

Reverse Charge Mechanism in GST

Generally, the supplier of goods or services is liable to pay GST. However, in specified cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism. Reverse Charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.

There are two type of reverse charge scenarios provided in law. First is dependent on the nature of supply and/or nature of supplier. This scenario is covered by section 9 (3) of the CGST/SGST (UTGST) Act and section 5 (3) of the IGST Act. Second scenario is covered by section 9 (4) of the CGST/SGST (UTGST) Act and section 5 (4) of the IGST Act where taxable supplies by any unregistered person to a registered person is covered.

As per the provisions of section 9(3) of CGST / SGST (UTGST) Act, 2017 / section 5(3)of IGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse

charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Similarly, section 9(4) of CGST / SGST (UTGST) Act, 2017 / section 5(4) of IGST Act, 2017 provides that the tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. Accordingly, wherever a registered person procures supplies from an unregistered supplier, he need to pay GST on reverse charge basis. However, supplies where the aggregate value of such supplies of goods or service or both received by a registered person from any or all the unregistered suppliers is less than five thousand rupees in a day are exempted. (Notification 8/2017-Central Tax (Rate) dated 28.06.2017). However, vide notification no.38/2017-Central Tax (Rate) dated 13.10.2017, (corresponding IGST notification no.32/2017-Integrated Tax (Rate) dated 13.10.2017) all categories of registered persons are exempted from the provisions of reverse charge under 9(4) of CGST / SGST (UTGST) Act, 2017 / section 5(4) of IGST Act, 2017, till 31.03.2018. This exemption is available only till 31.03.2018.

The provisions of section 9(4) of the CGST Act, 2017, will not be applicable to supplies made to a TDS deductor in terms of notification no.9/2017-Central Tax (Rate) dated 28.06.2017. Thus, Government entities

who are TDS Deductors under Section 51 of CGST Act, 2015, need not pay GST under reverse charge in case of procurements from unregistered suppliers.

Registration: A person who is required to pay tax under reverse charge has to compulsorily register under GST and the threshold limit of Rs. 20 lakh (Rs. 10 lakh for special category states except J & K) is not applicable to them.

ITC:

A supplier cannot take ITC of GST paid on goods or services used to make supplies on which recipient is liable to pay tax.

Time of Supply

The Time of supply is the point when the supply is liable to GST. One of the factor relevant for determining time of supply is the person who is liable to pay tax. In reverse charge, recipient is liable to pay GST. Thus time of supply for supplies under reverse charge is different from the supplies which are under forward charge.

In case of supply of goods, time of supply is earliest of -

- a) date of receipt of goods; or
- b) date of payment as per books of account or date of debit in bank account, whichever is earlier; or
- c) the date immediately following thirty days from the date of issue of invoice or similar other document.

In case of supply of services, time of supply is earliest of -

- a) date of payment as per books of account or date of debit in bank account, whichever is earlier; or
- b) the date immediately following sixty days from the date of issue of invoice or similar other document.

Where it is not possible to determine time of supply using above methods, time of supply would be date of entry in the books of account of the recipient.

Compliances in respect of supplies under reverse charge mechanism:

1. As per section 31 of the CGST Act, 2017 read with Rule 46 of the CGST Rules, 2017, every tax invoice has to mention whether the tax in respect of supply in the invoice is payable on reverse charge. Similarly, this also needs to be mentioned in receipt voucher as well as refund voucher, if tax is payable on reverse charge.
2. Maintenance of accounts by registered persons: Every registered person is required to keep and maintain records of all supplies attracting payment of tax on reverse charge
3. Any amount payable under reverse charge shall be paid by debiting the electronic cash ledger. In other words, reverse charge liability cannot be discharged by using input tax credit. However, after discharging reverse charge liability, credit of the same can be taken by the recipient, if he is otherwise eligible.

4. Invoice level information in respect of all supplies attracting reverse charge, rate wise, are to be furnished separately in the table 4B of GSTR-1.
5. Advance paid for reverse charge supplies is also leviable to GST. The person making advance payment has to pay tax on reverse charge basis.

Supplies of goods under reverse charge mechanism:

S/ No.	Description of supply of Goods	Supplier of goods	Recipient of Goods
1	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3	Tobacco leaves	Agriculturist	Any registered person
4	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person

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4A	Raw cotton	Agriculturist	Any registered person.
5	Supply of lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent
6	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority	Any registered person

Supplies of services under reverse charge mechanism:

S/ No.	Description of supply of Service	Supplier of service	Recipient of service
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1	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.
2	GTA Services	Goods Transport Agency (GTA) who has not paid integrated tax at the rate of 12%	Any factory, society, co-operative society, registered person, body corporate, partnership firm, casual taxable person; located in the taxable territory

3	Legal Services by advocate	An individual advocate including a senior advocate or firm of advocates	Any business entity located in the taxable territory
4	Services supplied by an arbitral tribunal to a business entity	An arbitral tribunal	Any business entity located in the taxable territory
5	Services provided by way of sponsorship to any body corporate or partnership firm	Any person	Any body corporate or partnership firm located in the taxable territory
6	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, -	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory

<p>(1) renting of immovable property, and (2) services specified below-</p> <p>(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority;</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers.</p>		
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7	Services supplied by a director of a company or a body corporate to the said company or the body corporate	A director of a company or a body corporate	The company or a body corporate located in the taxable territory
8	Services supplied by an insurance agent to any person carrying on insurance business	An insurance agent	Any person carrying on insurance business, located in the taxable territory
9	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory

10	Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	A person located in non-taxable territory	Importer, as defined in clause (26) of section 2 of the Customs Act, 1962(52 of 1962), located in the taxable territory
11	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory

	(a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like		
12	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India.
