

# EY Tax Alert

## CBIC issues Note on new simplified returns under GST

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### Executive summary

This Tax Alert summarizes the Note on Simplified Returns and Return Formats (July 2018) issued by the Central Board of Indirect Taxes and Customs (CBIC).

The key features of the new Goods and Services Tax (GST) returns as approved by the GST Council in its 28<sup>th</sup> meeting held on 21 July 2018 are:

- ▶ All taxpayers, with a few exceptions, will file one monthly return with the due date being 20<sup>th</sup> of the next month for large taxpayers.
- ▶ Invoices can be continuously uploaded by the supplier anytime during the month which shall be visible to the recipient. Such uploaded invoice would be the valid document for availing input tax credit (ITC) by the recipient.
- ▶ The recipient will be able to claim ITC on inward supplies of goods/services which have been received before filing of return if the invoice for the same has been uploaded by the supplier, on or before 10<sup>th</sup> of next month.
- ▶ Taxpayers will have the facility of filing an amendment return twice for any tax period.
- ▶ Small taxpayers having a turnover up to INR5 Crore in the preceding financial year shall have an option to file quarterly return with monthly payment of taxes.

## Background

- ▶ The Goods and Services Tax (GST) Council, in its 27th meeting held on 4 May 2018, had approved the basic principles of GST return design.
- ▶ In the 28th meeting, held on 21 July 2018, the Council has approved the key features and new formats of GST Returns.
- ▶ Central Board of Indirect Taxes and Customs (CBIC) has issued the Note on Simplified Returns and Return Formats (July, 2018) which contains key features of monthly and quarterly returns along with the formats of the various returns under GST.

## Key features of monthly return

### Monthly Return and due date

- ▶ All taxpayers, with a few exceptions, will file one monthly return.
- ▶ The exceptions to the above are small taxpayers who have opted for quarterly return filing, composition dealer, Input Service Distributor (ISD), non-resident registered person, persons liable to deduct tax at source under Section 51 of Central Goods and Services Tax (CGST) Act, 2017, persons liable to collect tax at source under section 52 of CGST Act, 2017.
- ▶ Return filing dates will be staggered depending on the turnover of the taxpayer. It shall be calculated based on the reported turnover in 2017-18, annualized for the full year.
- ▶ The due date for filing of return by a large taxpayer shall be 20th of the next month.

### Continuous uploading and viewing

- ▶ A facility would be provided for continuous uploading of invoices by the supplier anytime during the month which shall be visible to the recipient also on a continuous basis.
- ▶ Such an uploaded invoice only would be the valid document for availing input tax credit.
- ▶ The recipient shall be able to view the status of filing of return by the supplier after its due date. This will enable the recipient to be aware whether the tax liability on purchases made by him has been discharged by the supplier.

### Due date for uploading invoices and ITC availment

- ▶ Taxes payable on invoices uploaded by the supplier by 10<sup>th</sup> of next month can be availed as ITC and shall be posted in the relevant field of the ITC table of the recipient's return by 11<sup>th</sup> of the said month.

- ▶ Invoices uploaded after 10<sup>th</sup> of next month by the supplier would be included in supplier's return for the relevant month and the tax liability shall be discharged accordingly. However, the same would be reflected in the recipient's ITC table in the subsequent month.
- ▶ Tax paid on inward supplies received after 1st but before 20th become eligible for availing ITC. However, it is subject to the condition that the invoice for the same is issued in the relevant month and uploaded by the supplier by 10<sup>th</sup> of next month.
- ▶ Currently a recipient is eligible for ITC on goods/services received only during the relevant month.
- ▶ During the transition phase of six months after the implementation of the new filing system, the recipient would be able to avail ITC on self-declaration basis even in respect of invoices not uploaded by the supplier within the prescribed time, using the facility of availing ITC on missing invoices.

### Invoice uploaded but return not filed

- ▶ If the return is not filed by the supplier after uploading the invoices, it shall be treated as self-admitted liability by the supplier and recovery proceedings shall be initiated against the said supplier after allowing a reasonable time to file the return and pay tax.

### Missing invoice reporting

- ▶ Invoices or debit notes on which recipient has availed ITC but the same have not been uploaded by the supplier shall be termed "missing invoices".
- ▶ If ITC is availed on such missing invoices by the recipient and the missing invoices are not uploaded by the supplier within the prescribed time period, then such ITC availed shall be recovered from the recipient.
- ▶ Missing invoices shall be reported by the supplier in the main return for any tax period with interest or penalty as applicable.
- ▶ Information about missing invoice uploaded by the recipient shall be made available to the supplier.
- ▶ Reporting of missing invoices by recipient can be deferred up to two tax periods to allow recipient to follow up and get the missing invoice uploaded from the supplier.
- ▶ Taxpayers filing quarterly returns shall report missing invoices in the next quarter.

### Recovery of input tax credit

- ▶ There shall not be any automatic reversal of input tax credit in the hands of recipient where tax has not been paid by the supplier.

- ▶ In case of default in payment of tax by the supplier, recovery shall be first made from the supplier subject to exceptional circumstances such as missing taxpayer, connivance between recipient and the supplier etc. where the recovery of ITC from the recipient shall be made through a due process of service of notice and issue of order.

### Locking of Invoices

- ▶ Locking of invoices can be said to resemble a handshake between the recipient and supplier indicating acceptance of the transaction reported in the invoice.
- ▶ Facility for locking of invoices by the recipient shall be available before filing of return.
- ▶ In cases of large number of invoices, deemed locking of invoices shall be presumed on the uploaded invoices other than for invoices rejected or kept pending by the recipient.
- ▶ A wrongly locked invoice shall be unlocked online by the recipient himself subject to reversal of ITC and online confirmation thereof.

### Rejected invoices

- ▶ If the supplier files an incorrect GSTIN of a recipient, such invoice would appear on the viewing facility of another taxpayer who is not the recipient of such supplies and therefore ITC will not be admissible to him. The recipient shall report such invoices as rejected invoices.

### Amendment of invoice

- ▶ Amendment of an invoice may be carried out by the supplier in case of an unlocked invoice where ITC has not been availed.
- ▶ Once an invoice is locked by the recipient, amendment will be allowed only through a credit note or debit note issued by the supplier to change value, rate of tax, quantity or the tax payable.
- ▶ If a credit note is issued on a locked invoice (on which ITC has already been availed) then the reduction in liability of supplier shall be subject to reduction in ITC by the recipient.

### Amendment of return

- ▶ The facility of filing an amendment return will be provided to the taxpayers to address human errors that may have crept in.
- ▶ There would be a facility to file two amendment returns for each tax period within the time period specified in Section 39(9) of the CGST Act, 2017.
- ▶ The above time period as per Section 39(9) will be the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return,

whichever is earlier.

- ▶ Liability will be allowed to be paid along with filing of the amendment return. ITC can also be used for payment of the liability in the amendment return.
- ▶ If there is a change in liability of more than 10% through the amendment return, a higher late fee may be prescribed to ensure that reporting is appropriate in the regular return.

### Exports

- ▶ The taxpayer can file the details of shipping bill (in the table of export of goods in the return) either at the time of filing return or after filing of return.
- ▶ Once the information of shipping bill is completed, the entire data shall be transmitted to the ICEGATE (IT system of Customs administration).
- ▶ ITC on imports or Special Economic Zone (SEZ) supplies shall be availed on self-declaration basis till data starts flowing online from ICEGATE or SEZ online in the ITC table of the return.

### Supply side control

- ▶ For a newly registered taxpayer and a taxpayer who has defaulted in payment of tax beyond a time period and/or above a threshold, uploading of invoices shall be allowed only up to a threshold amount or only after the default in payment of tax is made good, respectively.
- ▶ If the conditions are not satisfied due to default in payment of tax by the supplier, the invoice of such supplier shall not be populated in the viewing facility of the recipient and consequently, the recipient would not be able to avail ITC on such invoices till such default for the past period is made good by the supplier.

### HSN Code

- ▶ All taxpayers except certain classes specified separately shall report at least four digit HSN code.
- ▶ Exporters, importers, suppliers making supplies which are treated as deemed export and suppliers making supplies to SEZ units and SEZ developers shall report HSN code at least at four digit level irrespective of turnover during the preceding financial year.
- ▶ HSN code for services shall be reported at six digit level irrespective of the turnover during the preceding financial year.

### Other miscellaneous features

- ▶ Tax amount shall be computed by system based on taxable value and tax rate. The tax amount so computed will not be editable except in case of credit/debit notes issued.

- ▶ Reverse charge supplies will be reported only by recipient and not by supplier. Such supplies shall be reported GSTIN wise (wherever applicable) and net of credit and debit notes.
- ▶ If there is any reporting issue of credit / debit notes only due to difference in the tax rate (no difference in taxable value) then such tax amount only needs to be reported. The taxable value of the credit or debit note will be reported as 'zero'.
- ▶ All supplies specified in Schedule III of CGST Act shall be reported under 'No supply' in the main return. It will include high sea sale and bonded warehouse sale also.
- ▶ Place of supply shall have to be reported mandatorily for all supplies.
- ▶ Supplies made through e-commerce portal maintained by other operators shall be reported at consolidated level.

## Key features of returns of small taxpayers

- ▶ Small taxpayers having a turnover upto INR5 Crore in the last financial year shall have an option to file quarterly return with monthly payment of taxes on self-declaration basis.
- ▶ The small taxpayer can also file monthly return like a large taxpayer.
- ▶ Two simplified quarterly returns 'Sahaj' (only B2C outward supplies) and 'Sugam' (both B2B and B2C outward supplies) are proposed for small taxpayers having purchases and sales in the domestic market.
- ▶ Small taxpayers would continue to pay taxes on monthly basis using a payment declaration form, where tax liability and ITC will be self-declared, to make the payment.
- ▶ The payment declaration form shall only allow full payment of the liability arising out of uploaded invoices.
- ▶ Late payment of tax liability including that in first and second month of the quarter shall attract interest liability.
- ▶ Taxpayers who do not have any purchases, any ITC and any output tax liability in any quarter of the financial year shall file one NIL return for the entire quarter.
- ▶ In month one and two of the quarter, such taxpayer shall report NIL transaction by sending a SMS. Facility for filing quarterly return shall also be available by an SMS.
- ▶ HSN wise details are also required to be provided at 4 digit level or more in the quarterly return.

## Comments

Government's move to reduce number of returns under GST is expected to bring relief to tax payers in the overall compliance process. However, the uploading of invoices on continuous basis and tracking purchase receipts with sales, for claiming ITC, could give rise to operational issues which will need to be seen once the new system is in place.

Allowing the utilization of ITC against the current month's tax liability if invoices pertaining to current month are uploaded in the system by 10<sup>th</sup> of a month, even if goods or services are received by 20<sup>th</sup> of succeeding month, could favorably impact the working capital of the business.

Reporting of credit or debit notes in the returns due to rate change, without affecting the taxable value, will facilitate smooth compliance as in the absence of such facility, the supplier had to cancel the old invoice and raise a new invoice with revised tax rate to meet the reporting requirement.

While supply side control seems to be a preventive measure against tax evasion, it may cause operational difficulties for recipients to claim ITC, thereby impacting their working capital.

Though the law restricts the recipient from claiming ITC if the supplier has not filed the return and paid tax, it was becoming difficult for the recipient to meet this requirement. The new process enabling the recipient to know the return filing status of the supplier may make compliance easier.

The provision of amendment return will not only help taxpayers to save interest on tax by effecting early revision but also facilitate reporting of the transactions in the tax period to which they relate.

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