

PART-I

GST ON RENTING OF IMMOVABLE PROPERTY

The Goods and Services Tax on renting of immovable property is governed by specific provisions under the CGST Act, 2017. Renting or leasing immovable property is considered a supply of services as per Section 7 of the Act, and accordingly, it attracts GST. The applicability of GST varies based on the type of property (residential or commercial), the nature of the use (personal or business), and whether the tenant or landlord is registered under GST.

Under Section 7 of the CGST Act, 2017, the renting of immovable property is considered a supply of services, taxable under GST. The applicability of GST is differentiated based on:

- **Commercial Properties:** Taxable at 18% GST.
- **Residential Properties:** May be exempt or taxable depending on the nature of use.

Like any other issues on GST, this issue is equally complex as one need to identify the status of registration of the supplier of service, the service recipient and as to whether the property is residential or commercial for deciding the taxability or otherwise. This is not the end as residential property, even when let out for residential purposes or commercial purposes also attract GST based on facts, despite the exemptions available for such properties as per **Notification number 12/2017 (CT RATE) dated 28/06/2017**. As there are several amendments to this notification as well as for other notifications on this topic, it is proposed to cover this issue exhaustively to facilitate a person to correctly know the legal position as on date at one place.

As per **Notification number 12/2017 (CT Rate)** which provides for exemption from GST on renting of residential property. Serial Number 12 of the said notification provides for such exemption from payment of GST with effect from 01/07/2017 when such services are renting of residential dwelling for use as residence. This position remained till 17/07/2022. **Notification Number 04/2022 (CT Rate) dated 13/07/2022** made effective from 18/07/2022 removes such

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exemption in cases wherever the recipient of service happens to be a registered person. Implications are that with effect from 18/07/2022, even when a residential dwelling is let out as a residence, when it is used by a registered person GST is applicable. This is by way of RCM and accordingly, the original ***Notification 13/2017 (Central Tax Rate) dated 28/06/2017*** which is on RCM was amended by ***Notification 05/2022 (CT Rate) dated 13/07/2022*** and made applicable from 18/07/2022 to provide for GST under RCM when the service is renting of residential dwelling to a registered person when supplier of service may be registered or not but recipient of service happens to be a registered person.

While the exemption on residential dwelling used as residence was originally granted with no conditions attached to it, the amendment made effective from 18/07/2022 providing for RCM when such property is let out to a registered person, there was a huge hue and cry from small and medium traders as the proposal was to levy GST even on a non-business activity. Based on several representations, the anomaly was corrected with effect from 01/01/2023 by way of ***notification Number 15/2022 (CT Rate) dated 30/12/2022***. This amendment is a crucial one on levy of GST on renting of immovable property as this notification provides for relief from GST to limited extent. It may be noted that this exemption is **CONDITIONAL** and applicable only when the registered person is a proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence **AND** such renting is on his own account and not that of the proprietorship concern.

Thus, the relief available from 01/01/2023 is not applicable when the service recipient happens to be a partnership firm or corporate entity as this notification is applicable only for proprietorship concerns and also only when used for non-business purposes. Accordingly, even a residential dwelling unit, when used as a GUEST HOUSE by the recipient of service, is hit by 13/2017 and RCM is applicable.

It may be noted that services by way of renting of any immovable property, other than residential dwelling, when let out by a registered person is subject to GST

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under Forward Charge. This is very clear from the language of the notification 12/2017 which is applicable only for residential dwelling for residence.

To make the existing complications more complex, as it happens in several cases, **Notification Number 09/2024 (CT Rate) dated 08/10/2024** made effective from 10/10/2024 was issued. This notification provides for payment of GST on rent by RCM when supplier of service happens to be a unregistered person and recipient is a registered person and the service is by way of renting of any immovable property other than residential dwelling.

As the above amendment, which is the second one on RCM put the composition dealers in to a situation wherein they were required to make payment of GST @18% on all commercial hired in properties by force of law with no corresponding ITC benefits, again there was another anomaly which the Government corrected quickly with effect from 16/01/2025.

Notification Number 07/2025 (CT Rate) was issued on 16/01/2025 to provide relief to composition dealers by suitably amending the original RCM Notification 13/2017 to provide that composition dealers are not covered by Notification 13/2017.

To sum up, a table is furnished below in a chronological order covering the major developments on this subject.

<i>Effective From</i>	<i>Reference</i>	<i>Taxability</i>
01-07-17	12/2017	Residential dwelling unit used for residence - NO GST
18-07-22	05/2022	Residential dwelling unit let out to a registered person is covered under RCM
01-01-23	15/2022	RCM not applicable when hired by a proprietorship concern for residence only and not for business use

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10-10-24	09/2024	RCM applicable when let out by a unregistered person to a registered person when property is any immovable property other than residential dwelling
16-01-25	07/2025	Composition dealers are exempted from RCM requirements which was in force from 10/10/2024

Now we can discuss about the exemption from GST on hostel accommodation, GST on long term lease of land as well as applicability of GST in cases where no rent is collected, when huge interest free advances are taken from the tenant are being covered.

With effect from 15/07/2024, vide **notification number 04/2024 CT Rate dated 12/07/2024**, a new entry 12A was added to the exemption notification 12/2017 CT Rate dated 28/06/2017 which provides for exemption from GST on supply of accommodation service having value of supply less than or equal to twenty thousand rupees per person per month provided that the accommodation service is supplied for a minimum continuous period of ninety days.

This is a new exemption applicable from 15/07/2024. However, CBIC **Circular 228/22/2024 dated 15/07/2024** clarifies that the period from 01/07/2017 to 14/07/2024 would be regularized on as is where is basis provided other conditions as stipulated in 04/2024 such as continuous supply of ninety days and less than or equal to twenty thousand per person per month are satisfied.

Long Term Lease: Serial number 41 of the exemption **Notification 12/2017** provides for GST exemption on long term lease of 30 years or more for industrial plots provided the lease amount (by whatever name called) is decided upfront. CBIC Circular dated 30/04/2019 further clarifies that GST exemption is available even when the lease amount is paid in installments, provided that the amount payable is determined upfront.

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GST implication where no rent is collected: It would be safer to charge NIL rent or lesser than market rent in cases where GST is not applicable. All cases where GST is payable would be covered either under valuation or under schedule I which makes such applicable GST payable.

Section 15 of the CGST Act 2017 provides that taxable value would be transaction value only when the supplier and recipient are not related to each other, and price is the sole consideration for the supply. Explanation to Section 15(5) is on related persons.

Schedule I provides that supply between related persons or distinct persons when made in the course or furtherance of business would be activity to be treated as supply even if made without consideration.

When a company pays rent on behalf of the Director for residence of the director, the case is squarely hit by **notification 05/2022 CT Rate** and accordingly, the company is required to pay GST on such rent under RCM with effect from 18/07/2022. The question raised is whether it is in the course or furtherance of business. Based on Section 17(5)(g), ITC is not available, irrespective of the fact that rent is paid by the company on behalf of the director in the course or furtherance of business as section 17(5) starts with Notwithstanding anything contained in sub section (1) of Section 16.

Accordingly, in such cases, while the company has to pay GST under RCM by debiting the CASH as ITC is not allowed for payment of RCM, the same is also not eligible for ITC as per the law stands as on date. The only remedy for this issue would be the challenge the validity of Section 17(5) itself.

Before parting ways in my opinion the issues connected with GST on rent of immovable properties have several complexities and would be required to be decided on a case-to-case basis based on the facts and circumstances of each case.

PART-II

FREQUENTLY ASKED QUESTIONS

1. What is the GST rate on renting of commercial properties?

GST on renting of commercial properties is **18%**, as it is considered a supply of services under **Section 7 of the CGST Act, 2017**.

2. Is renting of residential property taxable under GST?

Renting of residential property to a registered person is exempt from GST only if the person is a proprietor renting for own residence in personal capacity. All other residential renting is taxable under GST from **1st January 2023 (Notification 15/2022-Central Tax)**

3. What is Reverse Charge Mechanism (RCM) in GST on rent?

RCM means the **tenant (recipient of service)** pays the GST instead of the **landlord**. It applies when:

- A **residential dwelling** is rented to a **registered person** (effective from **18/07/2022**).
- Any **immovable property** (other than residential dwelling) is rented by an **unregistered person to a registered person** (effective from **10/10/2024**). In essence, such transactions were **non-taxable under GST** until 10.10.2024.

4. Is GST applicable when a residential property is rented for business purposes?

Yes, if a **registered business entity** rents a **residential property**, GST is applicable under **RCM from 18/07/2022**.

5. Is GST applicable when a residential property is rented for personal use by a proprietor?

No, from **01/01/2023**, RCM is **not applicable** if a **proprietor rents a residential dwelling for personal use** and not for business purposes (Notification **15/2022**).

6. Does GST apply to rental guest houses?

Yes, even if a **residential dwelling is used as a guest house**, RCM applies from **18/07/2022** if the tenant is a registered person.

7. Are composition dealers required to pay GST on rent under RCM?

Initially, from **10/10/2024**, composition dealers had to pay GST under RCM. However, from **16/01/2025**, they were **exempted** from RCM obligations (Notification **07/2025**).

8. What is the impact of Notification 09/2024 on rental transactions?

From **10/10/2024**, if an **unregistered landlord rents any immovable property (except residential dwelling) to a registered tenant**, GST must be paid under RCM by the tenant.

9. Is GST applicable if rent is not collected?

Yes, GST may still be applicable under **Schedule I** of the CGST Act, which treats related-party transactions as supplies even without consideration.

10. How is GST calculated on renting of property?

GST is **18%** on the rent amount, except where exemptions apply. Under RCM, the tenant must pay GST and cannot charge it to the landlord.

11. Is there an exemption for hostel accommodation under GST?

Yes, from **15/07/2024**, hostel accommodation **up to ₹20,000 per person per month for a minimum continuous stay of 90 days** is exempt from GST (Notification **04/2024**).

12. What is Schedule I of the CGST Act?

Schedule I of the CGST Act specifies certain activities that are treated as "supply" under GST even if made without consideration (i.e., no payment is involved). These are considered taxable transactions if they occur in the course or furtherance of business.

13. Can a company take ITC on rent paid for a director's residence?

No, under **Section 17(5)(g) of the CGST Act**, ITC is **not available** if a company pays rent for a director's residence, even if used for business purposes.

14. What is the difference between Forward Charge and Reverse Charge in GST on rent?

- **Forward Charge:** The landlord collects GST from the tenant and deposits it with the government.
- **Reverse Charge:** The tenant (recipient) pays GST directly instead of the landlord.

15. What happens if a partnership firm rents a residential property?

If a **registered partnership firm** rents a **residential dwelling**, GST applies under **RCM from 18/07/2022**. The exemption for proprietorships (from 01/01/2023) does **not** apply to firms or companies.

16. Does renting a residential property for a paying guest (PG) accommodation attract GST?

Yes, if the **landlord is registered under GST**, GST applies under **forward charge**. If the **landlord is unregistered but the tenant is registered**, GST applies under **RCM**.

17. Is GST applicable if a residential property is sub-let?

Yes, if a registered tenant sub-lets a residential property for commercial purposes, GST applies on the sub-letting transaction.

18. Does GST apply when a company rents a property for its employees?

Yes, if the company (registered under GST) rents a property, **RCM applies from 18/07/2022**. The company must pay GST and cannot claim ITC.

19. What is the GST implication when a landlord takes a security deposit?

Security deposits are **not subject to GST**, provided they are **refundable without adjustments**. If adjusted towards rent, GST applies.

20. What happens if rent is charged at a concessional rate?

If a registered person pays below-market rent, GST can still apply under **valuation rules or Schedule I** if parties are related.

21. Are IT parks or SEZ rentals exempt from GST?

No, GST applies to IT parks and SEZ rentals. However, SEZ tenants may claim **zero-rated supply benefits** if used for authorized operations.

22. Is GST applicable to co-working spaces?

Yes, renting co-working spaces is a commercial activity and **attracts 18% GST** under **forward charge**.

23. What if rent is paid partly in cash and partly in kind?

GST applies on the **total value of the supply**, even if part of the rent is paid in kind.

24. Are religious institutions exempt from GST on rent?

If renting is **incidental to religious activities**, GST may be exempt. However, if used commercially (e.g., renting halls for events), GST applies.

25. Can a landlord voluntarily register under GST?

Yes, if the **turnover exceeds ₹20 lakh (₹10 lakh in special category states)**, registration is mandatory. However, voluntary registration is also allowed to claim ITC.

PART-III

RELATED CIRCULAR/NOTIFICATIONS/CASE LAWS

Notification No. 07/2025-Central Tax (Rate), issued by the **Central Board of Indirect Taxes and Customs (CBIC)** on **January 16, 2025**, introduces significant amendments to the Goods and Services Tax (GST) framework concerning the Reverse Charge Mechanism (RCM) on renting of immovable property.

Background:

Prior to this notification, ***Notification No. 09/2024-Central Tax (Rate)*** dated October 8, 2024, mandated that when an unregistered person rented commercial property (i.e., any immovable property other than residential dwellings) to a registered person, the recipient was liable to pay GST under RCM. This obligation applied uniformly to all registered recipients, including those under the composition levy scheme.

Key Provisions of Notification No. 07/2025:

Exclusion for Composition Taxpayers:

The notification amends the earlier provisions to exclude taxpayers registered under the composition levy scheme from the applicability of RCM on renting of immovable property services. Specifically, it modifies the entry at Serial No. 5AB of ***Notification No. 13/2017-Central Tax (Rate)*** to state that RCM applies when such renting services are provided to any registered person "other than a person who has opted to pay tax under composition levy."

Effective Date and Regularization:

The amendment is effective from **January 16, 2025**. For the period between **October 10, 2024 (the effective date of Notification No. 09/2024), and January 15, 2025**, the notification regularizes the payment of GST on RCM basis for composition taxpayers on an "**as is where is**" basis.

This means that any GST paid under RCM by composition taxpayers during this interim period is regularized, and no refunds or additional liabilities arise due to this amendment.

Implications:

For Composition Taxpayers:

From January 16, 2025, composition taxpayers are no longer required to pay GST under RCM for renting of commercial properties from unregistered persons. This alleviates the compliance burden and potential cash flow issues associated with RCM obligations.

For Other Registered Taxpayers:

Registered taxpayers not under the composition scheme continue to be liable to pay GST under RCM when renting commercial properties from unregistered persons, as per the provisions of **Notification No. 09/2024**.

Conclusion:

Notification No. 07/2025-Central Tax (Rate) provides relief to small businesses operating under the composition scheme by exempting them from RCM obligations on renting of immovable property services. This amendment simplifies compliance and supports the ease of doing business for composition taxpayers.

Thanks and Regards

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