

02.08.2017

To

All Members

Dear Colleagues,

Sub:- **Levy of GST on services of Tour Operators and Air Travel Agents from 01.07.2017**

As you are well aware, the Govt. has rolled out Goods & Services Tax (GST) w.e.f. 01.07.2017 on goods and services across the board including services of Tour Operators, Air Travel Agents, Hotels, Restaurants, Transporters, Airlines and other related services. Since significant changes have been made in the tax structure of Tour Operators and Air Travel Agents and also procedural changes / legal requirements of GST Laws, we are explaining the significant changes for the benefit of our colleagues as under.

**Note:-** This as per rule specified as on date and in case of any change in the rule or any clarification from the Finance Ministry, shall keep you informed.

1. **PRE-GST POSITION:-**

- 1.1 Services of Tour Operator were taxed at 9% service tax on gross amount charged from the customer. An abatement of 40% from the gross amount charged was allowed on services of a Tour Operator so that service tax @15% was payable on the abated value of 60% of total amount charged. In this manner, the effective rate of service tax came to 9% of total amount charged.

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- 1.2 While paying 9% service tax, CENVAT credit of input services was allowed on all services procured to support services of Tour Operator. CENVAT credit was allowed on all services w.e.f. 22.01.2017.
- 1.3 As far as Air Travel Agents are concerned, service tax @15% was payable by them on commission received from Airlines and also service charges (by whatever name called) collected from the customers/ passengers. An alternate tax @ 0.7% of basic fare in the case of domestic bookings and @ 1.4% of basic fare in the case of international bookings could also be discharged by the air travel agent in place of paying 15% service tax on commission and service charges. The alternate tax is optional and the option could be exercised for the entire Financial Year and no change was allowed in the middle of the year. The basic fare is that portion of air fare on which commission is normally paid by the airline.

## 2. **BRIEF ABOUT GST CONCEPT:-**

- 2.1 GST is a destination-based tax on consumption of goods and services. This tax is levied at all stages right from the manufacture / production up to its final consumption with credit of taxes paid at previous stages available as set off. In other words, the value addition will be taxed. The taxpayer of goods and services will pay differential tax equal to output tax minus input tax. The burden of tax has to be borne by the final consumer in the GST system.
- 2.2 Various taxes levied presently at Central level and State level have been merged / subsumed in the GST which is “one tax, one nation”. Excise duty, service tax, VAT, luxury tax, entertainment tax etc. are some of the taxes that are blended in GST.

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- 2.3 GST in India has been enforced as dual structure tax. Intra-State supplies of goods and services attract Central GST (CGST) and State GST (SGST) / Union Territory GST (UTGST) in equal proportion. Inter-State supplies of goods and services attract Integrated GST (IGST). Levy and collection of IGST has been vested with the Central Govt. only.
- 2.4 HSN (Harmonized System of Nomenclature) code has been used for classifying the goods under GST regime. HSN is already used and well accepted in Customs Tariff of India. Services are now classified under different Services Accounting Codes (SAC). SAC for tour operators and air travel agents is **9985**.
- 2.5 IGST will apply when the service provider is located in one State and the place of supply of services takes place in the other State. The place of supply of services needs to be determined as per parameters prescribed in rule 12 and 13 of IGST Act, 2017.
- 2.6 The general rule for determining place of supply of services is the location of recipient of service, who is a registered person under GST. This rule will apply when both the supplier and recipient are located in India. In case the recipient is not registered, the location of recipient in the records of service provider can be taken to determine the nature of transaction.
- 2.7 In case the location of supplier or service recipient is outside India, the rules for determining place of supply are prescribed in section 13 of IGST Act, 2017. In the case of outbound tours, the location of recipient (i.e. customer) is taken as the place of supply of services. In the case of inbound tours, the place of physical presence of the

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recipient / tourist with the tour operator for supply of services is the yardstick to determine the place of supply of service. By applying these parameters, both inbound and outbound tours attract GST in India despite foreign exchange earned by tour operator on inbound tours. This was also the position under Service Tax Law.

### 3. **GST ON TOUR OPERATORS:-**

3.1 GST @ 5% has been applied on services of tour operator without benefit of Input Tax Credit (ITC) on goods and services. 5% GST will be payable on the gross amount charged by the tour operator from the customer. This GST is uniform for all services – package tours, hotel accommodation only etc.

3.2 The expression “*tour operator*” is defined in entry No. 23 of notification No. 11/2017-Central Tax (Rate) dated 28.6.2017 as under:-

*“Tour operator” means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sight-seeing or other similar services) by any mode of transport and includes any person engaged in the business of operating tours”.*

The above definition was already there in the service tax notification No. 26/2012-ST dated 20.6.2012 and there is no change whatsoever in the definition of *tour operator*.

3.3 In the case of Intra-State supply of tour operator’s services, CGST @2.5% and SGST @ 2.5% will be levied making the total tax as

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5%. On the contrary, in the case of Inter-State supply of services, 5% IGST will apply on services of tour operators, without ITC benefit.

3.4 The concessional GST rate of 5% is subject to meeting the following conditions:-

- (i) Input Tax Credit on goods and services used in supplying output services of tour operator has not been taken.
- (ii) The invoice / bill issued for supply of output service indicates that it is inclusive of charges of accommodation and transportation required for such a tour. This narration can be given by way of footnote in the invoice.

In case any of the above conditions are not met, the benefit of concessional rate of 5% would not apply and in that event the Department may demand full 18% GST from the tour operator.

3.5 While paying 5% GST, tour operators will not claim CGST, SGST and IGST charged by hotels, transporters, airlines, restaurants, travel agents, guide, house boats, cruise ships, luxury trains, monument entry fees, joy rides etc. as input tax credit. Secondly, GST charged by counterpart tour operator will also not be available as input tax credit to the tour operator.

3.6 Services provided by house boats (moving) in Kerala and cruise ships, in the opinion of our Association, are also covered as *Tour Operators Services*. In both these cases, accommodation, food, transportation, sightseeing and other value added services are provided as combo package.

3.7 The services provided by static house boats (in Kashmir) by way of providing accommodation and food to the tourists are not covered

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within the ambit of tour operators as such. These services are akin to services of hotels, inns, guest houses, campsites and other commercial places for residential or lodging purposes. The rate of GST in these cases will be linked with the declared tariff per day.

3.8 In the case of camping, the service providers providing services such as tent, shamiana, catering etc. will get classified under the respective heads and not as tour operators. In case a tour operator purchases goods and services from unregistered vendors, GST needs to be paid by the tour operator on reverse charge principle. This is explained in para-9.3 below.

3.9 Tours conducted through luxury trains like Maharaja Express, Deccan Odyssey, Heritage of India etc. are also covered as Tour Operators Services. Services such as accommodation, attached bathroom, meals, dining cars, bar, lounge, live TV, Wi-Fi, saloon facility, guide, local sightseeing at specified stoppage points etc. are available in these luxury trains.

### 4. **GST ON AIR TRAVEL AGENTS:-**

4.1 As a general rule, air travel agents are required to pay 18% GST on commission earned from airlines and also service charges, handling charges etc. (by whatever name called) collected from the customers / passengers. There is no bar on air travel agents in availing ITC on input services to support the output services of travel agents.

4.2 As an alternate to GST payment in the above manner, rule 32 (3) of CGST rules, 2017 permits an air travel agent to discharge GST at fixed percentage of basic fare on which commission is normally paid by the airlines to the agent. In such a case, the effective value and the effective rate of GST is tabulated below:-

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Type of booking	Basic fare assumed (Rs.)	Effective value (Rs.)	GST payable (Rs.)	Effective rate of GST (% of 2)
(1)	(2)	(3)	(4)	(5)
Domestic ticket	1,00,000/-	5,000/- (5% of basic fare)	900/-	0.9%
International ticket	1,00,000/-	10,000/- (10% of basic fare)	1800/-	1.8%

- 4.3 In case an air travel agent opts to pay GST on basic fare module, he is not required to pay GST separately on commission, if any, received from the airlines as well as service charges / booking charges / management charges from the customer / passenger.
- 4.4 An air travel agent can pay tax under any of the 2 options (para 4.1 or 4.2) on transaction to transaction basis. The rules do not bind the travel agent to opt for any of the options uniformly throughout the given financial year.
- 4.5 The above rates of GST are applicable to IATA agent having inventory to issue air tickets on behalf of the airline. In case an air travel agent buys ticket from IATA agent and charge service charges only from the customer / passenger as his mark-up, such agent is not authorized to work on basic fare module. He will pay 18% GST on his service charges disclosed separately in the invoice issued by him to the customer.

5. **GST ON RAIL TRAVEL AGENTS:-**

- 5.1 Rail Travel Agents are required to pay 18% GST on service charges collected from the customers / passengers. No other optional rate is applicable in their case.
- 5.2 SAC in the case of Rail Travel Agents is **9967**.

6. **GST ON RENT-A-CAB SERVICE:-**

- 6.1 A cab operator is required to pay 5% GST on renting of motorcab where the cost of fuel is included in the consideration charged by him from the service recipient. Secondly, the cab operator is debarred from availing ITC facility.
- 6.2 In other cases, not covered by para 6.1, GST@ 18% is applicable with ITC facility.
- 6.3 SAC for renting of cab service is **9966**.
- 6.4 GST is payable by the cab operator on his own. There is no reverse charge tax liability of tour operator obtaining transportation services from cab operator even if the cab operator is an individual / non-body corporate. The members may recall that under Service Tax regime (up to 30.06.2017), a tour operator (body corporate) obtaining transport services from cab operator (non-body corporate) was required to pay service tax as his RCM tax liability. This has been stopped from 01.07.2017 under GST regime.

7. **OTHER MISC. SERVICES:-**

- 7.1 Services by way of entrance to museum, national park, wildlife sanctuary, tiger reserve or zoo are fully exempted from GST.

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- 7.2 Entrance fees for entry into Govt. monuments are not specifically exempted. However, services provided by Central Govt., State Govt., Union Territory or local authority are exempted if the consideration for such services does not cross Rs. 5,000/- (rupees five thousand).
- 7.3 Services by way of amusement facilities / joy rides like camel ride, elephant ride, horse ride, boat ride, jeep safari etc. attract 28% GST with SAC code as **9996**. The benefit of ITC will not be available to tour operator paying 5% GST.
- 7.4 Other services such as porter services, guide services etc. attract 18% GST with SAC code as **9985**. The benefit of ITC will not be available to tour operator paying 5% GST.

8. **STATUS QUO MAINTAINED FOR SPECIFIC SERVICES EXEMPTED PRIOR TO 01.07.2017:-**

- 8.1 In the service tax regime, following services of a tour operator were specifically exempted:-
- (a) Services by a specified organization in respect of a religious pilgrimage facilitated by the Ministry of External Affairs of the Govt. of India, under bilateral arrangement.
  - (b) Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.
- 8.2 The above services continue to be exempted in GST regime also. The Govt. has maintained status quo.

9. **REVERSE CHARGE TAX LIABILITY:-**

9.1 You may be aware, in the cases covered by reverse charge mechanism (RCM), the liability for paying tax shifts from the service provider to the service recipient. Under GST, the person receiving the services covered by section 9(3) and 9(4) of CGST Act, 2017 incurs liability to discharge service tax under RCM.

9.2 Under notification No. 13/2017-Central Tax (Rate) dated 28.6.2017, specified services received by a person attract payment of GST in the hands of service recipient on reverse charge basis. The major services relevant for tour operators, which attracts tax on RCM basis are given below:-

Type of service	Service provider	Service recipient	Remarks
Legal services	Advocate / Sr. Advocate / Law Firm	Business entity	
Sponsorship services	Any person	Body Corporate or Partnership Firm	
Services supplied by Director to the company.	Director	Company	Services supplied by Director who also acts as employee are not covered here.
Any service	Any person located in non-taxable territory	Any person located in taxable territory.	
Govt. services	Central Govt.	Business entity	Following

	/ State Govt. / Local Authority	located in taxable territory.	services supplied by Govt. are not covered in RCM:-  *Renting of immovable property.  *Postal services  *Aircraft / vessel services  *Transport of goods or passengers.
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9.3 An important provision is contained in section 9(4) of CGST Act, 2017 (parallel provision exists in section 5(4) of IGST Act, 2017). The tax on supply of taxable goods or services by the supplier *who is not registered*, to a registered person shall be paid by such person ( registered person) on RCM basis as if he is the person liable for paying tax. In these cases, the supplier need not comply with GST provisions and the entire responsibility to pay tax and comply with legal requirements lie with the service recipient (registered person). This is draconian provision and will have impact on the industry as a whole.

9.4 In case aggregate value of **intra-State supply** of goods or services from unregistered supplier(s) in a day does not exceed Rs. 5000/- (rupees five thousand), the recipient is not required to pay tax on RCM basis. This limited exemption is provided in notification No. 8/2017-Central Tax (Rate) dated 28.6.2017. However, no such

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monetary limit is prescribed under IGST Act. Therefore in the case of **inter-State supplies**, supplies of even less than Rs. 5000/- will attract tax on RCM if the supplier is unregistered and recipient is registered person.

- 9.5 A taxpayer liable to pay tax under RCM needs to pay the tax in cash and not through Input Tax Credit Account.
- 9.6 IGST alone on import of services from foreign party will be payable by the service recipient located in the taxable territory. CGST and SGST will not be applicable on import of services from foreign country.
- 9.7 The registered person receiving services from unregistered person needs to issue tax invoice in self name. He may issue consolidated invoice at the end of month covering unregistered supplies wherever aggregate value of such supplies exceeds Rs. 5,000/- in a day for all the suppliers taken together.
- 9.8 Since tour operators will pay 5% GST without availing ITC facility, the tax paid by the tour operators under RCM would not be available as ITC.

### 10. **INVOICING**:-

- 10.1 A registered person supplying taxable services is required to issue Tax Invoice under section 31 of CGST Act, 2017. The invoice should be issued within 30 days after the provision of service. The Tax Invoice should contain mandatory information prescribed in rule 46 of CGST Rules, 2017 which may be referred to. GSTIN No. of the tour operator, GSTIN of customer (if registered), SAC code,

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place of supply along with name of State in the case of Inter-State supply etc. are the unique details that should find place in the invoice apart from usual details such as invoice Sr. No., Date, Name & Address of the customer, description of services, taxable value, rate of tax separately for CGST, SGST/ UTGST and IGST, amount of tax charged etc.

10.2 The invoice should be generated in duplicate by the trade. The original copy may be marked as “ORIGINAL FOR RECIPIENT” and duplicate marked as “DUPLICATE FOR SUPPLIER”.

10.3 Sr. No. of invoices issued during the month should be furnished electronically through common portal in form GSTR-1.

### 11. **PAYMENT OF TAX:-**

11.1 Since ITC facility is not available for tour operator paying 5% GST, the tax charged in the invoice needs to be deposited in cash through internet banking facility as at present.

11.2 The tax, interest, penalty, fee etc. deposited through e-challan will be credited to the Electronic Cash Ledger of the taxpayer maintained in GST portal in form GST PMT-05. The amount available in the Electronic Cash Ledger may be used for making any payment towards tax, interest, penalty fees etc. payable under GST law. The surplus balance available in the cash ledger may be refunded to the taxpayer.

12. **FILING OF RETURNS:-**

12.1 Following returns are required to be filed on monthly basis:-

<b>Return form</b>	<b>Particulars</b>	<b>Who will file return</b>	<b>Due date</b>
GSTR-1	Details of outward supplies of goods and / or services	Supplier	10 <sup>th</sup> of next month
GSTR-2 (auto populated from GSTR-1)	Details of inward supplies of goods and / or services effected claiming ITC.	Recipient of goods / services. The receiver is required to verify, validate, modify or even delete details furnished by suppliers.	15 <sup>th</sup> of next month
GSTR-3	Monthly return on basis of finalization of details of outward supplies and inward supplies along with payment of tax.	Registered taxable person.	20 <sup>th</sup> of the next month.
GSTR-9	Annual return	-do-	31 <sup>st</sup> December of next F.Y.

12.2 Considering the difficulties expressed by Trade regarding filing of returns electronically on GST portal, the Govt. have enhanced the

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timeline for filing returns for the initial 2 months of July and August, 2017 as follows:-

<b>GST return</b>	<b>Due date for July, 2017</b>	<b>Due date for August, 2017</b>
GSTR-1	05.09.2017	20.09.2017
GSTR-2	10.09.2017	25.09.2017
GSTR-3	15.09.2017	30.09.2017

From September, 2017 onward the returns will be filed as usual i.e. by 10<sup>th</sup> October, 15<sup>th</sup> October and 20<sup>th</sup> October for GSTR-1, GSTR-2 and GSTR-3 respectively.

12.3 For the initial 2 months of July and August, 2017, the Govt. have devised a simple return form (GSTR-3B) containing summary of outward and inward supplies. This simple return will be submitted by 20<sup>th</sup> August for the month of July, 2017 and 20<sup>th</sup> September for the month of August, 2017.

We request you to carefully go through the circular and keep this document in your record safely for future reference. In case you require any clarification, you may write to the IATO office for our clarification in consultation with our GST Consultant.

With best regards.

**Pronab Sarkar**  
**President**