

RCM on Renting of Motor Vehicle

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Prior to 30-09-2019, any supplier including body corporates, providing 'Renting of Motor Vehicle services', where the cost of fuel forms part of the consideration received, were eligible to pay GST under either of the following options:

- i. 5% GST (i.e. 2.5% CGST & SGST each or 5% IGST) with restriction on availment of input tax credit on goods or services used in supplying the said service, other than input tax credit pertaining to input service used in the same line of business, i.e., service procured from another service provider providing services of transporting passengers in a motor vehicle or renting of a motor vehicle; or
- ii. 12% GST with no restriction of ITC.

The aforesaid services were earlier taxable under forward charge and service providers were eligible to opt for any of the above options for payment of GST. Also, on provision of such services, there was no GST liability under reverse charge mechanism upto 30-09-2019.

However, vide **Notification No. 22/2019 - CT(R)** dated 30-09-2019 (effective from 01-10-2019) by the CBIC, on the recommendations of the GST Council, the above position of law was amended to include the following service under the reverse charge category:

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
15.	Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only	Any body corporate located in the taxable territory.

		of input service in the same line of business	
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On a conjunct reading of the above provisions, as amended, it can be said that with effect from 01-10-2019, the service of 'renting of motor vehicles' is covered under reverse charge mechanism provided all the conditions given below are satisfied:

- a. Recipient of the service is a body corporate;
- b. Service provider is any person other than body corporate; and
- c. Service provider must have been paying tax @ 5% on the said services upto 30-09-2019.

Thus, it is very clear that in a transaction of 'Renting of Motor Vehicles services', if all the conditions referred here-in-above are satisfied, the liability of payment of GST @ 5% has been casted upon the body corporates, as a recipient of such services. It can, therefore, be inferred that after the effective date of the above notification, payment of GST under RCM is not envisaged under any other circumstances and does not include illustrative cases as stated below, where:

- a. Service providers are body corporates;
- b. Service providers who fall under other than body corporates category, but have opted to pay GST @ 12%; and
- c. Service providers who are not registered under GST

However, the analogy lies in the fact that the language of the aforesaid amendment notification was not free from ambiguity and was being misinterpreted due to the usage of the words '*Any person other than a body corporate, paying central tax at the rate of 2.5%*' for the suppliers. Such doubts arising thereof, is a result of incorrect interpretation of law, which made it difficult for the assessees to follow the aforesaid amendment, thus rendering the above notification unworkable.

In this connection, considering the prevailing confusion amongst the assessees at large and the difficulty arising thereof, the intention of the legislature has been further clarified by way of issue of Notification No. 29/2019-CT(R) dated 31-12-2019 and Circular No. 130/49/2019-GST dated 31-12-2019. The said amendments were clearly made to clarify the words '*paying central tax...*' in Notification No. 22/2019 (supra) by amending the said entry to provide that the supplier shall be '*any person, ..., does not issue an invoice charging central tax at the rate of 6 per cent to the service recipient*', which gives the same meaning, as above, that the category of service providers falling under (ii) are not covered and only service providers falling under (i) above are covered under RCM.

Hence, it can be said that with the above amendment in place, the position of the earlier notification providing applicability of GST under reverse charge mechanism only for that category where GST

@5% is charged by non-corporate service provider to a corporate services recipient, is still applicable and such position of law becomes more clear and is devoid of any more confusions.

It may, however, be noted that the amendment, although clarificatory in nature,. The circular issued in this respect has tried to clarify the position and mentions that the intent of the GST Council to include the supplies made by suppliers paying GST @ 5% to corporate entities within the ambit of services taxable under reverse charge. This change has clearly been brought in to relieve small and unorganised service providers and pass the onus on body corporates.

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Acknowledgements

We thank CA. Ashis Agarwal for drafting this article and CA. Virender Chauhan for reviewing the same. For any queries, you may connect with them at jdtc@icai.in .

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