

Tax and Regulatory Updates



ProBus Tax Alert

This alert summarizes major notifications / clarifications issued recently by The Central Board of Indirect Taxes and Customs giving effect to the recommendations and decisions made in 31st GST Council meeting.

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Introduction

The GST Council in its thirty first meeting held on 22nd December 2018 took significant policy decisions, recommended for extending the time limit for claiming credits of GST for Financial Year 2017-18, recommended for extending the due date for annual return and audit report, and approved rate reduction on specified goods and services. This alert summarizes various notifications/clarifications released by The Central Board of Indirect Taxes and Customs ('CBIC') on December 31, 2018 notifying the changes recommended by the GST Council.

COMPLIANCE RELATED ISSUES

1. Due dates for filing of GST annual return in Form GSTR-9 and GST audit report has been extended further till June 30, 2019¹.
2. Due date for submitting Form GSTR-8 by e-commerce operators for the months of October, November and December 2018 has been extended to January 31, 2019².
3. Due date for submitting Form GST ITC-04 (relevant for Job Workers) for the period July 2017 to December 2018 has been extended to March 31, 2019³.
4. The compliance due dates for submission of Form GSTR 1 and GSTR3B for the periods up to February 2019/ quarter ended on December 2018 have been extended to March 31, 2019⁴.
5. For taxpayers who did not migrate to the GST regime, an additional window has been allowed up to January 31, 2019 and the required information is to be submitted by February 28, 2019⁴.
6. Late Filing fee has been waived for the Forms GSTR-1, GSTR-3B and GSTR-4 for the months/ quarters July 2017 to September 2018 subject to the condition that the same are now furnished within the time frame of December 22, 2018 to March 31, 2019⁵.
7. Taxpayers who have not filed the returns for two consecutive tax periods would be restricted from generating e-way bills⁶.
8. Certain clarificatory changes have been introduced in the annual return and reconciliation statement. Some of the changes are as under:
 - Annual return to contain the data of supplies etc. 'made during the year' and not 'as declared in returns filed during the year'.
 - All returns in form GSTR 1 and GSTR 3B or GSTR 4 to be filed before filing annual return and reconciliation statement.
 - HSN code may be declared only for inward supplies whose value independently accounts for 10% or more of the total value of inward supplies.
 - Additional liability, if any, required to be paid only in cash.
 - ITC cannot be availed through annual return or reconciliation statement⁶.
9. ***ITC in relation to invoices issued by the supplier during FY 2017-18 can be availed by the recipient till the due date for furnishing of Form GSTR-3B for the month of March 2019/quarter ended March 2019 subject to specified conditions including such invoices should be uploaded by the supplier on the portal⁷.***
10. The procedures to claim refunds have been amended. Further clarifications have been issued on some of the refund related matters⁸.

AMENDMENTS TO GST LAW

Following amendments shall be effective after an amendment is carried out in the Act.

11. Creation of a Centralized Appellate Authority for Advance Ruling to address cases where conflicting decisions are given by two or more State Appellate Advance Ruling Authorities on the same issue.
12. Amendment in section 50 of the CGST Act to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the

admissible ITC, i.e. interest would be leviable only on the amount payable through the electronic cash ledger.

NEW IGST RULES INSERTED FOR DETERMINATION OF PLACE OF SUPPLY FOR SEVERAL SERVICES⁹

13. The CBIC has amended the Integrated Goods and Services Tax Rules, 2017 for determination of Place of Supply in relation to several services such as services provided by architects, interior decorators, surveyors, engineers and other related experts where such immovable property is located in more than one State or Union territory. These rules have come into force from the 1st day of January, 2019.

NO REVERSE CHARGE ON GTA SERVICES PROVIDED TO GOVERNMENT AGENCIES REGISTERED ONLY FOR DEDUCTING TDS¹⁰

14. No reverse charge on services provided by a goods transport agency by way of transport of goods in a goods carriage, to Government Department or Local Authority or Governmental agencies, ***which has taken registration under the GST only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.***

RATE OF TAX ON GOODS AND SERVICES¹¹

Rate of Tax on Goods

15. ***Reduction in rate from 28% to 18%*** - Monitors and TVs up to screen size of 32 inch; power banks of lithium ion batteries, digital cameras and digital camera recorders; video game consoles' pulleys, transmission shafts and cranks, gear boxes etc. falling under HSN Code

8483; and re-treaded or used pneumatic tires of rubber.

16. ***Reduction in rates from 28% to 5%*** - Parts and accessories for the carriages for disabled persons.

Reduction in rates of GST on Services

17. Rate of tax on cinema tickets above INR 100 reduced from 28% to 18% and tickets up to INR 100 from 18% to 12%.
18. Rate of tax on third party insurance premium of goods carrying vehicles reduced from 18% to 12%.
19. Air travel of pilgrims by non-scheduled/ charter operations, for religious pilgrimage facilitated by the Government of India under bilateral arrangements to attract the same rate of GST as applicable to similar flights in economy class [i.e. 5% with input tax credit (ITC) of input services].

Grant of exemption

20. Music books, supply of gold by 'nominated agencies' to exporters of article of gold jewelry.
21. Services provided by banks to basic saving bank deposit account holders under Pradhan Mantri Jan Dhan Yojana.
22. Services provided by GTA to Government departments which have taken registration only for the purpose of deducting tax under section 51 of the CGST Act.
23. Services provided by the Government to their undertakings or PSUs by way of guaranteeing loans taken by them from banks.

Rationalization and reverse charge

24. Parliament and State legislatures to be extended the same tax treatment for payment of tax under reverse charge mechanism (RCM), as available to Central and State Governments.
25. Security services (supply of security personnel) provided to a registered person, except Government Departments which have taken registration for tax deducted at source (TDS) and entities registered under composition scheme, to be subjected to RCM if the supplier is any person other than a body corporate.
26. ***Services provided by unregistered business facilitator to a bank and agent of a business correspondent (BC) to a BC to be subject to RCM.***

Clarifications on applicable rate of tax on goods

27. Renewable energy devices & parts for their manufacture (bio gas plant/ solar power-based devices, solar power generating system (SGPS) etc. falling under chapter 84, 85 or 94 of the Tariff) attract GST @ 5%. It was recommended that where such goods are supplied jointly with services of construction etc., 70% of the gross value should be deemed to be value of supply of goods attracting 5%, and remaining 30% should be deemed to be the value of services, attracting the standard rate.
28. Movement of rigs, tools & spares and all goods on wheels on their own account, where such movement is not intended for further supply of such goods but for provision of service, does not involve a

supply (e.g., movement of testing equipment etc.) and will not be liable to GST.

29. Concessional GST rate of 5% applies to the LPG supplied in bulk to an OMC by refiners/ fractioners for bottling for further supply to household domestic consumers.

CLARIFICATIONS ON APPLICABLE RATE OF GST ON SERVICES

30. With effect from January 31, 2019, degrees/ diploma awarded by IIMs under IIM Act, 2017 will be exempt from GST¹².
31. Services provided by IFC and ADB are exempt from GST in terms of provisions of IFC Act, 1958 and ADB Act, 1966¹³.
32. Leasing of pumps and reservoirs by the oil marketing companies to petrol pump dealers is a mixed supply and the license fee for the same will attract GST @ 28%, i.e. at the rate applicable to pumps. Leasing of land and buildings along with equipment will attract GST @18%.
33. Incentives paid by RBI to banks under the Currency Distribution and Exchange Scheme are taxable.
34. Scope of entry for multi-modal transport with GST rate of 12% covers only transport of goods from a place in India to another place in India, i.e., only domestic multi-modal transportation.
35. Nature of business establishment making supply of food, drinks and other articles for human consumption will not determine whether such supply is a supply of goods or services but will depend on the constituents of each individual supply and whether it satisfies

the conditions of a 'composite supply' or 'mixed supply'.

36. GST is exempt on supply of food and drinks by an educational institution when provided by the institution itself to its students, faculty and staff, but is leviable to GST @ 5% when provided by any other person based on a contractual arrangement with such institutions¹⁴.
37. ***The banking companies are liable to pay GST on the entire value of service charge or fee charged to customers via business facilitator or BC whether or not actually received¹⁵.***

About ProBus

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MAJOR DUE DATES FOR JANUARY 2019

Statute	Due Date	Compliance
Income Tax	January 07, 2019	TDS/TCS for the month of December 2018.
GST	January 11, 2019	Filing of GSTR-1 for the month of December 2018.
GST	January 13, 2019	Filing of GSTR-6 for the month of December 2018.
Income Tax	January 15, 2019	Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) In Form No. 15CC for the Quarter 3.
Income Tax	January 15, 2019	Filing of Quarterly statement of TCS deposited for the Quarter 3.
GST	January 20, 2019	Payment of GST and filing of GSTR-3B for the month of December 2018.
Income Tax	January 31, 2019	Filing of Quarterly statement of TDS deposited for the Quarter 3.
Income Tax	January 31, 2019	Intimation under section 286(1), by a resident constituent entity of an international group <i>whose parent is non-resident and whose relevant Financial Year ends on March 2018.</i>

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- ¹ http://www.cbic.gov.in/htdocs-cbec/gst/ROD_3%20of%202018_CT_English.pdf
 - ² http://www.cbic.gov.in/htdocs-cbec/gst/ROD_4%20of%202018_CT_English.pdf
 - ³ <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-78-central-tax-english-2018.pdf>
 - ⁴ <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-67-central-tax-english-2018.pdf>
 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-68-central-tax-english-2018.pdf>
 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-69-central-tax-english-2018.pdf>
 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-70-central-tax-english-2018.pdf>
 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-71-central-tax-english-2018.pdf>
 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-72-central-tax-english-2018.pdf>
 - ⁵ <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-75-central-tax-english-2018.pdf>
 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-76-central-tax-english-2018.pdf>
 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-77-central-tax-english-2018.pdf>
 - ⁶ <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-74-central-tax-english-2018.pdf>
 - ⁷ http://www.cbic.gov.in/htdocs-cbec/gst/ROD_2%20of%202018_CT_English.pdf
 - ⁸ <http://www.cbic.gov.in/htdocs-cbec/gst/Circular-No-79.pdf>
 - ⁹ <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-4-2018-igst-english.pdf>
 - ¹⁰ <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-29-2018-igst-rate-english.pdf>
 - ¹¹ <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-25-2018-igst-rate-english.pdf>
 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-26-2018-igst-rate-english.pdf>
 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-27-2018-igst-rate-english.pdf>
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 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-29-2018-igst-rate-english.pdf>
 - <http://www.cbic.gov.in/htdocs-cbec/gst/notfctn-30-2018-igst-rate-english.pdf>
 - ¹² <http://www.cbic.gov.in/htdocs-cbec/gst/circular-cgst-82-new.pdf>
 - ¹³ <http://www.cbic.gov.in/htdocs-cbec/gst/circular-cgst-83.pdf>
 - ¹⁴ <http://www.cbic.gov.in/htdocs-cbec/gst/circular-cgst-85.pdf>
 - ¹⁵ <http://www.cbic.gov.in/htdocs-cbec/gst/circular-cgst-86.pdf>