



***GST  
NEWSLETTER  
JANUARY  
2019***

**VINAY & KESHAVA LLP**  
CHARTERED ACCOUNTANTS



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## ARTICLES

### Reverse Charge on Security Services

RCM has been applicable on various goods & services and the most common are GTA and Advocate's services. But in the recent 31st GST Council meeting which concluded on 22nd December 2018 another service has been brought into the RCM net; Supply of Security Services.

### Relevant Notification

- Vide Notification number 29/2018 - Central Tax (Rate) dt 31st December 2018, the following was notified with effect from 1st January 2019:
- Security services (services provided by way of supply of security personnel) provided to a registered person:
- Provided that nothing contained in this entry shall apply to, -
- (i)
  - (a) a Department or Establishment of the Central Government or State Government or Union territory; or
  - (b) local authority; or
  - (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act (TDS of GST) and not for making a taxable supply of goods or services; or

- (ii) a registered person paying tax under section 10 of the said Act (Composition Dealer).

**NOTE:**

- **Supplier of Service:**  
The Supplier of the security service being 'Any person other than a body corporate'
- **Recipient of Services:**  
And, the recipient of service being 'A registered person, located in the taxable territory'.

**What is a Security Service?**

- The meaning of Security Service is not defined under the GST Acts but the notification clarifies that the Security Service only relates to Supply of Security Personnel only. Hence it can be understood to be 'Manpower Supply' being Security Personnel such as Guards, Watchmen, and Patrolmen etc.
- In case of manpower supply being laborers, workers, house-keeping staff etc. then no GST will be applicable on them as they are not considered as Security Personnel.

**Who are required to pay GST under RCM method?**

Any person REGISTERED under GST is liable to pay GST under RCM method.

However, the RCM on security services are not applicable for everybody and the following registered persons are not required to pay GST under RCM.

- Government Agencies who are registered for GST ONLY for the purpose of deducting tax at source (TDS), and
- Dealers who are registered as Composition dealer u/s 10 of the CGST Act, 2017 & KGST Act, 2017.

**When Is It required to pay GST under RCM method?**

When a registered person receives any Security Service being a manpower supply of security personnel from a supplier who is NOT a body corporate.

Hence, if a security service is received by any person such as an Individual, Partnership firm, HUF, an Association of persons or Body of Individuals then such supply shall be subject to RCM.

**Examples**

**Ex 1:** Security service received from a person employed by the recipient:

A, a business owner employs a Security guard for salary of Rs. 20,000 p.m. to guard his property. GST RCM is not applicable here as the security guard is an employee and employer-employee transactions are not Supply as per Schedule III of the CGST Act, 2017.

**Ex 2:** Security service received from a partnership firm or proprietorship by the recipient:

A, a business owner enters into a contract with XZ Security services, a partnership firm for supply of Security guards for his business premises. GST RCM is applicable here as the security guards are hired from a Partnership firm. The GST rate is 18% for every transaction.

## Compliance Requirements

### For Recipients of the Security Service:

1. Confirm if the provider of the Security service is a Body Corporate or not.
2. In case of Body corporate, then RCM is not applicable
3. In case of others, then RCM will be payable on the value of the Security service only at the rate of 18%.
4. Create a serially numbered Self-Invoice for the RCM and disclose the same in GSTR 1.

### For Providers of the Security:

1. In case of Body Corporates, then GST will be applicable for the supply of the security services.
2. In case of others, then GST will be applicable on all other services except for Supply of Security guards.
3. A Tax invoice with GST will be issued for supply of manpower services other than security guards and Tax Invoice without GST will be issued for the supply of security guards.

## Consequences of Not Complying With RCM Provision:

S. No	Event	Consequence
1.	RCM not paid	Interest to be paid along with the RCM amount at the rate of 18% p.a.
2.	Self-invoicing of RCM not raised	Then ITC of the RCM paid will not be eligible to be claimed and if claimed then Interest at 24% p.a. has to be paid.

## Rectification of Errors & Availment OF ITC OF FY 2017-18 till March 2019

1. As it was well aware, the ITC of FY 2017-18 could not be claimed by a registered person beyond the September 2018 GSTR 3B return (if filed by October 25th 2018). This had resulted in big losses to business as they had to forego huge amount of ITC which were not claimed before the due date.
2. However, in the Removal of Difficulties Order no. 02/2018-Central Tax dt 31st December 2018, the Central Board of Indirect tax & Customs has confirmed that:
  - a. ITC of FY 2017-18 can be taken till filing of March 2019 GSTR 3B return i.e. till April 20th 2019.
  - b. In case of any errors or omissions in the GST returns of FY 2017-18, then the same can be rectified till filing of March 2019 GSTR 1 & 3B return i.e. till April 20th 2019.

## CASE LAWS

### 1. Advance Ruling on compensation paid to tenant for vacating the house.

The Applicant Zaver Shankarlal Bhanushali from Mumbai was a tenant in a building premises and for which the owner was M/s Future Communication Ltd. The owner entered into the agreement for redevelopment of the said premises with M/s Spenta Residency Pvt Ltd, a developer. For the sake of redevelopment of the premises the applicant had to vacate the premises. In this process the applicant had agreed to vacate the premises on certain conditions stating that the tenant shall continue to pay the owner the rent at the rate of Rs.5000 per month for the old premises. However, for vacating the premises the applicant makes their own arrangement for temporary alternate accommodation and the owner or developer shall pay the applicant the rent/compensation at the rate of Rs. 2,05,000 per month. The applicant has applied for advance ruling on whether the GST applicable on the compensation for alternative accommodation to be paid by the developer or owner or whether the GST is applicable on the compensation for alternate accommodation or damages for delayed handover of possession of the new premises to be paid by the owner or developer.

Law: As per Clause 5(e) schedule II OF CGST Act "Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act" is a Supply and GST is applicable.

Ruling: The AAR held that GST will be applicable on the compensation for alternate accommodation received by them and GST is also applicable on the compensation for alternate accommodation or damages for delayed handover of possession of the new premises received by them. The same is not considered as rent from property.

### 2. Advance ruling on Job work classification for supply of input goods

The applicant M/s JSW Energy Ltd, Mumbai (JEL) is engaged in the business of generation of power. JSW STEEL LTD (JSL) is engaged in manufacture of steel. JSL requires continuous power to manufacture the steel and so proposed to enter into the agreement with the applicant as follows and has sought an advance ruling on the applicability of GST on:

- a) Supply of coal or any other inputs on a job work basis by JSL to JEL
- b) Supply of power by JEL to JSL.
- c) Job work charges payable to JEL to JSL.

Law: As per Section 2(68) of the CGST Act, 2017 "job work" means any treatment or process undertaken by a person on goods belonging to another registered person.

As per Section 7 (1) of the CGST Act, 2017 Supply includes – (a) of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business; and also

As per Section 2(72) "manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use.

Ruling:

- a).The AAR indirectly stated that such a supply is not a job work.
- b) Supply of power by JEL to JSL is a supply under GST and subject to tax.
- c) There is not Job work involved and hence no job work charges are applicable.

• **NOTIFICATIONS AND CIRCULARS FOR THE PERIOD OF DECEMBER 2019**

- **Thirteen Central Tax Notification**
- **Seven central tax rate Notification**
- **Three Removal of Difficulties Orders**
- **One integrated tax notification**
- **Seven integrated tax rate notification**
- **Seven union tax rate notification**
- **Seven circulars issued.**

Sl.No	Subject	Notifications/Circulars No. Date Of Issue
1	Seeks to amend notification No. 2/2017 - Central Taxes dated 19.06.2017	79/2018-Central Tax, dt. 31-12-2018
2	Seeks to extend the due date for furnishing FORM ITC-04 for the period from July, 2017 to December, 2018 till 31.03.2019.	78/2018-Central Tax, dt. 31-12-2018
3	Seeks to fully waive the amount of late fees leviable on account of delayed furnishing of FORM GSTR-4 for the period July, 2017 to September, 2018	77/2018-Central Tax, dt. 31-12-2018
4	Seeks to specify the late fee payable for delayed filing of FORM GSTR-3B and fully waive the amount of late fees leviable on account of delayed furnishing of FORM GSTR-3B for the period July, 2017 to September, 2018 in specified cases	76/2018-Central Tax, dt. 31-12-2018
5	Seeks to fully waive the amount of late fees leviable on account of delayed furnishing of FORM GSTR-1 for the period July, 2017 to September, 2018 in specified cases.	75/2018-Central Tax, dt. 31-12-2018
6	Fourteenth amendment to the CGST Rules, 2017.	74/2018-Central Tax, dt. 31-12-2018
7	Seeks to exempt supplies made by Government Departments and PSUs to other Government Departments and vice-versa from TDS	73/2018-Central Tax, dt. 31-12-2018
8	Seeks to extend the time limit for furnishing the details of outward supplies in FORM GSTR-1 for the newly migrated taxpayers	72/2018-Central Tax, dt. 31-12-2018
9	Seeks to extend the time limit for furnishing the details of outward supplies in FORM GSTR-1 for the newly migrated taxpayers	71/2018-Central Tax, dt. 31-12-2018
10	Seeks to extend the time limit for furnishing the return in FORM GSTR-3B for the newly migrated taxpayers	70/2018-Central Tax, dt. 31-12-2018
11	Seeks to extend the time limit for furnishing the return in FORM GSTR-3B for the newly migrated taxpayers	69/2018-Central Tax, dt. 31-12-2018

12	Seeks to extend the time limit for furnishing the return in FORM GSTR-3B for the newly migrated taxpayers.	68/2018-Central Tax, dt. 31-12-2018
13	Seeks to extend the time period specified in notification No. 31/2018-CT dated 06.08.2018 for availing the special procedure for completing migration of taxpayers who received provisional IDs but could not complete the migration process	67/2018-Central Tax, dt. 31-12-2018
14	Seeks to insert explanation in an item in notification No. 11/2017 – Central Tax (Rate) by exercising powers conferred under section 11(3) of CGST Act, 2017.	30/2018-Central Tax (Rate), dt. 31-12-2018
15	Seeks to amend notification No. 13/2017- Central Tax (Rate) so as to specify services to be taxed under Reverse Charge Mechanism (RCM) as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.	29/2018-Central Tax (Rate), dt. 31-12-2018
16	Seeks to amend notification No. 12/2017- Central Tax (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.	28/2018-Central Tax (Rate), dt. 31-12-2018
17	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.	27/2018-Central Tax (Rate), dt. 31-12-2018
18	Seeks to exempt central tax on supply of gold by nominated agencies to registered persons.	26/2018-Central Tax (Rate), dt. 31-12-2018
19	Seeks to further amend notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 to exempt GST on goods as per recommendations of the GST Council in its 31st meeting.	25/2018-Central Tax (Rate), dt. 31-12-2018
20	Seeks to further amend notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 to change GST rates on goods as per recommendations of the GST Council in its 31st meeting.	24/2018-Central Tax (Rate), dt. 31-12-2018
21	Seeks to amend the IGST Rules, 2017 so as to notify the rules for determination of place of supply in case of inter-State supply under sections 10(2), 12(3), 12(7), 12(11) and 13(7) of the IGST Act, 2017	04/2018-Integrated Tax, dt. 31-12-2018
22	Seeks to insert explanation in an item in notification No. 8/2017 – Central Tax (Rate) by exercising powers conferred under section 11(3) of CGST Act, 2017.	31/2018-Integrated Tax (Rate), dt. 31-12-2018
23	Seeks to amend notification No. 10/2017- Integrated Tax (Rate) so as to specify services to be taxed under Reverse Charge Mechanism (RCM) as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.	30/2018-Integrated Tax (Rate), dt. 31-12-2018
24	Seeks to amend notification No. 9/2017- Integrated Tax (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.	29/2018-Integrated Tax (Rate), dt. 31-12-2018
25	Seeks to amend notification No. 8/2017- Integrated Tax (Rate) so as to notify IGST rates of various services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.	28/2018-Integrated Tax (Rate), dt. 31-12-2018
26	Seeks to exempt integrated tax on supply of gold by nominated agencies to registered persons.	27/2018-Integrated Tax (Rate), dt. 31-12-2018

27	Seeks to further amend notification No. 2/2017-Integrated Tax (Rate) dated 28.06.2017 to exempt GST on goods as per recommendations of the GST Council in its 31st meeting.	26/2018-Integrated Tax (Rate), dt. 31-12-2018
28	Seeks to further amend notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017 to change GST rates on goods as per recommendations of the GST Council in its 31st meeting.	25/2018-Integrated Tax (Rate), dt. 31-12-2018
29	Seeks to insert explanation in an item in notification No. 11/2017 – Union Territory Tax (Rate) by exercising powers conferred under section 11(3) of CGST Act, 2017.	30/2018-Union Territory tax (rate), dt. 31-12-2018
30	Seeks to amend notification No. 13/2017- Union Territory Tax (Rate) so as to specify services to be taxed under Reverse Charge Mechanism (RCM) as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.	29/2018-Union Territory tax (rate), dt. 31-12-2018
31	Seeks to amend notification No. 12/2017- Union Territory Tax (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.	28/2018-Union Territory tax (rate), dt. 31-12-2018
32	Seeks to amend notification No. 11/2017- Union Territory Tax (Rate) so as to notify UTGST rates of various services as recommended by Goods and Services Tax Council in its 31st meeting held on 22.12.2018.	27/2018-Union Territory tax (rate), dt. 31-12-2018
33	Union Territory Tax (Rate)-seeks to exempt Union Territory tax on supply of gold by nominated agencies to registered persons.	26/2018-Union Territory tax (rate), dt. 31-12-2018
34	Seeks to further amend notification No. 2/2017-Union Territory Tax (Rate) dated 28.06.2017 to exempt GST on goods as per recommendations of the GST Council in its 31st meeting.	25/2018-Union Territory tax (rate), dt. 31-12-2018
35	Seeks to further amend notification No. 1/2017-Union Territory Tax (Rate) dated 28.06.2017 to change GST rates on goods as per recommendations of the GST Council in its 31st meeting.	24/2018-Union Territory tax (rate), dt. 31-12-2018
36	Circular No. 81/55/2018-GST dated 31-12-2018 seeks to clarify GST rate for Sprinkler and Drip irrigation System including laterals.	81/2018
37	Circular No. 80/54/2018-GST dated 31-12-2018 Clarification regarding GST rates & classification (goods)	80/2018
38	Circular No. 79/53/2018-GST dated 31-12-2018 Clarification on refund related issues	79/2018
39	Circular No. 78/52/2018-GST dated 31-12-2018 Clarification on export of services under GST	78/2018
40	Circular No. 77/51/2018-GST dated 31-12-2018 Denial of composition option by tax authorities and effective date thereof	77/2018
41	Circular No. 76/50/2018-GST dated 31-12-2018 Clarification on certain issues (sale by government departments to unregistered person; levibility of penalty under section 73(11) of the CGST Act; rate of tax in case of debit notes / credit notes issued under section 142(2) of the CGST Act; applicability of notification No. 50/2018-Central Tax; valuation methodology in case of TCS under Income Tax Act and definition of owner of goods) related to GST	76/2018
42	Circular No. 75/49/2018-GST dated 27-12-2018 Guidelines for processing of applications for financial assistance under the Central Sector Scheme named 'Seva Bhoj Yojna' of the Ministry of Culture	75/2018
43	Seeks to extend the due date for furnishing the statement in FORM GSTR-8 by e-commerce companies for the months of October to December, 2018 till 31.01.2019.	Order No. 4/2018 - Central Tax
44	Seeks to amend Removal of Difficulty Order No. 1/2018 dated 11.12.2018 so as to extend the due date for furnishing of annual returns in FORM GSTR-9, FORM GSTR-9A and reconciliation statement in FORM GSTR-9C for the FY 2017-2018 till 30.06.2019.	Order No. 3/2018 - Central Tax
45	Seeks to extend the due date for availing ITC on the invoices or debit notes relating to such invoices issued during the FY 2017-18	Order No. 2/2018 - Central Tax



## DUE DATES OF GST FOR THE MONTH OF JANUARY 2019

### JANUARY 2019

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	<b>10</b> *GSTR-7 & GSTR-8	<b>11</b> *GSTR-1	12	<b>13</b> *GSTR-6	14	15
16	17	<b>18</b> *GSTR-4	19	<b>20</b> *GSTR-3B/5/5A	21	22
23	24	25	26	27	28	29
30	<b>31</b> *GSTR-1					

\*Monthly return for taxpayer with Annual turnover more than Rs.1.50 Crores or Taxpayer who has opted Monthly return option.

#### Disclaimer:

The conclusions reached and views expressed in the Newsletter are matters of opinion based on our understanding of the facts, anticipated tax laws and anticipated rules. There can be no assurance that the tax authorities' or regulators may not take a position contrary to our views. Further, the content of this newsletter should not be used as a supporting to frame any opinions. All queries and clarifications on the content stated in this newsletter should be directed to Vinay & Keshava LLP through phone or email.

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**VINAY & KESHAVA LLP WISHES YOU A VERY HAPPY NEW YEAR 2019**