

PART-I

REVERSE MECHANISM UNDER GST-AN DETAILED ANALYSIS

The concept of Reverse Charge Mechanism (RCM) was introduced in Service Tax laws. Normally, the supplier of goods or services or both charges and collects the GST from the recipient and deposits the same with Government. However, under the RCM, the liability to deposit tax shifts from the supplier to the recipient.

Under GST Government has notified not only supply of certain services but also supply of certain goods under RCM. The objective of RCM is to widen the scope of levy of tax on unorganized sectors and give exemption to specific class of supplier of goods/services and import of services.

Under the Goods and Services Tax (GST) regime in India, tax payable under the **Reverse Charge Mechanism (RCM)** must be **paid in cash** and **cannot be settled** using Input Tax Credit (ITC). This means the recipient of goods or services liable to pay tax under RCM must discharge the tax liability through the **electronic cash ledger** on the GST portal. Once the RCM tax is paid, the recipient can claim it as ITC, subject to eligibility and conditions prescribed under the GST Act. This ensures proper tax flow and compliance, especially in cases where the supplier is unregistered or the supply is notified for RCM treatment.

As per Section 2(98) of the Central Goods and Services Tax Act, 2017 ('CGST Act')

“Reverse Charge” means the liability to pay tax by the recipient of the supply of goods or services or both instead of the supplier of such goods or services or both

- o under sub-section (3) or sub-section (4) of section 9 of the Central Goods and Services Tax Act, 2017 ('CGST Act') or
- o under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act.

Legal Provisions

RCM is only applicable under the circumstances which are specifically mentioned in Section 9(3) and Section 9(4) of the CGST Act and in Section 5(3) and Section 5(4) of the Integrated Goods and Services Tax Act, 2017

Section 9(3) of the CGST Act and Section 5(3) of the IGST Act identify the specific goods or services notified by the Government under RCM. Whereas Section 9(4) of the CGST Act and Section 5(4) of the IGST Act, provides supply of goods or services by an unregistered supplier to registered recipient under RCM. Only these two types of categories are covered under RCM.

The Central Board of Indirect Taxes & Customs (“CBIC”) has notified that Exemption from tax under ‘Reverse Charge Mechanism (RCM)’ under GST stands rescinded w.e.f. February 1, 2019 in respect of Intra-State Purchases of Goods and Services from Unregistered Dealers (of value upto Rs.5,000 per day), in view of bringing into effect, the amendments (regarding RCM on supplies by unregistered persons) in the Amended CGST/IGST/UTGST Acts, 2018. Consequently *Notification vide No. 8/2017-C.T. (Rate), dated 28-6-2017, Notification vide No. 8/2017-C.T. (Rate), dated 28-6-2017, and Notification No. 32/2017-Integrated Tax (Rate), dated the 13th October, 2017*, have been rescinded vide *Notifications No. 1/2019-Central Tax (Rate), No. 1/2019-Integrated Tax (Rate) and No. 1/2019-Union Territory Tax (Rate) all dated 29-1-2019*

GST REGISTRATION UNDER RCM

As per Section 24 of the CGST Act, 2017, a person who is required to pay tax under reverse charge has to compulsorily register under GST irrespective of the threshold limit of registration and threshold limit of ` 20 lakhs/` 40 lakhs (` 10 lakhs for special category States) but special category States threshold exemption is increased to ` 20 lakhs, as per CGST (Amendment) Act, 2018 is not applicable to the Reverse Charge Mechanism.

INVOICING RULES UNDER RCM

Under reverse charge, the buyer or recipient of goods or services or both has to issue invoice or payment voucher on receipt of goods or services or both from the supplier as may be the case.

In terms of sub-section (3) of Section 31(3)(f) of the CGST Act, 2017 and read with clause (f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of Section 9 of the CGST Act, shall issue an invoice in respect of goods or services or both received by recipient from the supplier who is not registered on the date of receipt of goods or services or both;

As per clause (g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of Section 9 shall issue a payment voucher at the time of making payment to the supplier.

The second proviso to Rule 46 provides that where an invoice is required to be issued under Section 31(3)(f) of the CGST Act, a registered person may issue a consolidated invoice at the end of a month for supplies covered under Section 9(4), the aggregate value of such supplies exceeds rupees five thousand in a day from any or all the supplies.

The Central Board of Indirect Taxes and Customs (CBIC), through Notification **No. 20 /2024-Central Tax (Rate)**, notified the Time Limit for issuance of Goods and Services Tax (GST) Invoices for Supplies from Unregistered Persons under Reverse Charge Mechanism (RCM).

The Central Government, on the recommendations of the Council, notified the said rules, after rule 47, the following rule shall be inserted with effect from the 1st day of November, 2024, namely:-

“47A. Time limit for issuing tax invoice in cases where recipient is required to issue invoice.— Notwithstanding anything contained in rule 47, where an invoice referred to in rule 46 is required to be issued under clause (f) of sub-section (3) of

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section 31 by a registered person, who is liable to pay tax under sub-section (3) or sub-section (4) of section 9, he shall issue the said invoice within a period of thirty days from the date of receipt of the said supply of goods or services, or both, as the case may be.”.

As per the present GST law, when a registered person receives supplies from an unregistered person and is liable to pay tax under RCM, they are required to issue a self-invoice with a payment voucher and comply with section 13(3) of the Central Goods and Services Tax Act, 2017 (the CGST Act), which specifies the time of supply of services where the invoice is required to be issued by the recipient of services from unregistered supplier in RCM.

CBIC vide *Circular No. 211/5/2024-GST dated June 26, 2024* provides clarifications on the time limit under sec 16(4) of the CGST Act, specifically regarding RCM supplies received from unregistered persons. The circular clarified that for such supplies, the relevant financial year for calculating the time limit for availing Input Tax Credit will be the financial year in which the invoice has been issued by the recipient under Section 31(3)(f) of the CGST Act subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of Section 16 and 17 of CGST Act. In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, recipient may also be liable to penal action under the provisions of Section 122 of the CGST Act.

As the new rule becomes effective from November 01, 2024, it will provide a 30-day time limit for issuing tax invoices by recipients liable to pay tax under RCM for supplies received from unregistered persons. The amendment clarifies the timeline for recipients to issue invoices in compliance with Section 31(3)(f) of the CGST Act, streamlining the process and ensuring better tax administration.

"Input Tax Credit (ITC) availed by the recipient cannot be used to pay tax under the reverse charge mechanism; such tax must be paid in cash. However, ITC can

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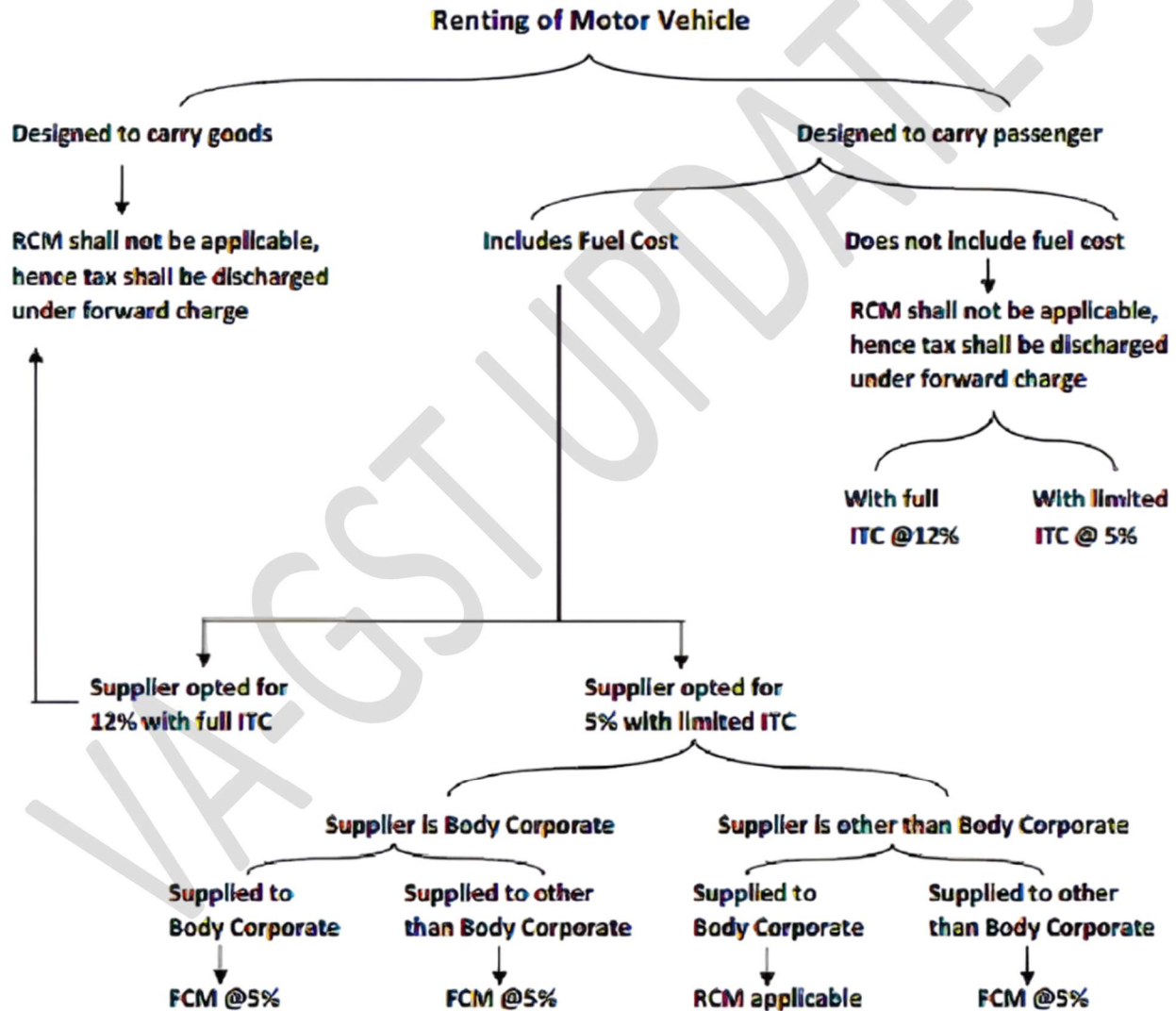
be used for payment of output tax on goods or services supplied by the recipient. This ensures that while reverse charge tax is paid in cash, the overall tax credit chain remains unaffected."

Real Estate Sectors under RCM:

In case of a project developer or construction of apartment by the developer, 80% of inputs and input services [other than capital goods, TDR/JDA, FSI, long-term lease (premium)] shall be purchased from registered persons. On shortfall of purchases from 80% tax shall be paid by the builder @18% on RCM basis. However, Tax on cement purchased from unregistered person shall be paid @28% under RCM, and on capital goods under RCM at applicable rates in terms of Section 9(4) the CGST Act, 2017, in terms of C.B.I & C., **Notification No.7/2019-C.T. (Rate), dated 29th March, 2019.**

Renting of motor vehicles under RCM:

Reverse Charge Mechanism (RCM) applicability on supply of renting of motor vehicle designed to carry passenger by a person other than a body corporate to a body corporate where the cost of fuel is included. There are various complexities in renting of motor vehicles. It would be easier to understand with the help of flow chart:



Input Tax Credit under RCM

A supplier cannot take Input Tax Credit of GST paid on goods or services used to make supplies on which the recipient is liable to pay tax under reverse charge.

The recipient can avail Input Tax Credit of GST amount that is paid under reverse charge on receipt of goods or services by him.

GST paid on goods or services under reverse charge mechanism is available as ITC to the registered person provided that such goods or services are used or will be used for business or furtherance of business.

The ITC is availed by recipient cannot be used towards payment of output tax on goods or services, the payment of tax under reverse charge only on cash

Liability to pay GST under RCM

The time of supply is the point when the supply is liable to GST. One of the factors relevant for determining time of supply is the person who is liable to pay tax. In reverse charge, the 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.

Time of supply for Goods under reverse charge:

As per Section 12(3) of the CGST Act, 2017 in case of supplies of goods in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely :-

- (a) date of receipt of goods; or
- (b) date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (c) the date immediately following 30 days from the date of issue of invoice or any other document, or similar other document thereof by the supplier :

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Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

Time of supply for Services under Reverse Charge:

As per Section 13(3) of the CGST Act, 2017 in case of supplies for Services in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely :-

(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; (or)

(b) the date immediately following 60 days from the date of issue of invoice or any other documents, similar other document thereof by the supplier :

Provided, where it is not possible to determine time of supply by using above methods under clause (a) and clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply.

LIST OF GOODS AND SERVICES NOTIFIED UNDER THE REVERSE CHARGE MECHANISM

(I) Reverse charge on specified GOODS

The following goods are under RCM as per section 9(3) of CGST Act:

S. No.	Tariff Item, Subheading, Heading, or Chapter	Description of Supply of Goods	Supplier of Goods	Recipient of Supply
1	801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	1404 90 10	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person

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3	2401	Tobacco leaves	Agriculturist	Any registered person
3A	3301 24 00, 3301 25 10, 3301 25 20, 3301 25 30, 3301 25 40	Following essential oils other than those of citrus fruit, namely: (a) Of peppermint (Mentha Piperita) (b) Of other mints: (i) Spearmint oil (Ex Mentha Spicata) (ii) Watermint oil (Ex Mentha Aquatica) (iii) Horsemint oil (Ex Mentha Sylvestris) (iv) Bergamot oil (Ex Mentha Citrata)	Any registered person	Any registered person
4	5004 to 5006	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A	5201	Raw cotton	Agriculturist	Any registered

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				person
5	-	Supply of lottery	State Government, Union Territory, or local authority	Lottery distributor or selling agent
6	Any chapter	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
7	Any chapter	Priority Sector Lending Certificate	Any registered person	Any registered person
8	2523	Cement	An unregistered supplier	Promoter/Builder
9	Any chapter	Input and Input Services	An unregistered supplier	Promoter/Builder (only on the difference between 80% of purchases minus actual registered purchases)
10	Any chapter	Capital goods	An unregistered supplier	Promoter/Builder

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Note:

The CBIC vide **Notification No. 04/2017-Central Tax (Rate) dated June 28, 2017** has further amended **Notification No. 06/2024-Central Tax (Rate) dated 8th October, 2024** (“the RCM notification for goods”), In the RCM notification for goods, in the Table, after Sl. No. 7 and the entries relating thereto the entries shall be inserted namely “supply of metal scrap “ from unregistered person to registered person shall be taxable under RCM as per Section 9(3) of CGST Act,2017 and effective from October,10,2024.

(II) Reverse charge on specified SERVICES

(a) The following services are under RCM as per section 9(3) of CGST Act:

S. No.	Category of supply of services	Supplier of service	Recipient of service
1	Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to- (a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act,	Goods Transport Agency(GTA).This provides options for GTA to opt for Either 5% (without ITC) or 12%(with ITC). They must satisfy three conditions- a) GTA is GST registered and did not opt to pay tax under the forward charge. b) GTA issues tax invoice with GST in	(a)Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860)or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or

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	<p>1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e) anybody corporate established, by or under any law; or</p> <p>(f) any partnership firm whether</p>	<p>it.</p> <p>c) Has not submitted any yearly declaration**for opting under forward charge</p>	<p>(d) any person registered under the CGST/IGST/SGST/UTGST Act; Or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p>
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	<p>registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person.</p>		
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"Annexure III

Declaration

I/we have taken registration under the CGST Act, 2017 and have exercised the option to pay tax on services of GTA in relation to transport of goods supplied by us during the Financial Year _____ under forward charge."

2	<p>Services supplied by an individual advocate including a senior advocate or firm* of advocates by way of legal services, directly or indirectly, including where a contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a</p>	<p>An individual advocate including a senior advocate or firm* of advocates.</p>	<p>Any business entity located in the taxable territory.</p>
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	<p>business entity.”</p> <p>Explanation: “legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.”.</p> <p>*Firm of advocates includes LLP registered under The Limited Liability Partnership Act, 2008</p>		
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to anybody corporate or partnership firm.	Any person.	Anybody corporate or partnership firm located in the taxable territory.

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5	Services supplied by the Central Government, state government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) services as specified below- (i) services by the Department of Posts; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.	Central Government, state government, Union territory or local authority.	Any business entity located in the taxable territory.
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5A	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the	Central Government, State Government, Union territory or local authority.	Any person registered under the CGST Act, 2017.
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	Central Goods and Services Tax Act, 2017 (12 of 2017).		
5AA	<p>Renting of a residential dwelling to a registered person (<i>as per Notification No. 5/2022–CT(R) dated 13th July 2022</i>)</p> <p>Includes amendments:</p> <ul style="list-style-type: none">– Sole proprietors using property for personal use– Exempt– Applicable only when used for business purposes	Any persons	Any GST registered person (for business use)
5AB	Renting of immovable property (other than residential dwelling) by unregistered person to registered person	Unregistered person	Any GST registered person Exemption: Composition taxpayers (from 16 Jan 2025) (<i>Notification No. 07/2025–CT(R)</i>)
5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional	Any person.	Promoter.

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	FSI) for construction of a project by a promoter.		
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person.	Promoter.
6	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.
7	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.
8	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.

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9	Supply of services by a 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)(a) of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the like.	Music company, producer, or the like, located in the taxable territory.
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under Section 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher.	Author.	Publisher located in the taxable territory Provided that nothing contained in this entry shall apply where, (1) the author is a registered person under GST and filed a declaration, that he exercises the option to pay tax under forward charge and he shall not withdraw the option within 1 year from the date of exercising option; (2) the author makes a declaration to issue the invoice

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			to the publisher in Form GST Inv-I.
10	Supply of services by the members of Overseeing Committee to Reserve Bank of India.	Members of the Overseeing Committee constituted by the Reserve Bank of India.	Reserve Bank of India.
11	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs).	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking company or a NBFC, located in the taxable territory.
12	Services provided by business facilitator (BF) to a banking company.	Business facilitator (BF).	A banking company, located in the taxable territory.
13	Services provided by an agent of business correspondent (BC) to business correspondent (BC).	An agent of business correspondent (BC).	A business correspondent, located in the taxable territory.
14	Security services (services provided by way of supply of security personnel) provided to a registered person Provided that	Any person other than a body corporate.	A registered person, located in the taxable territory.

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	nothing contained in this entry shall apply to, - (1) The below persons registered only for the purpose of making TDS u/s 51 but not for supply of goods or services (i) a Department or Establishment of the Central Government or State Government or Union territory; (ii) local authority; (iii) Governmental agencies. (2) a registered person registered under Composition Scheme u/s 10.		
15	Services provided by way of renting of a motor vehicle Provided to a body corporate.	Any person other than a body corporate, who opts to pay tax at the rate of 5% and he is eligible to claim input tax credit (Persons who are ineligible to claim ITC u/s 17(5) are not covered here).	Any body corporate located in the taxable territory.
16	Services of lending of securities under Securities Lending	Lender i.e. a person who deposits the	Borrower i.e. a person who borrows the securities under

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	Scheme, 1997 (“Scheme”) of the Securities and Exchange Board of India (“SEBI”), as amended.	securities registered in his name or in the name of any other person duly authorised on his behalf, with an approved intermediary for the purpose of lending under the Scheme of SEBI.	the Scheme through an approved intermediary of SEBI.
17	Radio taxi or passenger transport services provided through an electronic commerce operator.	Taxi driver or rent-a-cab operator.	Electronic commerce operator.
18	Providing accommodation services in hotels, guest houses, inns, campsites, clubs, or other commercial places meant for lodging or residential purposes.	Any person except in cases where the person supplying the service through an electronic commerce operator is liable for registration under sub-section (1) of Section 22 of the CGST Act.	Electronic commerce operator.

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19	House-keeping services such as plumbing, carpentering, etc.	Any person except in cases where the person supplying the service through an electronic commerce operator is liable for registration under sub-section (1) of Section 22 of the CGST Act.	Electronic commerce operator.
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The list of services as notified under the CGST Act is replicated under IGST Act also. In addition to the same, following two additional services are notified under IGST Act.

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(b) Category of services on which IGST has to be paid under RCM.

S. No.	Category of supply of services	Supplier of service	Recipient of service
1	Any service supplied by any person who is located in non-taxable territory to any person other than a non-taxable online recipient.	Any person located in a non-taxable territory.	Any person located in the taxable territory other than a non-taxable online recipient.
2	Services supplied by a person located in the nontaxable 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 a non-taxable territory.	Importer, as defined in clause (26) of section 2 of the Customs Act, 1962, is located in the taxable territory.

The Central Board of Indirect Taxes and Customs (CBIC) has issued **Notification No. 07/2025-Central Tax (Rate)** to implement recommendations from the 55th GST Council Meeting held on December 21, 2024. This notification amends Notification No. 13/2017-Central Tax (Rate) by modifying the applicability of the Reverse Charge Mechanism (RCM) for services involving the renting of immovable property, with specific exclusions for composition taxpayers.

Amendment to Serial No. 5AB

The amendment modifies the provisions related to services by way of renting of immovable property (other than residential dwellings) under the RCM.

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(B) against serial number 5AB, in column (4), after the words “Any registered person”, the words “other than a person who has opted to pay tax under composition levy” shall be inserted.

5AB	Service by way of renting of any immovable property other than residential dwelling.	Any unregistered person	Any registered person other than a person who has opted to pay tax under composition levy
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Explanation:

The earlier provision applied to any registered person receiving such services from an unregistered person under RCM.

The amended provision excludes composition taxpayers from the scope of RCM for these services.

Regularization of Transactions (October 10, 2024 – January 15, 2025)

To address transactions that occurred from October 10, 2024 (*the effective date of Notification No. 09/2024-Central Tax (Rate)*) to the issuance of the current notification, the government has opted for an “as is where is” basis. This ensures compliance without reopening past transactions for taxpayers who fall under the excluded category.

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PART-II

FREQUENTLY ASKED QUESTIONS

1. What is the Reverse Charge Mechanism (RCM) under GST?
 - RCM is a mechanism where the recipient of goods or services is liable to pay GST instead of the supplier. This shifts the tax liability from the supplier to the recipient.
2. When does RCM apply under GST?
 - RCM applies in specific cases such as:
 - ♣ Supply of certain notified goods and services.
 - ♣ Purchases from unregistered suppliers by registered recipients.
 - ♣ Services provided through e-commerce operators.
3. What are some goods and services notified under RCM?
 - Notified goods include cashew nuts, bidi leaves, tobacco leaves, etc.
 - Notified services include legal services by an advocate, services by a director of a company, and renting of motor vehicles, among others.
4. Has there been any recent amendment to the list of services under RCM?
 - Yes, effective January 16, 2025, renting of commercial property by an unregistered person to a registered person has been brought under RCM to prevent revenue leakage.
5. What is the time of supply for services under RCM?
 - As per the amendment effective November 1, 2024, the time of supply is the earlier of:
 - ♣ Date of payment.

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- ♣ Date immediately after 60 days from the date of issue of invoice by the supplier.
- ♣ Date of issue of invoice by the recipient, if applicable.

6. Is self-invoicing required under RCM?

- Yes, when receiving supplies from unregistered suppliers, the recipient must issue a self-invoice.
- Effective November 1, 2024, self-invoices must be generated within 30 days of receiving the goods or services.

What are the consequences of not issuing a self-invoice within the stipulated time?

- Failure to issue a self-invoice within 30 days can lead to the loss of Input Tax Credit (ITC) and may attract penalties under the CGST Act.

7. Can Input Service Distributors (ISD) distribute ITC for RCM transactions?

- Effective April 1, 2025, ISDs can distribute ITC in respect of inter-state supplies on which tax has been paid under RCM, including IGST.

8. Is registration mandatory for persons liable to pay tax under RCM?

- Yes, persons liable to pay tax under RCM must compulsorily register under GST, regardless of the threshold limit.

9. How should payment vouchers be issued under RCM?

- The recipient liable to pay tax under RCM must issue a payment voucher to the supplier at the time of making payment.

10. Can ITC be availed on tax paid under RCM?

- Yes, the recipient can avail ITC on tax paid under RCM, provided all conditions for availing ITC are met.

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11. How is the time limit for availing ITC determined under RCM?

- As clarified in the 53rd GST Council meeting on June 22, 2024, for supplies received from unregistered suppliers where the recipient issues the invoice, the relevant financial year for calculating the time limit to avail ITC is the year in which the recipient issues the invoice.

12. Are there any exemptions under RCM?

- Yes, certain exemptions exist.
- *For instance*, the import of services by a branch office from its foreign parent company is exempted from RCM when made without consideration, as recommended in the 54th GST Council meeting on September 9, 2024.

13. Does RCM apply to services provided by e-commerce operators?

- Yes, if a service provider uses an e-commerce operator to provide specified services, RCM applies, and the e-commerce operator is liable to pay GST.

14. What are the compliance requirements for RCM transactions?

- Compliance includes:
 - ♣ Self-invoicing for purchases from unregistered suppliers.
 - ♣ Issuance of payment vouchers.
 - ♣ Timely payment of tax and filing of returns.

15. How is the tax rate determined under RCM?

- The tax rate applicable under RCM is the rate applicable to the respective goods or services.

16. Are foreign companies liable under RCM for services provided in India?

- Yes, if a foreign company provides services to a recipient in India, the recipient is liable to pay GST under RCM.

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17. Does RCM apply to sponsorship services?

- Yes, sponsorship services provided to a body corporate or partnership firm are liable to GST under RCM, with the recipient being responsible for tax payment.

18. How should RCM transactions be reported in GST returns?

- RCM transactions should be reported in the GSTR-3B return under the appropriate sections for outward and inward supplies liable to reverse charge.

19. Can a composition dealer be liable under RCM?

- Yes, a composition dealer receiving supplies liable to RCM must pay tax at the regular rates and not at the composition rate.
- Such tax paid under RCM cannot be claimed as input tax credit (ITC) by the composition dealer, and the amount paid becomes a cost to the business.

20. Can RCM apply on transactions between related parties without consideration?

- Yes, as per Schedule I of the CGST Act, supply between related persons made in the course or furtherance of business without consideration is deemed to be a supply.
- If such a supply is made by an unregistered related party to a registered person, RCM may apply, and the registered recipient would be liable to pay GST, provided the transaction qualifies as a taxable supply under GST.

21. Does RCM apply to freight charges paid to a Goods Transport Agency (GTA)?

- Yes, RCM applies to freight services provided by a Goods Transport Agency (GTA) when the recipient is a GST-registered person, including a proprietor, and the GTA has not opted to pay tax under forward charge. The services must be used for business purposes.

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22. Is GST applicable under RCM on director's remuneration?

- Yes, if the director is providing services in the capacity of an independent professional, GST under RCM is applicable.
- However, if it is salary-based remuneration, it is outside the scope of GST.

23. What is the impact of RCM on cash flow for businesses?

- Since the recipient has to pay tax upfront under RCM and later claim ITC, it affects cash flow, especially for small businesses with limited working capital.

24. Can a recipient pay RCM liability using Input Tax Credit (ITC)?

- No, RCM tax liability must be paid in cash through the electronic cash ledger.
- ITC cannot be used for RCM payments.

25. What are the penalties for non-compliance with RCM provisions?

- Non-payment of RCM tax can result in interest, penalties, and disallowance of ITC, leading to additional financial burdens for businesses.

PART-III

RELATED CIRCULAR/NOTIFICATIONS/CASE LAWS

Clarification on Time Limit To Claim ITC In Respect Of RCM Supplies Received From Unregistered Persons - *Circular No. 211/5/2024-GST Dated 26th June, 2024*

In line with recommendations provided during 53rd GST Council Meeting, CBIC has issued clarification vide *Circular No. 211/5/2024-GST date 26th June, 2024* regarding time limit under Section 16(4) of CGST Act, 2017 to claim Input Tax Credit of GST paid under reverse charge on inward supplies received from unregistered person.

1. Issue under Consideration

As per representations received from industries, in some cases, tax is payable by the recipient under reverse charge mechanism on supplies received from unregistered persons such as import of service where no consideration is charged.

In some cases, Such activity is not considered as supply of service by the recipient due to lack of clarification by the department or any other reasons. Accordingly, no invoice is raised by the taxpayer and no GST liability is discharged under reverse charge mechanism with respect to such supply.

However, later on, the recipient raises invoices with respect to such service and pay GST under RCM on the basis of some clarification issued by CBIC, judgements, observations pointed out during audit by tax authorities or due to any other reason.

The recipient pays GST on a later point under RCM alongwith interest and claims Input Tax Credit for such payment accordingly to the date of issuance of invoice.

E.g.

Date of Import of Service: 01.10.2020

Date of Issuance of Invoice and payment of GST Liability under RCM: 1.10.2022

Date of claiming ITC: According to the date of Invoice, i.e., 01.10.2022

2. Stands taken by the Department

As per information received by CBIC, some of the department officials are contending that the relevant year of the invoice u/s 16(4) of CGST Act is the year in which such service is received, i.e., FY 2020-21 in the above mentioned example.

Accordingly, the time limit for claiming Input Tax Credit is September/November month following the year in which such service is received. In the above example, GST officials are contenting that ITC can be claimed upto September/November, 2021.

3. Contention of the Industry

On the other hand, industry has represented that the invoice in respect of such supplies is issued by the recipient as per section 31(3)(f) of CGST Act.

Therefore, the relevant year of invoice for the purpose of section 16(4) of CGST Act is the financial year in which such invoice has been issued. Accordingly, ITC should be available on such invoice till the September/ November of the financial year following the financial year in which such invoice has been issued.

In the above example, the time limit to claim Input Tax Credit should be September/November, 2022.

4. Clarification issued by the CBIC

The CBIC has clarified that:

Requirement to issue invoice for supplies received from unregistered person

As per section 16(2)(a) of CGST Act, no registered person shall be entitled to claim ITC in respect of supply of goods or services unless he is in possession of a tax invoice or debit note issued by a supplier or any other tax paying documents.

As per Rule 36(1)(b) of CGST Rules, 2017, input tax credit shall be availed by the registered person on the basis of an invoice issued in accordance with Section 31(3)(f) of CGST Act, subject to the payment of tax.

As per Section 31(3)(f) of CGST Act, a registered person, who is liable to pay GST under RCM against supplies received from unregistered person, shall issue an invoice in respect of such supply.

Accordingly, where the supplier is unregistered and recipient is registered, and the recipient is liable to pay tax on the said supply on RCM basis. The recipient is also required to raise an invoice as per section 31(3)(f) of CGST Act and pay the tax in cash on the same under RCM.

Relevant Legal Extract

Section 16(4) of CGST Act provides the time limit to avail ITC. Relevant legal extract is reiterated below for ready reference:

“A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.”
(Prior to amendment vide the Finance Act, 2022, ITC was not allowed after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note pertains)

Clarification on availment of Input Tax Credit:

Section 16(4) links the time limit for availability of ITC with the financial year to which the invoice or debit note pertains.

Where supplier is unregistered and recipient is registered, the tax has to be paid by the recipient on RCM basis. The recipient is required to issue an invoice as per section 31(3)(f) of CGST Act.

As per Section 16(2)(a) of CGST Act, ITC cannot be availed by the registered person unless he is in possession of a tax invoice or debit note or such other tax paying documents.

As per combined reading of the above provisions, ITC can be availed by the recipient only on the basis of invoice or debit note or other duty paying document.

In case of RCM supplies received from an unregistered supplier, invoice has to be issued by the recipient himself. For the purpose of availment of ITC under Section 16(4), relevant financial year shall be the year to which invoice pertains.

Where the recipient issues such invoice after the time of supply then he shall be liable for payment of interest on such delayed payment.

Accordingly, CBIC clarified that in cases of supplies received from unregistered suppliers, where GST is to be paid under RCM, the relevant financial year for calculation of time limit for availment of ITC under section 16(4) of CGST Act will be the financial year in which the invoice has been issued by the recipient subject to payment of tax.

In case, the recipient issues the invoice after the time of supply then he will be required to pay interest on such delayed payment of tax. Recipients may also attract a penalty under section 122 of CGST Act for delayed issuance of invoice.

NOTIFICATION NO. 08/2023 CENTRAL TAX (RATE) |DATED: 26TH JULY, 2023

The 50th GST Council Meeting held on July 11, 2023, recommended that Goods Transport Agencies (GTAs) would no longer be required to file a yearly declaration for GST under forward charge.

In line with this, the CBIC issued Notification No. 08/2023-Central Tax (Rate) on July 26, 2023, to implement the decision.

Previously, GTAs were obligated to file Annexure V on a yearly basis for paying GST under forward charge. However, the recent amendment exempts them from this requirement.

As per the new notification, GTAs exercising this option for a specific financial year will be deemed to have chosen it for subsequent years unless they decide to revert to the reverse charge mechanism (RCM).

Impact of the Recommendation & Notification: For the current financial year, GTAs under Forward Charge Mechanism (FCM) who didn't file the declaration won't face any issues and will remain under FCM.

If GTAs wish to return to RCM from the next financial year (2024-2025), they must file Annexure VI between January 01, 2024, and March 31, 2024. The amendment in the declaration on the GTAs' invoices needs to reflect the change as specified in the notification.

The CBIC's amendment, based on the 50th GST Council Meeting's recommendations, has relieved GTAs from filing yearly GST declarations under forward charge. This move simplifies compliance procedures and reduces administrative burdens for GTAs.

However, GTAs must carefully consider their GST payment options and timely file Annexure VI if they intend to revert to the reverse charge mechanism. The

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amendment is effective from July 27, 2023, and will bring about positive changes in the GST filing process for GTAs.

Thanks and Regards

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