

GST Council rationalises GST rates on a wide ambit of goods and services in different sectors and recommends issuance of clarifications on rates and taxability

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In brief

In its 25th meeting held on 18 January 2018, the GST Council has made many recommendations granting relief on the GST rates applicable on goods and services in many sectors. The Council has also recommended issuance of certain clarifications relating to GST rates and taxability of certain goods and services.

In detail

Some of the key recommendations are summarised below:

GST rates for goods

Reduction in rates of tax

The list of goods on which the tax rates have been reduced has been tabulated below:

28% to 18%	28% to 12%
Old and used motor vehicles [medium and large cars and SUVs] on the margin of the supplier, subject to the condition that no input tax credit of central excise duty/ VAT or GST paid on such vehicles has been availed by him.	Old and used motor vehicles [other than medium and large cars and SUVs] on the margin of the supplier, subject to the condition that no input tax credit of central excise duty/ VAT or GST paid on such vehicles has been availed by him.
Buses, for use in public transport, which exclusively run on bio-fuels.	
18% to 12%	18% to 5%
Drinking water packed in 20 litre bottles	LPG supplied for supply to household domestic consumers by private LPG distributors

Fertilizer grade Phosphoric acid	Scientific and technical instruments, apparatus, equipment, accessories, parts, components, spares, tools, mock ups and modules, raw material and consumables required for launch vehicles and satellites and payloads
Bio–diesel	
Certain bio–pesticides	
3% to 0.25%	
Diamonds and precious stones	

Increase in rates of tax

The list of goods on which the tax rates have been increased has been tabulated below:

12% to 18%	NIL to 5%
Cigarette filter rods	Rice bran (other than de–oiled rice bran)

Products at NIL rate of tax

- Vibhuti
- Parts and accessories for manufacture of hearing aids
- De–oiled rice bran

Changes in Compensation Cess for certain goods

The illustrative list of goods, on which there has been a change in the applicable rates of Compensation Cess has been tabulated below:

Particulars	Erstwhile Rate	Revised Rate
Motor vehicles [falling under heading 8702, as it was in excise regime] cleared as ambulances, duly fitted with all fitments, furniture and accessories necessary for an ambulance from the factory manufacturing such vehicles. 10–13 seater buses and ambulances, subject to specified conditions.	15%	NIL
Old and used motor vehicles [medium and large cars and SUVs and also others], on the margin of the supplier, subject to the condition that no input tax credit of central excise duty/ VAT or GST paid on such vehicles has been availed by him	As individually applicable	NIL

Changes in IGST rate for certain goods

Particulars	Erstwhile Rate	Revised Rate
Satellites and payloads and scientific and technical instruments, apparatus, equipment, accessories, parts, components, spares, tools, mock ups and modules, raw material and consumables required for launch vehicles and satellites and payloads	18%	5%

Modification in definition/ clarification in respect of changes in GST/ IGST rates of Goods

Particulars	Present GST Rate	Modification/ Clarification as per the GST Council
Rail Coach Industry	As individually applicable	Only the goods falling under chapter 86 attract 5% GST rate with no refund of unutilised input tax credit. Goods falling in any other

		chapter will attract applicable GST rate under the respective chapters, even if supplied to the Indian railways.
Coal Rejects	(5% + Compensation Cess @ INR 400 PMT)	Coal rejects fall under heading 2701 and attract 5% GST and INR 400 PMT Compensation Cess.

GST Rates for Services

The changes proposed for services by the GST Council are as follows:

Government related services

- Exemption to Legal services provided to Government, Local Authority, Governmental Authority and Government Entity.
- Exemption to supply of services by way of providing information under RTI Act, 2005.
- Exemption to services by Government or Local Authority to Governmental Authority or Government Entity, by way of lease of land.
- Pure services exemption extended to Government entity under Entry 3 of Notification No. 12/2017–Central Tax (Rate). Further, pure services exemption to be expanded to include composite supply involving predominantly supply of services i.e. up to 25% of supply of goods.
- Renting of immovable property by Government or local authority to a registered person to be taxed under reverse charge. However, such renting to un-registered person to be continued under forward charge.

Infrastructure/ Construction

- Construction of metro and monorail projects (construction, erection, commissioning or installation of original works) - reduction of rate from 18% to 12%.
- Common Effluent Treatment Plants services of treatment of

effluents – reduction of rate from 18% to 12%.

- Works Contract Services (WCS) provided by sub-contractor to the main contractor providing WCS to Central Government, State Government, Union Territory, a Local Authority, a Governmental Authority or a Government Entity (which attracts GST of 12%) – reduction in rate from 18% to 12%. For WCS attracting 5%, sub-contractors also liable to GST at 5%.
- Supply of land or undivided share of land by way of lease or sub-lease where such supply is a part of specified composite supply of construction of flats etc. to be exempted. Suitable amendments to be made in the provision relating to valuation of construction service so as to ensure that buyers pay the same effective rate of GST on property built on leasehold and freehold land.
- The liability to pay GST to be deferred in case of TDR against consideration in the form of construction service and on construction service against consideration in the form of TDR to the time when the possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument (e.g. allotment letter). However, no deferment in respect of cash component.

Transportation/ logistics

- Exemption in respect to transportation of goods [grant of such exemptions has been recommended to have a sunset

clause up to 30 September, 2018]:

- Service by way of transportation of goods from India to a place outside India by air; *and*
- Service by way of transportation of goods from India to a place outside India by sea.

It is also provided that value of such service may be excluded from the value of exempted services for the purpose of reversal of input tax credit.

- To clarify that leasing or rental service, with or without operator, of goods, attracts same GST as supply of like goods involving transfer of title in the said goods. Therefore, the GST rate for the rental services of self-propelled access equipment (Boom, Scissors/ Telehandlers) shall be 28%.
- Time charter services to be taxed at GST rate of 5%, (i.e. at the same rate as applicable to voyage charter or bare boat charter), with the same conditions.
- Services by way of fumigation in a warehouse of agricultural produce to be exempted.
- Input tax credit of input services allowed in the same line of business at the GST rate of 5% in case of tour operator service to be allowed.

Oil & Gas

- Government's share of profit petroleum to be exempted from GST. Also, clarification issued that cost petroleum is not taxable *per se*.

- Mining or exploration services of petroleum crude and natural gas and for drilling services in respect of the said goods – reduction of GST rate to 12%.
- Transportation of petroleum crude and petroleum products (MS, HSD, ATF) **through pipeline** reduced from 18% to 5% without input tax credit and 12% with input tax credit.

Financial services

- Dollar denominated services provided by financial intermediaries located in IFSC SEZ, which have been deemed to be outside India under the various regulations by RBI, IRDAI, SEBI or any financial regulatory authority, to a person outside India to be exempted.
- Exemption to reinsurance services in respect of insurance schemes exempted under sections 35 and 36 of Notification No. 12/2017–Central Tax (Rate).
- The term ‘insurance agent’ to be defined in the reverse charge notification so that corporate agents get excluded from reverse charge.

Education

- Exemption to services relating to admission to, or conduct of examination provided to all educational institutions, as defined in the notification.
- Exemption to services by educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.
- Exemption to subscription of online educational journals/ periodicals by educational institutions who provide degree recognised by any law university.

- Exemption to services provided by way of renting of transport vehicles provided to a person providing services of transportation of students, faculty and staff to an educational institution providing education up to higher secondary or equivalent.
- To clarify that exemption of INR 1,000 per day or equivalent (declared tariff) is available in respect of accommodation service in hostels.

Healthcare

To clarify that -

- Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are ‘healthcare services’ which are exempt.
- The entire amount charged by hospitals from the patients including the retention money and the fee/ payments made to the doctors etc. is towards “healthcare services” provided by the hospitals to the patients.
- Food supplied to the in-patients as advised by the doctor/ nutritionists is a part of the composite supply of healthcare service and not separately taxable. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors would be taxable.

Entertainment

- Services by way of admission to theme parks, water parks, joy rides, merry-go-rounds, go-carting and ballet – reduction of rate from 18% to 5%.
- Threshold limit for exemption under Entry No. 80 of Notification No. 12/2017–Central Tax (Rate) for all the

theatrical performances like music, dance, drama, orchestra, folk or classical arts and all other such activities in any Indian language in theatre to be increased from INR 250 to INR 500 per person and to also extend the threshold exemption to services by way of admission to a planetarium.

- To clarify that the following services shall be taxable at 28%:
 - Admission to entertainment events or access to amusement facilities including casinos, race-course;
 - Ancillary services provided by casinos and race-course in relation to such admission; *and*
 - Services given by race-course by way of totalisator (if given through some other person or charged separately as fees for using totalisator for purpose of betting.
 - Notwithstanding the above, services given by race-course by way of license to bookmaker which is not a service by way of betting and gambling, shall be taxable at 18%.

Job-work/ SME sector

- Small housekeeping service providers, notified under section 9 (5) of GST Act, who provide housekeeping services through ECO – GST rate of 5% without input tax credit.
- Job work services towards manufacture of leather goods (Chapter 42) and footwear (Chapter 64).
- Tailoring service –reduction of rate from 18% to 5%.
- Exemption limit in respect of services provided by Resident Welfare Association

(unincorporated or non-profit entity) to its members against their individual contribution to be raised from INR 5,000 per month per member to INR 7,500.

Other changes

- Exemption from IGST payable on amount of royalty and license fees related to the imported goods, the extent of IGST paid under section 3(7) of the Customs Tariff Act, 1975 read with Customs Act, 1962 and IGST Act, 2017.
- Value of exempt supply shall not include the value of deposits, loans or advances on which interest or discount is earned. This will, however, not apply to a banking company and a financial institution including a non-banking financial company engaged in providing services by way of extending deposits, loans or advances.
- “Actionable claim in the form of chance to win in betting and gambling including horse racing” – clause to be added in the GST rate schedule for goods at 28%.
- To clarify that fee paid by litigants in the Consumer Disputes Commissions and any penalty imposed by these Commissions, shall not attract GST.

- Recommendations have been made with regard reduction of late fees for delay in furnishing returns and cancellation of registration in certain cases.

E-way bill system

- Facility for generation, modification and cancellation of e-way bills provided on a trial basis on the portal **ewaybill.nic.in**. Once fully operational, the e-way bill system is scheduled to start functioning on the portal **ewaybillgst.gov.in**.
- Certain modifications to be carried out in the E-way Bill Rules, will be notified nationwide as per the following timeline:
 - For inter-State movement with effect from 01 February 2018;
 - For intra-State movement with effect from a date to be announced separately by each State (but not later than 01 June, 2018).

PwC Comments

The GST Council has once again demonstrated its intent to rationalise the rates applicable on various goods and services based on industry concerns. The proposed changes will be effective from 25 January, 2018.

While there are quite a few

changes/ clarifications with regard to rates for works contracts, transport and logistics, oil and gas, healthcare, education etc. industry is expecting some more rationalisation of rates and also reduction in input tax rates in sectors where output taxes are lower or exempt (in larger public interest/ welfare).

The Council has reiterated that the e-way bill system for inter-State movement of goods will be effective from 01 February, 2018 and expects trade and industry to adhere to the requirements. The industry is concerned about the business impact if there are technical glitches and system challenges while implementing this system.

There were expectations that the Council would discuss inclusion of petroleum/ real estate in GST and also some of the law committee recommendations. These may be taken up in the next meeting. The Council is also considering proposals for a single form for filing returns, but this is yet to be finalised. The Council would again meet (likely through video conferencing) before the budget is presented on 01 February 2018.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

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