the grant of such registration, submit an application for registration.

► The period prescribed for submission of registration application is reduced from 90 days to 30 days.

Method of authentication

► Returns including the details of outward and inward supplies and any other document required to be submitted can now be verified through aadhaar based electronic verification code.

Such verification needs to be mandatorily done within two days of furnishing the documents.

► A registered person registered under the Companies Act, 2013 needs to furnish the documents or application verified through digital signature certificate only.

► Each document including online return shall be signed by the individual himself or where he is absent from India, it can be signed by a person duly authorised by him in this behalf.

Valuation Rules

Value of supply of goods or services or both between distinct or related persons

► In case, goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person.

Provision is similar to one provided for transactions between principal and agent.
Determination of value in respect of certain supplies

- The purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

This could have the effect of reducing tax incidence for lending institutions.

- In case of services of money changing where the gross amount exchanged exceeds INR 10 Lakhs, the tax rate amount is increased from INR 5000 + 0.10% of amount exchanged to INR 5,500 + 0.10% of amount exchanged, subject to maximum of INR 60,000.

Value of supply of services in case of pure agent

- Conditions to be fulfilled for qualifying as pure agent is confined to 3 as compared to 8 conditions earlier prescribed.

This may widen the scope of pure agent.

Value of supply inclusive of the integrated tax, central tax, State tax, Union territory tax

- Formula to compute the tax amount is prescribed where the value of supply is inclusive of GST.

\[
\text{Tax Amount} = \left( \frac{\text{Value inclusive of tax rate} \times \text{Tax rate in } \%}{100 + \text{Sum of tax rates in } \%} \right)
\]

Input Tax Credit Rules

Documentary requirement / conditions for claiming input tax credit

- ITC can also be availed on the basis of documents prescribed under Customs Act, 1962 that are similar to Bill of Entry.

Reversal of input tax credit in case of non-payment of consideration

- The value of supplies made without consideration shall be deemed to have been paid and reversal of ITC for non-payment of consideration is not required.

- Time limit of 180 days for claiming ITC shall not apply to a claim for re-availing of any credit that had been reversed earlier.

Manner of claiming credit in special circumstances

- The amount of credit in case of supply of capital goods or plant and machinery, for the purposes of Section 18(6), shall be calculated by reducing the input tax on the said goods at the rate of five percentage points for every quarter or part thereof from the date of issue of invoice for such goods.

Manner of determination of input tax credit in respect of inputs or input services and reversal thereof

- The provisions are slightly modified to provide more clarity.

Manner of reversal of credit under special circumstances

- The details furnished for goods held in stock on appointed day, while opting for compositions scheme or cancellation of registration, shall be certified by practicing chartered accountant or cost accountant in cases where tax invoices relating to goods are not available.

- In case of supply of capital goods on which input tax credit has been paid, the amount of reversal of input tax credit shall be computed on the basis of remaining useful life in months on pro-rata basis, taking useful life as five years.

Conditions and restrictions in respect of inputs and capital goods sent to the job workers

- Semi-finished goods are included in the category of goods which can be sent to job-worker under the cover of challan issued by principal.
Earlier, only inputs and capital goods were covered.

Tax invoice, credit and debit notes Rules

► A consecutive serial number not exceeding sixteen characters, in one or multiple series shall be there on Tax invoice, Bill of supply, receipt voucher, Refund voucher, payment voucher, revised tax invoice and credit or debit notes, delivery challan.

► In case where payment is to be made on reverse charge basis, the tax invoice shall bear the signature or digital signature of recipient or his authorised representative

► In case of export of goods or services, the number and date of application for removal of goods for exports is not required to be mentioned in tax invoice.

► Any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply should be treated as bill of supply.

► In cases where at the time of receipt of advance:
  ► the rate of tax is not determinable, tax should be paid at the rate of 18%
  ► nature of supply is not determinable, it should be treated as inter-state supply.

► Particulars to be mentioned on the refund voucher and payment voucher have been introduced.

► Supplier being an insurer or a banking company or financial institution including non-banking financial company shall issue any of the following documents either physically or electronically:
  ► Tax invoice
  ► Bill of supply
  ► Payment / refund voucher
  ► Revised tax invoice
  ► Credit / Debit note
  ► Any other document

Payment Rules

► A registered person shall, upon noticing any discrepancy in his electronic cash ledger or electronic liability ledger shall communicate the same to the officer exercising jurisdiction in the matter, through the Common Portal in FORM GST PMT-04. Earlier this provision was available only w.r.t discrepancy in electronic credit ledger.

Refund Rules

► Casual taxable person and non-resident taxable person can file refund claim after adjusting tax payable out of the advance tax deposited by him (at the time of registration) in the last return. Earlier it could be filed even after furnishing of the last return.

Documents to be submitted at the time of refund claims

► Supplier claiming refund on supplies made to SEZ unit/developer is required to furnish a declaration to the effect that the SEZ unit/developer has not availed ITC of the tax paid by the supplier of goods or services or both.

► A statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply is also to be furnished at the time of claiming refund.

► Statement showing the details of the amount of claim on account of excess payment of tax is now required to be submitted at the time of refund claim.

Calculation of refund in case of inverted tax structure

► Refund of ITC on account of inverted tax structure shall be granted as per the following formula:

\[
\text{Maximum Refund} = \left( \frac{(\text{Turnover of inverted rated supply of goods}) \times \text{Net ITC}^1}{\text{Adjusted Total Turnover}} \right) - \text{tax payable on such inverted rated supply of goods}
\]

\(1\) Net ITC\(^1\) means ITC availed on inputs and input services during the relevant period

\(2\) means turnover in a State, excluding the value of exempt supplies other than zero-rated supplies.
Acknowledgment

► Acknowledgment in case of refund application of integrated tax on account of export of goods, shall be issued within a period of three days of filing of such claim as compared to earlier period of 15 days.

► A fresh refund application is required to be filed for rectifying any deficiencies communicated by the proper officer (in the original application).

Order sanctioning refund

► Where the proper officer or the Commissioner is of the opinion that the amount of refund is liable to be withheld, he shall pass an order informing the reasons for withholding of such refund.

Way forward

► Next meeting of the GST Council has been scheduled on 3 June 2017

Comments

The announcement by the GST Council signals positive developments and another key step in the direction of the July implementation. The timely release of GST rates in the public domain would help the industry in undertaking necessary changes in business processes, assessing the financial impact and framing the pricing strategy.

While the changes in Rules, addressing some of the concerns of the industry, are a positive step, there are quite a few issues that still require clarity. Transition Rules, expected to be finalized shortly, could have a significant bearing on stocking or de-stocking of goods in the coming weeks.

The provision relating to tax on advances was aimed at simplifying the nitty-gritty around taxing ad hoc advances. However, levy of IGST may give rise to further challenges, e.g., reporting of destination state and GSTIN number in the invoice.
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