

EY Tax Alert

GST Council recommends reduction in tax rates and extends due date of annual return and reconciliation statement

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 EY advisor.

Executive summary

The 31st meeting of Goods and Services Tax (GST) Council was held on 22 December 2018 in New Delhi. The key recommendations made by the Council are summarized below:

- ▶ GST rate reduced in case of various items of goods and services.
- ▶ The due date of filing annual return and reconciliation statement is further extended till 30 June 2019.
- ▶ Taxpayers can avail Input Tax Credit with respect to invoices of FY 2017-18 till due date of filing GSTR-3B for the month of March 2019.
- ▶ Creation of a Centralised Appellate Authority for Advance Ruling to deal with cases of conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue.
- ▶ To amend CGST Act to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit.
- ▶ The GST Amendment Act to become effective from 1 February 2019.
- ▶ The new return filing system to be introduced on a trial basis from 1 April 2019 and to be made finally effective from 1 July 2019.

Source: Press Information Bureau

Background

- ▶ The GST Council held its 31st meeting on 22 December 2018 in New Delhi.
- ▶ Various recommendations were made for reduction of tax rates, issuing clarifications, extending due dates and ease in compliance measures.

Key Recommendations

The key recommendations proposed by GST council are as follows:

Reduction and Clarifications w.r.t. GST rates

- ▶ The Council proposed reduction in tax rates of various goods and services, some of which are given below:
 - ▶ Tax rate on monitors and televisions of up to screen size of 32 inches, power bank and digital cameras to be reduced from 28% to 18%.
 - ▶ Tax rate on parts and accessories for the carriages for disabled persons to be reduced from 28% to 5%.
 - ▶ Tax rate on music books to be reduced from 12% to Nil.
 - ▶ Tax rate on third party insurance premium of goods carrying vehicles to be reduced from 18% to 12%.
 - ▶ GST rate on cinema tickets above INR 100 to be reduced from 28% to 18% and on cinema tickets up to INR 100 from 18% to 12%.
 - ▶ Services provided by GTA (Goods Transport Agencies) to Government departments/local authorities which have taken registration only for the purpose of deducting tax, to be excluded from payment of tax under reverse charge and the same shall be exempted.
- ▶ Key clarifications recommended for removing ambiguity with respect to applicability of tax rates are as follows:
 - ▶ With effect from 31 January 2018, degrees/ diploma awarded by Indian Institute of Management (IIM) under IIM Act, 2017 to be exempt from GST.
 - ▶ The scope of entry for multi-modal transport with 12% GST, inserted with effect from 26 July 2018, covers only transport of goods from a place in India to another place in India, i.e., only domestic multi-modal transport.
 - ▶ The nature of business establishment making supply of food, drinks and other articles of human consumption will not determine whether such supply is a supply of goods or services. It will rather depend on constituents of each individual supply and whether same satisfies the conditions of a composite supply or mixed supply.
 - ▶ The banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via business facilitator or the business correspondent.

- ▶ Certain rationalization measures recommended are as under:
 - ▶ Parliament and State legislatures shall be extended the same tax treatment with regard to payment of tax under reverse charge as available to Central and State Governments.
 - ▶ Services of unregistered Business Facilitator (BF) to a bank and agent of Business correspondent (BC) to a BC shall be brought under reverse charge.
- ▶ On tax rate applicable on solar power generating plant and other renewable energy plants, the Council has recommended that in all such cases, 70% of the gross value of EPC contract shall be deemed to be the value of supply of goods attracting 5% rate and the remaining portion (30%) shall be deemed as the value of supply of taxable service attracting standard GST rate.
- ▶ Though PIB is silent on the effective date of change in tax rates, as per the media reports the date from which the revised rates will be effective is 1 January 2019. The notifications in this regard are awaited.

Input tax credit

- ▶ Taxpayers may avail ITC in relation to invoices issued by the supplier during FY 2017-18 till due date of furnishing of GSTR-3B for the month of March 2019, subject to specified conditions.

Compliance

- ▶ Due dates of the following GST forms are proposed to be extended:

Form	Period	Revised Due date
Annual return (GSTR-9 / 9A) and Reconciliation statement (GSTR-9C)	FY 2017-18	30 June 2019
GSTR-8	Oct to Dec 2018	31 Jan 2019
GST ITC-04	Jul 2017 to Dec 2018	31 Mar 2019

- ▶ Late fees shall be waived for all the taxpayers in case GSTR-1, GSTR-3B and GSTR-4 for the months/ quarters July 2017 to September 2018, are furnished after 22 December 2018 but on or before 31 March 2019.
- ▶ Following clarificatory changes shall be incorporated in the formats/ instructions for the annual return and reconciliation statement:
 - ▶ Amendment of headings in the forms so as to specify that the annual return would be in respect of supplies etc. 'made during the year' and not 'as declared in returns filed during the year'.
 - ▶ All returns in GSTR-1 and GSTR-3B or GSTR-4 have to be filed before filing annual return and reconciliation statement;

- ▶ HSN code may be declared only for those inward supplies whose value independently accounts for 10% or more of the total value of inward supplies;
 - ▶ Additional payments, if required, can be made through GST DRC-03 only in cash;
 - ▶ Input tax credit (ITC) cannot be availed through GSTR-9 and GSTR-9C;
 - ▶ Value of "Non-GST supply" shall also include the value of "no supply" and may be reported in Table 5D, 5E and 5F of GSTR-9;
 - ▶ Taxpayer uploading reconciliation statement in Form GSTR-9C, would also need to verify the same.
- ▶ The following are the recommendations with respect to refund filing procedure:
- ▶ All the supporting documents/invoices in relation to a claim for refund in GST RFD-01A shall be uploaded on the common portal at the time of filing the refund application. GSTN will enable this functionality on the common portal shortly.
 - ▶ The following types of refunds shall also be made available through FORM GST RFD-01A:
 - i. Refund on account of Assessment/Provisional Assessment/Appeal/Any Other Order;
 - ii. Tax paid on the intra-State supply and subsequently held to be inter-State supply and vice-versa;
 - iii. Excess payment of Tax; and
 - iv. Any other refund.
 - ▶ Scheme of single authority for disbursement of the refund amount sanctioned by either the Centre or the State tax authorities would be implemented on pilot basis. The modalities for the same shall be finalized shortly.
 - ▶ There would be a single cash ledger for each tax head.
 - ▶ The new return filing system shall be introduced on a trial basis from 1 April 2019 and on a mandatory basis from 1 July 2019.
 - ▶ Taxpayers who have not filed the returns for two consecutive tax periods shall be restricted from generating e-way bills. This provision shall be made effective once GSTN/NIC make available the required functionality.
 - ▶ One more window for completion of migration process is being allowed -

For the taxpayers who did not file the complete GST REG-26 but received only a Provisional ID till 31 December 2017, the due date for furnishing the requisite details to the jurisdictional nodal officer shall be extended till 31 January 2019.

Also, for such taxpayers, the due date for furnishing GSTR-3B and GSTR-1 for the period July 2017 to February 2019 or quarters July 2017 to December 2018 shall be extended till 31 March 2019.

Amendments under GST Law

- ▶ The GST Council gave in-principle approval for following amendments in the GST Act:
 - ▶ Creation of a Centralised Appellate Authority for Advance Ruling (AAAR) to deal with cases of conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue.
 - ▶ Amendment of section 50 of the CGST Act to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the admissible ITC.

Way Forward

- ▶ Clarifications shall be issued on certain refund related matters like refund of ITC accumulated on account of inverted duty structure, disbursement of refunds within the stipulated time, time allowed for availment of ITC on invoices, refund of accumulated ITC of compensation cess etc.
- ▶ Changes made by CGST (Amendment) Act, 2018, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and GST (Compensation to States) Amendment Act, 2018 and the corresponding changes in SGST Acts would be notified effective 1 February 2019.
- ▶ A seven-member Group of Ministers (GoM) will be formed to study the revenue trend, including analysing the reasons for structural patterns affecting the revenue collection in some of the States.
- ▶ Further, the following issues will be referred to the committees or GoM and will be considered by the Council in its next meeting:
 - ▶ Extending the Composition scheme to small service providers - the rate of tax and threshold limits to be proposed
 - ▶ Tax rate on lotteries
 - ▶ Taxation of residential property in real estate sector
 - ▶ Threshold limit of exemption under GST regime

Comments

The reduction in tax rates of various goods and services is a welcome move. Considering the anti-profiteering provisions in the law, industry may need to prepare for passing on the benefit of such reduction in tax rate to the consumer.

Extending due dates, especially for filing of annual return and reconciliation statement duly certified, might provide significant relief to taxpayers on compliance front.

While the anomaly which had arisen basis the interpretation of provisions of law on claim of ITC pertaining to FY 17-18 invoices continues, Council's recommendation to extend the time limit would provide much sought after relief to the taxpayer. It would be interesting to see how Government aligns such recommendation with the provisions of the law.

Waiving of late fees for GSTR-1, GSTR-3B and GSTR-4 pertaining to period July 2017 to September 2018 may help in increasing the compliance level.

Some of the pain points of the industry like taxability of back-office services, free supplies and few others were not considered in this meeting of GST Council. It is expected that the Council may soon take a decision and provide clarity on these matters.

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