

EY Tax Alert

GST Council recommends tax rate rationalization and policy changes

Tax Alerts cover significant tax news, developments and changes in legislation that affect Indian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your Ernst & Young advisor.

Executive summary

The Goods and Services Tax (GST) Council, in its 25th meeting held on 18 January 2018, has recommended policy changes and rationalization of GST rates on goods and services.

The key recommendations of the Council are as follows:

- Goods and Services under the 28%, 18% and 12% tax slabs to be moved to the lower tax slab and few services to be made exempt.
- GST rate applicable in respect of supply of old and used motor vehicle to be reduced from 28% to 18% or 12%, depending on size of the car. Compensation Cess to be exempt on such supply.
- GST rate on transportation of petroleum crude and petroleum products to be reduced from 18% to 5% without input tax credit (ITC) and 12% with ITC.
- The policy changes recommended by the GST Council include the following:
 - Reduction in late fee payable for failure to furnish various GST Returns to INR 50 per day (INR 20 per day for nil returns)
 - Extension of time-limit for cancellation of registration by migrating tax payers and new tax payers.

Notifications to be issued in this regard will be effective from 25 January 2018.

Background and facts

- The 25th meeting of the Goods and Services Tax (GST) Council was held on 18 January 2018.
- Council has recommended certain Policy changes and relief measures through rationalization of tax rates and exemptions.
- Council has also recommended issuance of clarification relating to taxability and rates of certain goods and services.
- Government has issued the Press Release listing the recommendations of the GST Council.
- Notifications to be issued in this regard will be effective from 25 January 2018.

Key Recommendations

Reduction in GST rate of goods

- Tax rate on supply of old and used motor vehicles, on margin of the supplier, to be reduced from 28% to 18% (in case of medium and large cars and SUVs) and 12% (in other cases) subject to the condition that no Input tax credit (ITC) of central Excise duty/ VAT or GST paid on such vehicles has been availed by the supplier.
Such motor vehicles to be also exempt from the levy of Compensation Cess.
- Tax rate on buses, for use in public transport, which exclusively run on bio-fuels to be reduced from 28% to 18%.
- Tax rate on velvet fabric to be reduced from 12% to 5% with no refund of unutilized Input tax credit (ITC).
- Tax rate on diamonds and precious stones to be reduced from 3% to 0.25%.
- Motor vehicles cleared as ambulance to be exempt from Compensation Cess subject to the specified conditions.
- To provide more clarity, the Council also recommended changes in definitions and clarifications in respect of tax rate on certain goods.

Services to be exempt from GST

Services to be exempted from GST includes:

- Supply of services by way of providing information under Right to Information Act, 2005.
- Legal services provided to Government, Local Authority and Government Entity.
- Reinsurance services in respect of certain exempted

insurance schemes.

- Subscription of online educational journals/ periodicals by educational institutions who provide degree recognized by any law.
- Service by way of transportation of goods from India to a place outside India by air. The exemption may be granted with sunset clause upto 30 September 2018.
- Service by way of transportation of goods from India to a place outside India by sea. Also, the value of such service may be excluded from the value of exempted services for the purpose of reversal of ITC. The exemption may be granted with a sunset clause upto 30 September 2018.
- Exemption granted from payment of IGST on royalty and license fee under the category of import of services to the extent the same is included in the value of goods imported and IGST is paid on such imported goods.
- Exemption limit to be raised from INR 5,000 to INR 7,500 per month per member in respect of services provided by Resident Welfare Association to its members against their individual contribution.
- Pure services exemption on services provided to Government to be extended to services provided to Government entities also. Further, pure services to include composite supply involving predominantly supply of services i.e. composite supply involving supply of goods of not more than 25%.
- Supply of land by way of lease or sub-lease where such supply is part of specified composite supply of construction of flat etc.

Reduction in GST rate from 18% to 12% on services:

The tax rate on following services to be reduced from 18% to 12%:

- On construction of metro and monorail projects (construction, erection, commissioning or installation of original works)
- Common Effluent Treatment Plants services, for treatment of effluents.
- Mining or exploration services of petroleum crude and natural gas and for drilling services in respect of the said goods.
- Construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of building used for providing mid-day meal scheme by an entity registered under section 12AA of Income Tax Act.

Reduction in GST rate from 18% to 5% on services:

The tax rate on following services to be reduced from 18% to 5%:

- Services by small housekeeping service providers, who provide housekeeping service through e-commerce. ITC will not be available in such cases.

- Tailoring services

Others:

- GST rate on service by way of admission to theme parks, water parks, etc. to be reduced from 28% to 18%.
- GST rate on transportation of petroleum crude and petroleum products to be reduced from 18% to 5% without ITC and 12% with ITC eligibility.
- GST rate on job work services for manufacture of leather goods and footwear to be reduced to 5%.
- Time charter service to be taxed at 5%, i.e. at the same rate applicable to voyage charter or bare boat charter, with the same conditions.
- Works Contract services provided by sub-contractor to be taxed at the same rate as applicable to the main contractor.
- Renting of immovable property by Government to a registered person to be taxed under Reverse Charge Mechanism (RCM).
- To allow ITC of input services in same line of business at 5% GST rate in case of Tour operator service.
- Actionable claim in the form of chance to win in betting and gambling including horse racing to be added in GST rate schedule of goods @ 28%.
- Value of exempt supply not to include the value of deposits, loans or advances on which interest or discount is earned. This will not apply to a banking company and a financial institution including NBFC.

Clarification on taxability and rate of tax:

- Exemption of INR 1000/- per day or equivalent (declared tariff) is available in respect of accommodation service in hostels.
- Leasing or rental services, with or without operator, of goods, attracts GST as applicable to supply of like goods involving transfer of title in said goods. Thus, GST on rental of self-propelled Access equipment to be 28%.
- Healthcare services:
 - Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which is exempt. Similarly, healthcare services provided by hospitals to the patients is exempt.
 - Food supplied to the in-patients as advised by doctor/ nutritionists is a part of composite supply of healthcare service and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors is taxable.

Policy changes

- Late fee payable for failure to furnish Form GSTR-1, GSTR-5 or GSTR-5A to be reduced to INR 50 per day (INR 20 per day for Nil returns).
- Late fee payable for failure to furnish Form GSTR-6

shall be INR 50 per day.

- Taxable persons who have obtained voluntarily registration will now be permitted to apply for cancellation of registration even before the expiry of one year from the effective date of registration.
- For migrated tax-payers, the last date for filing Form GST REG-29 for cancellation of registration is being extended by further three months till 31 March 2018.
- The facility for generation, modification and cancellation of e-way bills is being provided on trial basis on the portal ewaybill.nic.in. Once fully operational, the e-way bill system will start functioning on the portal ewaybillgst.gov.in.
- Certain modifications are being made to the e-way bill rules.

Comments

Government's effort in rationalising GST rates for different products and services has been commendable. It will significantly help the industry and the end consumers.

Some of the key discussion during the Council meeting involving simplification of the return filing, invoice matching process and the tax on reverse charge under composition scheme, once finalised and implemented would be crucial, addressing not only the issues of compliances faced by the taxpayer but also eliminate possible tax leakages.

Council's emphasis on operationalization of e-way bill system, though may create a trail of movement and act as a deterrent, fallout of its implementation could be worrisome.

Our offices

Ahmedabad

2nd floor, Shivalik Ishaan Near C.N.
Vidhyalaya Ambawadi
Ahmedabad - 380 015
Tel: + 91 79 6608 3800
Fax: + 91 79 6608 3900

Bengaluru

6th, 12th & 13th floor "UB City",
Canberra Block No.24 Vittal Mallya
Road Bengaluru - 560 001
Tel: + 91 80 4027 5000
+ 91 80 6727 5000
+ 91 80 2224 0696
Fax: + 91 80 2210 6000

Ground Floor, 'A' wing Divyasree Chambers

11, O'Shaughnessy Road Langford
Gardens Bengaluru - 560 025
Tel: + 91 80 6727 5000
Fax: + 91 80 2222 9914

Chandigarh

1st Floor, SCO: 166-167 Sector 9-C,
Madhya Marg Chandigarh - 160 009
Tel: + 91 172 331 7800
Fax: + 91 172 331 7888

Chennai

Tidel Park, 6th & 7th Floor
A Block (Module 601,701-702) No.4,
Rajiv Gandhi Salai Taramani, Chennai -
600 113
Tel: + 91 44 6654 8100
Fax: + 91 44 2254 0120

Delhi NCR

Golf View Corporate Tower B Sector 42,
Sector Road Gurgaon - 122 002
Tel: + 91 124 464 4000
Fax: + 91 124 464 4050

3rd & 6th Floor, Worldmark-1 IGI Airport Hospitality District Aerocity, New Delhi - 110 037

Tel: + 91 11 6671 8000
Fax + 91 11 6671 9999

4th & 5th Floor, Plot No 2B

Tower 2, Sector 126
NOIDA - 201 304
Gautam Budh Nagar, U.P.
Tel: + 91 120 671 7000
Fax: + 91 120 671 7171

Hyderabad

Oval Office, 18, iLabs Centre Hitech
City, Madhapur Hyderabad - 500 081
Tel: + 91 40 6736 2000
Fax: + 91 40 6736 2200

Jamshedpur

1st Floor, Shantiniketan Building
Holding No. 1, SB Shop Area Bistupur,
Jamshedpur - 831 001
Tel: + 91 657 663 1000
BSNL: + 91 657 223 0441

Kochi

9th Floor, ABAD Nucleus
NH-49, Maradu PO
Kochi - 682 304
Tel: + 91 484 304 4000
Fax: + 91 484 270 5393

Kolkata

22 Camac Street 3rd
Floor, Block 'C' Kolkata -
700 016
Tel: + 91 33 6615 3400
Fax: + 91 33 2281 7750

Mumbai

14th Floor, The Ruby
29 Senapati Bapat Marg Dadar
(W), Mumbai - 400 028
Tel: + 91 22 6192 0000
Fax: + 91 22 6192 1000

5th Floor, Block B-2 Nirlon Knowledge Park Off. Western Express Highway Goregaon (E)

Mumbai - 400 063
Tel: + 91 22 6192 0000
Fax: + 91 22 6192 3000

Pune

C-401, 4th floor Panchshil
Tech Park Yerwada
(Near Don Bosco School)
Pune - 411 006
Tel: + 91 20 6603 6000
Fax: + 91 20 6601 5900

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